ORDINANCE NO. 13-26

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A DUPLEX ON A SUBSTANDARD-SIZED LOT HAVING A WIDTH OF 50 FEET, WHERE A MINIMUM AVERAGE WIDTH OF 75 FEET IS REQUIRED, AND A TOTAL AREA OF 6,750 SQUARE FEET, MORE OR LESS, WHERE A TOTAL AREA OF AT LEAST 7,500 SQUARE FEET IS REQUIRED, TO ALLOW A LOT COVERAGE OF 35.25%, WHERE A MAXIMUM LOT COVERAGE OF 30% IS ALLOWED, TO ALLOW A EAST AND WEST SIDE SETBACKS OF 5 FEET, WHERE 7.5 FEET ARE REQUIRED, AND TO ALLOW A REAR SETBACK OF 20 FEET, WHERE 25 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-544, 98-546, 98-547(a) AND 98-2056(b)(2). **A VACANT LOT LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION BETWEEN WEST 1 AVENUE AND WEST 14 STREET, WEST OF PALM AVENUE, HIALEAH, FLORIDA WITH A PROPOSED STREET ADDRESS OF 41 WEST 14 STREET.** 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 March 13, 2013, 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 a duplex on a substandard-sized lot having a width of 50 feet, where a minimum

average width of 75 feet is required, having a total area of 6,750 square feet, more or less, where at least 7,500 square feet is required, to allow a lot coverage of 35.25%, where a maximum of 30% is allowed, to allow east and west side setbacks of 5 feet, where 7.5 feet are required, and to allow a rear setback of 20 feet, where 25 feet are required, contra to Hialeah Code §§ 98-544, 98-546, 98-547 and 98-2056(b)(2), 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 have a minimum average depth of 100 feet.", "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 not case shall each such side yard be less than 7 ½ feet in width.", "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, and every accessory building shall provide a rear yard with a minimum depth of 7 ½ feet." and "In addition, every residential development except R-1 and R-4, and R-3 when developed as R-4 shall comply with the following open space and lot coverage requirements: (2) A maximum of 30 percent of the net residential land area shall be covered with or occupied by the principal residential structure.", respectively. Property located at the northeast corner of the intersection of West 1 Avenue and West 14 Street, west of Palm Avenue, with a proposed street address of 41 West 14 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 18, IN BLOCK 73, OF SEVENTH ADDITION TO TOWN OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGE 6, 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 09 day of April, 2013.

Isis Garcia-Martinez
Council President

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

Attest: Approved on this 12 day of April, 2013.

Marbelys Fatjo, Acting City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".