

**ORDINANCE NO. 2021-006**

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 FOR THE REPLATTING AND CONSTRUCTION OF A DUPLEX ON A SUBSTANDARD LOT WITH FRONTAGE OF 60 FEET, WHERE 75 FEET IS THE MINIMUM REQUIRED; ALLOW LOT COVERAGE OF 31.2%, WHERE 30% IS THE MAXIMUM ALLOWED; AND ALLOW A REAR SETBACK OF 24 FEET, WHERE 25 FEET IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-544, 98-547(a) AND 98-2056(b)(2). **PROPERTY LOCATED AT 631 EAST 40 STREET, HIALEAH, ZONED R-1 (ONE-FAMILY DISTRICT)**; 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 18, 2020 recommended approval of this ordinance; and

**WHEREAS**, the applicant has proffered a Declaration of Restrictions, to which the City accepts, and

**WHEREAS**, the front setback will be kept as proposed with no pavement area increase, the footprint of the structure will not be further increased with the incorporation of covered terraces, and no further variances granted.

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).

**Section 2:** The below described property is hereby granted a variance permit to allow for replatting and construction of a duplex on a substandard lot with frontage of 60 feet, where 75 feet is the minimum 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... Such parcels or lots shall have an average width of at least 75 feet...”; allow lot coverage of 31.2%, 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.”; and allow 24 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...”.

Property located at 631 East 40 Street, Hialeah, Florida, and legally described as:

Lot 25, and the East 20 feet of Lot 26, in Block 30-F, of FOURTEENTH ADDITION TO HIALEAH, according to the Plat thereof, as recorded in Plat Book 10, at Page 54, of the Public Records of Miami-Dade County, Florida, together with a portion of the 6 foot alley lying north and adjacent to subject property.

**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.

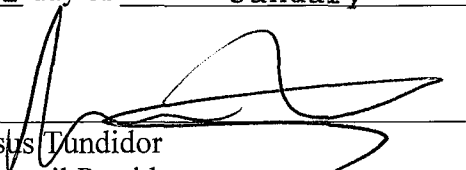
**Section 5: Severability Clause.**

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.

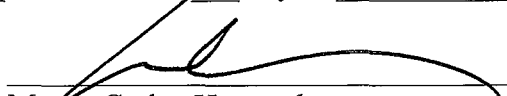
PASSED and ADOPTED this 12 day of January, 2021

  
Jesus Tundidor  
Council President


Attest:

  
Marbelys Fatjo, City Clerk

Approved on this 20 day of January, 2021

  
Mayor Carlos Hernandez

Approved as to legal form and sufficiency:

  
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, Council Vice President Perez and Council Member Hernandez absent.