

**ORDINANCE NO. 2018-063**

ORDINANCE REZONING LOTS 15 AND 16 FROM C-1 (RESTRICTED RETAIL COMMERCIAL DISTRICT) TO R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW THE CONSTRUCTION OF A DUPLEX ON SUBSTANDARD LOTS 15 AND 16 WITH A FRONTAGE OF 40 FEET, WHERE 75 FEET ARE REQUIRED; ALLOW A DEPTH OF 88 FEET, WHERE 100 FEET ARE REQUIRED; ALLOW 3,520 SQUARE FEET, WHERE 7,500 SQUARE FEET ARE REQUIRED; ALLOW INTERIOR EAST SIDE SETBACK OF 5 FEET, WHERE 7.5 FEET ARE REQUIRED; ALLOW FRONT AND REAR SIDE SETBACK OF 20 FEET, WHERE 25 FEET ARE REQUIRED; ALLOW 10 FEET STREET SIDE SETBACK, WHERE 15 FEET ARE REQUIRED; ALLOW LOT COVERAGE OF 32.1% WHERE 30% IS THE MAXIMUM ALLOWED; AND GRANTING A VARIANCE PERMIT ON LOTS 12 THROUGH 14 THAT IS SITED WITH A SINGLE FAMILY RESIDENCE WITH A FRONTAGE OF 60 FEET, WHERE 75 FEET ARE REQUIRED; ALLOW A DEPTH OF 88 FEET, WHERE 100 FEET ARE REQUIRED; ALLOW 5,280 SQUARE FEET, WHERE 7,500 SQUARE FEET ARE REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-544, 98-545, 98-98-546, 98-547(a) AND 98-2056(b)(2); AND HIALEAH LAND DEVELOPMENT CODE § 10-4(c). **PROPERTY LOCATED AT 533 AND 5XX WEST 24 STREET, HIALEAH FLORIDA.** REPEALING ALL 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 June 13, 2018 recommended denial of this ordinance; and

**WHEREAS,** the developer shall legalize the improvements made without building permits to the single family residence on Lots 12 through 14 within three months; and

**WHEREAS**, the developer shall provide a unity or title to provide that the properties shall be considered as one plot and parcel of land and that no portion of said plot and parcel of land shall be sold, transferred, devised or assigned separately, except in its entirety as one plot or parcel of land.

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

**Section 1:** Lots 15 and 16 of the below-described property is hereby rezoned from C-1 (Restricted Retail Commercial District) to R-2 (One and Two Family Residential District); and granting a variance permit to allow the construction of a duplex on a substandard lot with a frontage of 40 feet, where 75 feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides: "...lots shall have an average width of at least 75 feet..."; allow a depth of 88 feet, where 100 feet are required; contra to Hialeah Code of Ordinances § 98-544 that provides: "...shall also have a minimum average depth of 100 feet."; allow an area of 3,520 square feet, where 7,500 square feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides: "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"; allow an interior east side setback of 5 feet , where 7.5 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-546 that provides: "...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."; allow front and rear side setback of 20 feet, where 25 feet are required, contra to §§ 98-545 and 98-547(a) that respectively provide: "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..." and "In the R-2 one- and two-family residential district, every principal residential building shall provide a rear yard of a minimum depth of 25 feet to a rear lot line or front of an accessory building..."; allow 10 feet street side setback, where 15 feet are required, contra to Hialeah Code of Ordinances § 98-546 that provides: "...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...For a corner lot, the side yard parallel to the abutting street shall be not less than 15 feet."; allow lot coverage of 32.1

% where 30% is the maximum allowed, contra to Hialeah Code of Ordinances § 98-2056(b)(2) that provides: “Residential density and open space requirements. A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure.”; and granting a variance permit on lots 12 through 14 with a frontage of 60 feet, where 75 feet are required, allow a depth of 88 feet, where 100 feet are required; and allow 5,280 square feet, where 7,500 square feet are required, contra to Hialeah Code of Ordinances § 98-544 that provides: “...lots shall have an average width of at least 75 feet...”; 98-544 “...shall also have a minimum average depth of 100 feet.”; and 98-544 that provides: “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.” Property located at 533 and 5XX West 24 Streets, Hialeah, Florida, and legally described as follows:

Lots 12 to 16, in Block 20 of SEMINOLA CITY SECTION TWO, according to the plat thereof, as recorded in Plat Book 9, at Page 154 of the Public Records of the 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.**

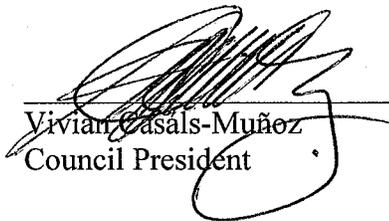
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

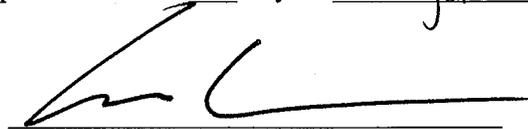
**Section 5: Effective Date.**

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 14 day of August, 2018.

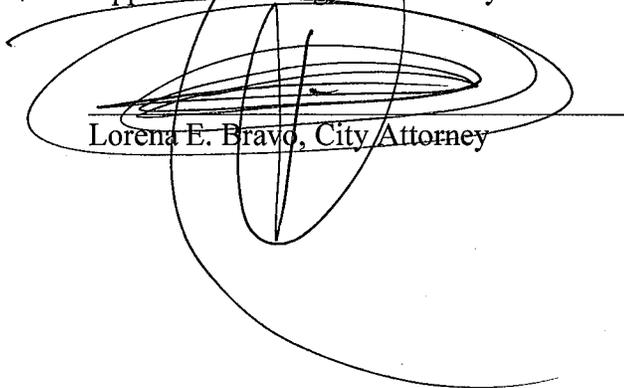
  
\_\_\_\_\_  
Vivian Casals-Muñoz  
Council President

Approved on this 20 day of August, 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 5-0-2 vote with Councilmembers, Zogby, Lozano, Casáls-Munoz, Hernandez, and Cue-Fuente voting "Yes" and with Councilmembers Caragol and Garcia-Martinez absent.