ORDINANCE NO. 2013-76

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 LOT COVERAGE OF 33%, WHERE A MAXIMUM OF 30% IS ALLOWED, AND TO ALLOW A REAR SETBACK OF 20.71 FEET, WHERE 25 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-547(a) AND 98-2056(b)(2). **PROPERTY LOCATED AT 701 EAST 24 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 August 28, 2013 recommended denial of this ordinance; and

WHEREAS, on September 10, 2013, 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 lot coverage of 33%, where a maximum of

30% is allowed, and to allow a rear setback of 20.71 feet, where 25 feet are required, contra to Hialeah Code §§ 98-547(a) and 98-2056(b)(2) which provide in pertinent part: "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..." 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 701 East 24 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

> LOTS 29 AND 30, IN BLOCK 32B, OF AMENDED PLAT OF THE AMENDED PLAT OF THIRTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, AT PAGE 26, 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 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 8th day of October, 2013.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 16 day of October, 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