

ORDINANCE NO. 2016-19

ORDINANCE REZONING PROPERTY FROM R-3-3 (MULTIPLE FAMILY DISTRICT) TO R-3-5 (MULTIPLE FAMILY DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A 2-FOOT LANDSCAPED BUFFER BETWEEN THE OFF-STREET PARKING AND THE RIGHT-OF-WAY, WHERE 7 FEET ARE REQUIRED, TO ALLOW 10 PARKING SPACES, WHERE 12 PARKING SPACES ARE REQUIRED, AND TO ALLOW A REAR SETBACK OF 8 FEET, WHERE 20 FEET ARE REQUIRED, CONTRA TO CITY OF HIALEAH LANDSCAPE MANUAL (JULY 9, 2015) SECTION (D) SUBSECTION (7), AND HIALEAH CODE §§ 98-2189(19) b AND 98-591. **PROPERTY LOCATED AT 20 EAST 41 STREET, HIALEAH, FLORIDA.** 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 January 27, 2016 recommended approval of this ordinance.

WHEREAS, the petitioner proffered a Declaration of Restrictive Covenants providing for the improvement of the driveway with pavers and limiting to two the number of parking spaces assigned to each unit, which the City accepts.

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 rezoned R-3-3 (Multiple Family District) to R-3-5 (Multiple Family District).

Section 2: The below-described property is hereby granted variance permit to allow a landscaped buffer between the off-street parking and the right-of-way of 2 feet, where 7 feet are required, to allow 10 parking spaces, where 12 parking spaces are required, and to allow a rear setback of 8 feet, where 20 feet are required, contra to City of Hialeah Landscape Manual (July 9, 2015) section (d) subsection (7), and Hialeah Code §§ 98-2189(19)b and 98-591, which provide in pertinent part: “ (D) Shrubs, vines, ground covers, mulch, buffers, plant quality, stormwater retention and detention areas, native

species... (7) Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscaped strip incorporating said planting and/or wall on private property. The seven (7)-foot landscape buffer may be reduced subject to the inclusion of improved design features on the site upon approval of the Planning and Zoning Official.”, “*Residential developments... b. Medium and high density.* Two parking spaces for one or two bedrooms, and one-half parking space for each additional bedroom.”, and “In the R-3 multiple-family district, there shall be a 20-foot rear yard setback.” respectively. Property located at 20 East 41 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 8, BLOCK 2 OF MOSER’S ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, AT PAGE 53 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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: Additional Penalties upon Violation of the Declaration of Restrictive Covenants.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, will cause a revocation of

this variance and the property shall revert to the zoning classification without the benefit of the variance. The City is authorized to withhold any future permits, refuse to make any inspections or grant any approval, until such time as there is compliance with this ordinance and the Declaration of Restrictive Covenants.

Section 5: Severability Clause.

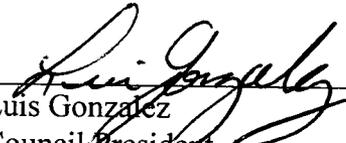
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

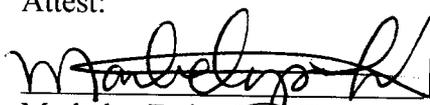
Section 6: Effective Date.

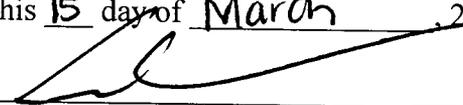
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

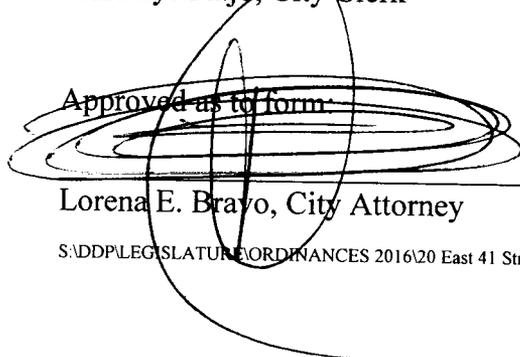
PASSED and ADOPTED this 8 day of March, 2016.

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:

Marbelys Fatjo, City Clerk

Approved on this 15 day of March, 2016.

Mayor Carlos Hernandez

~~Approved as to form:~~

Lorena E. Bravo, City Attorney

Ordinance was adopted by a (6-0-1) vote with Councilmembers, Caragol, Cue-Fuente, Garcia-Martinez, Gonzalez, Lozano and Casals-Muñoz voting "Yes". Councilman Hernandez absent.