

ORDINANCE NO. 2018-053

ORDINANCE REZONING FROM R-1 (ONE-FAMILY RESIDENTIAL DISTRICT) TO R-3-5 (MULTIPLE FAMILY DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW AN INTERIOR SOUTH SIDE SETBACK OF 7.4 FEET, WHERE 10 FEET ARE REQUIRED; ALLOW A STREET SIDE SETBACK OF 12.4 FEET, WHERE 15 FEET ARE REQUIRED; ALLOW A PERVIOUS AREA OF 22.5%, WHERE 30% IS REQUIRED; ALLOW 37 PARKING SPACES, WHERE 39 PARKING SPACES ARE REQUIRED; AND ALLOW 32.14% LOT COVERAGE, WHERE 30% IS REQUIRED; ALL CONTRA TO §§ 98-590, 98-2056(b)(1) AND (b)(2), 98-2189(19)b. **PROPERTY LOCATED AT 4597 AND 4599 PALM AVENUE, 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 May 23, 2018 recommended approval of this ordinance; and

**WHEREAS**, the developer by Plat will dedicate the north 30 feet of Lot 1 of Featherstone Sports Addition Subdivision, as provided by the Plat Map recorded in Plat Book 18, at Page 11, (PB 18-11) for right-of-way and construct that portion of East 46<sup>th</sup> Street adjacent to the north side of the property; and

**WHEREAS**, the developer has proffered a subdivision and construction schedule by which the development shall be constructed, 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 from R-1 (One-Family Residential District) to R-3-5 (Multiple Family District).

**Section 2:** The below described property is hereby granted a variance permit to allow an interior south side setback of 7.4 feet, where 10 feet are required, contra to Hialeah Code of

Ordinances § 98-590 that provides: "Side yard required. In the R-3 multiple-family district, there shall be side yards, and the width of each shall not be less than ten feet."; to allow a street side setback of 12.4 feet, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-590 that provides: "Side yard required. In the R-3 multiple-family district, ... For a corner lot, the side yard parallel abutting the street shall be not less than 15 feet."; to allow a pervious area of 22.5%, where 30% is required, contra to § 98-2056(b)(1) that provides: "A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space..."; to allow 37 parking spaces, where 39 parking spaces are required, contra to Hialeah Code of § Ordinances 98-2189(19)b. that provides: "Medium and high density. Two parking spaces for one or two bedrooms, and one-half parking space for each additional bedroom."; and to allow 32.14% lot coverage, where 30% is required, contra to § 98-2056(b)(2) that provides: "A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure." Property located at 4597 and 4599 Palm Avenue, Hialeah, Florida, and legally described as:

Lots 1, 2 and 3, FEATHERSTONE SPORTS ADDITION TO HIALEAH according to the Plat thereof, as recorded in Plat Book 18, at Page 11, of the public records of Miami-Dade County, Florida, and Tract F, REVISED PLAT OF FEATHERSTONE SPORTS ADDITION TO THE CITY OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 33, at Page 56 of the Public Records of Miami-Dade County, Florida, together with a portion of East 45<sup>th</sup> Place, Hialeah, Florida, being more particularly described as follows:

Begin at the northeast corner of the said Tract F, thence northerly along a line formed by the northerly extension of the East line of the said Tract F, 9.00 feet; thence westerly and parallel to the North line of the said Tract F, 30.00 feet; thence southerly and parallel to the East line of the said Tract F, 9.00 feet to the North line of the said Tract F; thence easterly along the North line of the said Tract F, 30.00 feet to the Point of Beginning.V

**Section 3: Repeal of Ordinances in Conflict.**

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

**Section 4: 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.

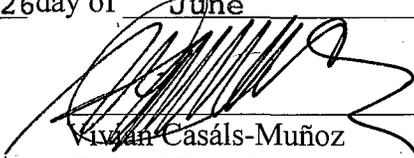
**Section 5: Severability Clause.**

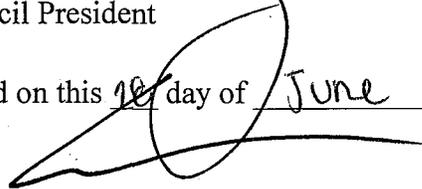
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or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

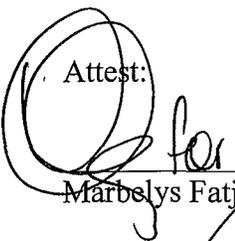
**Section 6: Effective Date.**

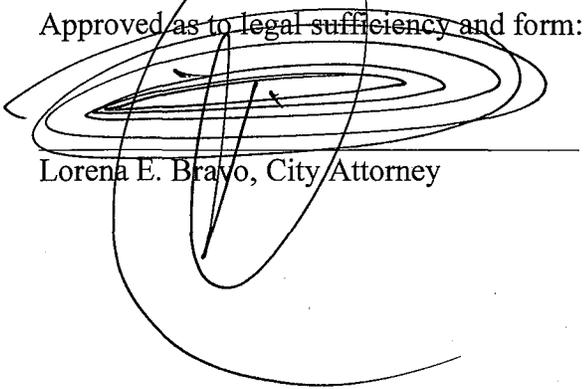
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 26 day of June, 2018.

  
\_\_\_\_\_  
Vivian Casáls-Muñoz  
Council President

Approved on this 10 day of June, 2018.  
  
\_\_\_\_\_  
Carlos Hernandez, Mayor

Attest:  
  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

Approved as to legal sufficiency and form:  
  
\_\_\_\_\_  
Lorena E. Bravo, City Attorney

Ordinance was adopted by a 7-0 vote with Councilmembers, Caragol, Zogby, Lozano, Garcia-Martinez, Hernandez and Cuenca voting "Yes" and Casáls-Munoz voting "No".