ORDINANCE NO. 2013-53

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY RESIDENTIAL DISTRICT) TO R-2 (ONE AND TWO FAMILY RESIDENTIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A DUPLEX ON EACH OF TWO SUBSTANDARD-SIZED LOTS HAVING EACH A WIDTH OF 50 FEET, WHERE A MINIMUM AVERAGE WIDTH OF 75 FEET IS REQUIRED, HAVING EACH 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 50.4% ON EACH LOT, WHERE A MAXIMUM OF 30% IS ALLOWED, AND TO ALLOW SIDE SETBACKS OF 5 FEET ON EACH LOT, WHERE 7.5 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-544, 98-546 AND 98-2056(b)(2). **PROPERTY LOCATED AT 115 WEST 13 STREET, 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 March 13, 2013 recommended denial of this ordinance; and

WHEREAS, on June 25, 2012, the Hialeah City Council voted to override the Planning and Zoning Board's recommendation of denial;

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

Section 1: The Mayor and the City Council of the City of Hialeah, Florida hereby override the Planning and Zoning Board's recommendation of denial of this ordinance.

Section 2: The below-described property is hereby rezoned from R-1 (One Family Residential District) to R-2 (One and Two Family Residential District) and is hereby granted a variance permit to allow a duplex on each of two substandard-sized lots having each a width of 50 feet, where a minimum average width of 75 feet is required, having each 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 50.4% on each lot, where a maximum of 30% is allowed, and to allow side setbacks of 5 feet on each lot, where 7.5 feet are required, contra to Hialeah Code §§ 98-544, 98-546 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 no case shall each such side yard be less than 7 ½ feet in width." 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 115 West 13 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 14 AND 15, IN BLOCK 65, OF HIALEAH 7TH ADDITION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, AT PAGE 6, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

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 punished by 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 27 day of August, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 29 day of Aug, 2013.

Marbelys ~~Rubio~~ Tatjo, 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".