ORDINANCE NO. 2013-88

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY RESIDENTIAL DISTRICT) TO R-3-2 (MULTIPLE-FAMILY DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW A LOT COVERAGE OF 50%, WHERE A MAXIMUM OF 30% IS ALLOWED, TO ALLOW A FRONT SETBACKS OF 5 FEET, WHERE 25 FEET ARE REQUIRED, AND TO ALLOW A STREET SIDE SETBACK OF 5 FEET, WHERE 15 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-589, 98-590 AND 98-2056(b)(2). **PROPERTY LOCATED AT 1120 WEST 37 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 November 13, 2013 recommended denial 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 rezoned from R-1 (One Family Residential District) to R-3-2 (Multiple-Family District) and is hereby granted a variance permit to allow a lot coverage of 50% on each lot, where a maximum of 30% is allowed, to allow a front setback of 5 feet, where 25 feet are required, and to allow a street side setback of 5 feet, where 15 feet are required, contra to Hialeah Code §§ 98-589, 98-590 and 98-2056(b)(2) which provide in pertinent part: "In the R-3 multiple-family district, there shall be a 25-foot front yard required, unless a lesser distance is established by the existence of two or more structures, at a lesser distance, but in no case shall the front yard be less than 15 feet.", "In the R-3 multiple-family district, there shall

be side yards, and the width of each shall not be less than ten feet. For a corner lot, the side yard parallel abutting the street shall be not less than 15 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 1120 West 37 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

> COMMENCE AT THE NORTHWEST CORNER OF THE REAL ESTATE DESCRIBED AS FOLLOWS:
>
> THE NORTH 858 FEET OF THE NW ¼ OF THE NW ½ OF SECTION 12, TOWNSHIP 53 SOUTH, RANGE 40 EAST; THENCE EASTERLY ALONG THE NORTHERLY LINE THEREOF, A DISTANCE OF 530 FEET FOR A POINT OF BEGINNING; THENCE SOUTHERLY PARALLEL TO THE WESTERLY LINE THEREOF, A DISTANCE OF 235 FEET, THENCE EASTERLY PARALLEL TO THE NORTHERN LINE THEREOF, A DISTANCE OF 100 FEET, THENCE NORTHERLY PARALLEL TO THE WESTERLY LINE THEREOF, A DISTANCE OF 235 FEET, THENCE WESTERLY ALONG THE NORTHERN LINE THEREOF A DISTANCE OF 110 FEET TO THE POINT OF BEGINNING LYING AND BEING IN THE CITY OF HIALEAH, 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 10 day of December, 2013.

Isis Garcia-Martinez
Council President

Attest:

Marbelys Rubio, Acting City Clerk

Approved on this 16 day of December, 2013.

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

Ordinance was adopted by a 5-0-2 vote with Council Members, Garcia-Martinez, Caragol, Cue-Fuente, Hernandez and Lozano voting "Yes", Council Vice President Gonzalez and Councilwoman Casals-Munoz, absent.

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