

**ORDINANCE NO. 2021-009**

ORDINANCE REZONING PROPERTY FROM R-1 (ONE-FAMILY DISTRICT) TO R-2 (ONE-AND TWO-FAMILY RESIDENTIAL DISTRICT); AND GRANTING A VARIANCE PERMIT TO ALLOW THE CONSTRUCTION OF A DUPLEX ON A SUBSTANDARD LOT WITH FRONTAGE OF 40 FEET AND AREA OF 4,000 SQUARE FEET, WHERE 75 FEET FRONTAGE AND 7,500 SQUARE FEET ARE REQUIRED; ALLOW 0 FEET SOUTH SIDE INTERIOR SETBACK, WHERE 7.5 FEET IS REQUIRED; ALLOW 18 FEET REAR SETBACK WHERE 25 FEET ARE REQUIRED; AND ALLOW 39% LOT COVERAGE, WHERE 30% IS THE MAXIMUM ALLOWED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-544, 98-546, 98-547(a) AND 98-2056(b)(2). **PROPERTY LOCATED AT 851 EAST 43 STREET (LOT 14), 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 June 9, 2020 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 rezoned from R-1 (One-Family District) to R-2 (One-and Two-Family Residential District). Property located at 851 East 43 Street (Lot 14), Hialeah, Florida, and legally described as:

Lots 14 and 15, Block 22 of INGLESIDE PARK, according to the Plat thereof, as recorded in Plat Book 10, at Page 31, of the Public Records of Miami-Dade County, Florida.

**Section 2:** The above described property is hereby granted a variance permit to allow a construction of a duplex on a substandard lot with frontage of 40 feet and area of 4,000 square feet, where 75 feet frontage and 7,500 square feet are required; contra to Hialeah Code of Ordinances § 98-544 that

provides in relevant 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...”; allow 0 feet south side interior setback, where 7.5 feet is required; contra to Hialeah Code of Ordinances § 98-546 that provides in relevant part: “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 7½ feet in width.”; allow 18 feet rear setback where 25 feet are required; contra to Hialeah Code of Ordinances § 98-547(a) that provides in relevant 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 allow 39% lot coverage, where 30% is the maximum allowed; contra to Hialeah Code of Ordinances § 98-2056(b)(2) that provides in relevant part: “A maximum of 30 percent of the net residential land area may be covered with or occupied by the principal residential structure.”

**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.

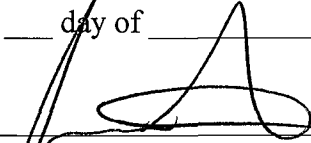
**Section 5: Severability Clause.**

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.

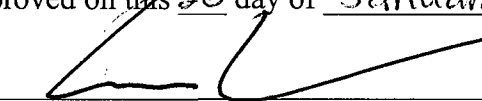
PASSED and ADOPTED this \_\_\_ day of \_\_\_\_\_, 2021.

  
\_\_\_\_\_  
Jesus Tundidor  
Council President

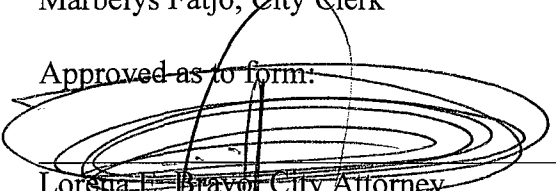
Attest:

  
\_\_\_\_\_  
Marbelys Fatjo, City Clerk

Approved on this 20 day of January, 2021.

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

Approved as to form:

  
\_\_\_\_\_  
Lorena E. Bravo, City Attorney

Ordinance was adopted by 4-0-3 vote with Councilmembers, De la Rosa, Garcia-Roves, Tundidor, and Zogby voting "Yes" and with Council Member Cue-Fuente and Council Member Hernandez absent and Council Vice President Perez recording her vote as "Yes".

S:\ADJ\ORDINANCES\rezoning R-1 to R-2 851 E. 43 St (lot 14) and variance to construct a duplex on a substandard lot.docx

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 168.041  
PRIOR TO FINAL READING.