

**ORDINANCE NO. 2018-077**

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW THE CONSTRUCTION OF A THREE UNIT, THREE STORY MULTIFAMILY BUILDING ON A SUBSTANDARD LOT WITH A FRONTAGE OF 50 FEET, WHERE 75 FEET ARE REQUIRED; AN AREA OF 6,750 SQUARE FEET, WHERE 7,500 FEET ARE REQUIRED; ALLOW A FRONT SETBACK OF 6 FEET, WHERE 25 FEET ARE REQUIRED; ALLOW A REAR SETBACK OF 16 FEET, WHERE 20 FEET ARE REQUIRED; ALLOW AN EAST SIDE SETBACK OF 5 FEET, WHERE 10 FEET ARE REQUIRED; AND ALLOW LOT COVERAGE OF 37.4 PERCENT, WHERE A MAXIMUM OF 30 PERCENT IS ALLOWED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-2056(b)(2), 98-348, 98-499, 98-588, 98-589, 98-590, AND 98-591; **PROPERTY LOCATED AT 464 EAST 21 STREET, HIALEAH, FLORIDA.** PROPERTY ZONED R-3-3 (MULTI-FAMILY DISTRICT). 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 27, 2018 recommended approval of this ordinance;

**WHEREAS**, the property satisfies the Urban Design Incentives pursuant to Hialeah Code § 98-275, earning 5 points for locating parking out of the street view; and

**WHEREAS**, at the rear setback of 16 feet, there shall be a blank wall separating this property from the property to the south.

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 the construction of a three unit, three story multifamily building on a substandard lot with a frontage of 50 feet, where 75 feet are required, and an area of 6,750 square feet, where 7,500 feet

are required, contra to Hialeah Code of Ordinances §§ 98-348, 98-588, and 98-499 that provide as relevant as follows: § “98-348. Minimum size of lots and blocks; platting of lands. (a) Size of lots. According to subsection 98-347(4) and section 98-2056, no new plat shall be approved unless all building sites and lots in residential districts shall have a minimum average width of 75 feet... All lots in R-1 one-family districts and R-2 one- and two-family residential districts shall have at least 7,500 square feet in area.”; § “98-588. Building site area required. In the R-3 multiple-family district, the required building site area shall be as follows: (1) For single-family use, the same as in the R-1 district.”; § “98-499. Building site area required. The minimum building site in the R-1 one-family district shall be one lot or parcel of land containing at least 7,500 square feet of area for each one-family residence. Such parcels or lots shall have an average width of at least 75 feet”; allow a front setback of 6 feet, where 25 feet are required, contra to Hialeah Code of Ordinances § 98-589 that provides: “there shall be a 25-foot front yard...” ; allow a rear setback of 16 feet, where 20 feet are required, contra to § 98-591 that provides: “...there shall be a 20-foot rear yard setback.”; allow an east side setback of 5 feet, where 10 feet are required, contra to § 98-590 that provides: “...there shall be side yards, and the width of each shall not be less than ten feet.” ; and lot coverage of 37.4 percent, where a maximum of 30 percent is allowed, contra to Hialeah code §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 464 East 21 Street, Hialeah, Florida, and legally described as follows:

Lot 8, Block 5-B, of SIX ADDITION TO THE TOWN OF HIALEAH, according to the Plat thereof, as recorded in Plat Book 8, Page 54, 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.**

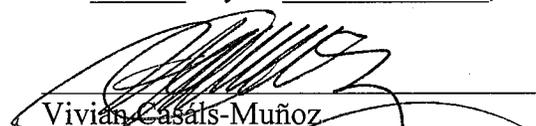
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or 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 28 day of August, 2018.

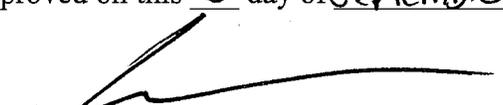
THE FOREGOING ORDINANCE  
OF THE CITY OF NIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

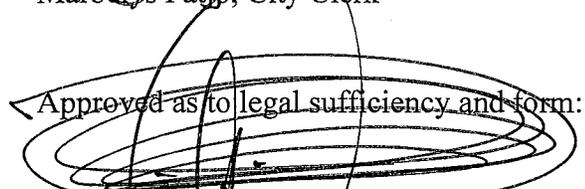
  
\_\_\_\_\_  
Vivian Casals-Muñoz  
Council Vice President

Attest:

Approved on this 5 day of September, 2018.

  
\_\_\_\_\_  
for  
Marbelys Fajó, City Clerk

  
\_\_\_\_\_  
Carlos Hernandez, Mayor

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

Ordinance was adopted by a 4-0-3 vote with Councilmembers, Casáls-Munoz, Hernandez, Caragol, and Cue-Fuente voting "Yes" and with Councilmembers Zogby, Lozano and Garcia-Martinez absent.