

ORDINANCE NO. 2016-48

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW REPLATTING OF THE PROPERTY INTO THREE SUBSTANDARD LOTS ACCORDING TO SITE PLAN DATED JUNE 3, 2016 PREPARED BY ALBERTO J. CORRALES, P.E., TO ALLOW A DUPLEX ON EACH SUBSTANDARD-SIZED LOT WITH A FRONTAGE OF 45 FEET, WHERE AT LEAST 75 FEET ARE REQUIRED, TO ALLOW A TOTAL AREA OF 4,500 SQUARE FEET FOR LOTS 1 AND 2 AND 4,365 FEET FOR LOT 3, WHERE A TOTAL AREA OF AT LEAST 7,500 SQUARE FEET IS REQUIRED FOR EACH LOT, TO ALLOW A GROUND FLOOR AREA OF 950 SQUARE FEET, WHERE A MINIMUM OF 1,000 SQUARE FEET IS REQUIRED, TO ALLOW A FRONT SETBACK OF 15 FEET FOR UNITS 1 AND 2, WHERE 25 FEET ARE REQUIRED, TO ALLOW A NORTH SIDE SETBACK OF 4 FEET FOR UNITS 1 AND 2, WHERE 7.5 FEET ARE REQUIRED, TO ALLOW A FRONT SETBACK OF 16 FEET FOR UNIT 3, WHERE 25 FEET ARE REQUIRED, TO ALLOW A NORTH SIDE SETBACK OF 4 FEET FOR UNIT 3, WHERE 7.5 FEET ARE REQUIRED, AND TO ALLOW A CORNER SIDE SETBACK OF 11.6 FEET FOR UNIT 3, WHERE 15 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-544, 98-545, 98-546, AND 98-548. **PROPERTY LOCATED AT 491 EAST 11 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of August 10, 2016 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby granted a variance permit to allow replatting of the property into three substandard lots according to site plan dated June 3, 2016 prepared by Alberto J. Corrales, P.E., to allow a duplex on each

substandard-sized lot with a frontage of 45 feet, where at least 75 feet are required, to allow a total area of 4,500 square feet for lots 1 and 2 and 4,365 feet for lot 3, where a total area of at least 7,500 square feet is required for each lot, to allow a ground floor area of 950 square feet, where a minimum of 1,000 square feet is required, to allow a front setback of 15 feet for units 1 and 2, where 25 feet are required, to allow a north side setback of 4 feet for units 1 and 2, where 7.5 feet are required, to allow a front setback of 16 feet for unit 3, where 25 feet are required, to allow a north side setback of 4 feet for unit 3, where 7.5 feet are required, and to allow a corner side setback of 11.6 feet for unit 3, where 15 feet are required, contra to Hialeah Code §§ 98-544, 98-545, 98-546, and 98-548, which provide in pertinent part: “The minimum building site in the R-2 one- and two-family residential district shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family or two-family residence. Such parcels or lots shall have an average width of at least 75 feet and shall also have a minimum average depth of 100 feet. Where a lot or parcel of land does not meet the requirements of this section and was a legally divided parcel of land at the time of passage of such requirements and contained at least 6,480 square feet, such lot or parcel may be occupied by either a one-family residence or a two-family residence, but if such legally divided parcel of land contains less than 6,480 square feet it may be occupied only by a single-family residence; provided, however, that in either case the minimum front, rear, and side yard requirements as set out in this division are complied with and the conditions of section 98-348 are met.”, “In the R-2 one- and two-family residential district, there shall be a front yard depth not less than 25 feet in distance from the front line...”, “In the R-2 one- and two-family residential district, there shall be side yards, the width of each to be not

less than ten percent of the average width of the lot, but in no case shall each such side yard be less than 7½ feet in width. However, for additions to the principal buildings existing on the property as of February 26, 1974, the width of any such side yard shall be not less than ten percent of the average width of the lot, but in no case shall any such side yard be less than five feet in width. For a corner lot, the side yard parallel to the abutting street shall be not less than 15 feet.” and “In the R-2 one- and two-family residential district, the total minimum floor area of two-family residences shall be 1,500 square feet, with the minimum ground floor area of two-family residences to be 1,000 square feet, and the total living area of one unit to be not greater than 60 percent of the total living area of the two-family residence. The minimum ground floor area for a one-family residence shall be 1,000 square feet.”, respectively. Property located at 491 East 11 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 16, 17 AND THE EAST 1/2 FEET OF LOT 18, AND THE SOUTH 6 FEET OF THE 12-FOOT ALLEY LYING NORTH THERETO, CLOSED PER ORDINANCE NO. 94-07 (JANUARY 24, 1994), IN BLOCK 6-E, OF “EIGHT ADDITION TO THE TOWN OF HIALEAH”, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGE 11, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.** Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative

tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

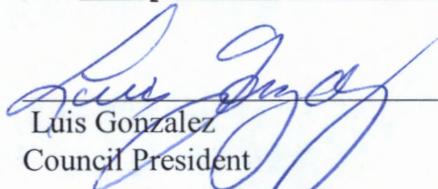
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

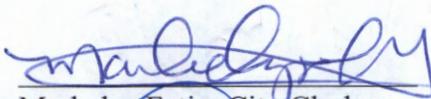
PASSED and ADOPTED this 13 day of September, 2016.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

  
Luis Gonzalez  
Council President

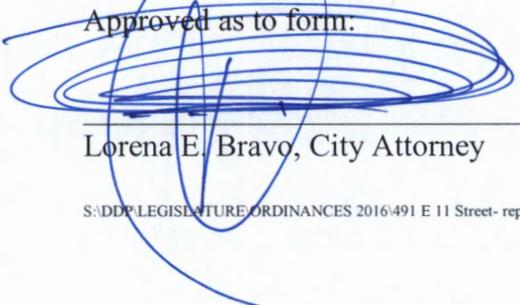
Attest:

Approved on this 20 day of September, 2016.

  
Marbelys Fatjo, City Clerk

  
Mayor Carlos Hernandez

Approved as to form:

  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-1 vote with Councilmembers, Caragol, Lozano, Garcia-Martinez, Cue-Fuente, Hernandez and Casals-Muñoz voting "Yes", Council President Gonzalez voting "No".