

ORDINANCE NO. 2022-110

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, REZONING PROPERTY FROM R-1 (ONE-FAMILY DISTRICT) TO R-3-5 (MULTIPLE-FAMILY DISTRICT); GRANTING A VARIANCE PERMIT TO ALLOW A FRONT SETBACK OF 10.5 FEET, WHERE 25 FEET IS THE MINIMUM REQUIRED; ALLOW AN EAST SIDE SETBACK OF 4 FEET AND A WEST SIDE SETBACK OF 7 FEET, WHERE 10 FEET IS THE MINIMUM REQUIRED RESPECTIVELY; AND ALLOW 23% PERVIOUS AREA, WHERE 30% PERVIOUS AREA IS THE MINIMUM REQUIRED; ALL CONTRA TO HIALEAH CODE OF ORDINANCES §§ 98-589, 98-590 AND 98-2056(b)(1). **PROPERTY LOCATED AT 350 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 October 12, 2022 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-3-5 (Multiple-Family District).

Section 2: The below-described property is hereby granted a variance permit to allow a front setback of 10.5 feet, where 25 feet is the minimum required, contra to Hialeah Code of Ordinances § 98-589 that provides: “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”; allow an east side setback of 4 feet and a west side setback of 7 feet, where 10 feet is the minimum required respectively, contra to Hialeah Code of Ordinances § 98-590 that as relevant provides: “In the R-3 multiple-family district, there shall be side yards, and the width of each shall not be less than ten feet.”; and allow 23% pervious area, where 30% pervious is the minimum required, contra to Hialeah Code of Ordinances § 98-2056(b)(1) that provides: “A minimum of 30 percent of the net residential land area shall be maintained in landscaped open space, which space may include recreation areas, swimming pools, and setback areas.”; Property located at 350 East 40 Street, Hialeah, zoned R-1 (One-Family District) and legally described as follows:

The East ½ of Lot 4 and the West ½ of Lot 5, in Block 1 of COBO’S FRONTON SUBDIVISION NO. 2, according to the Plat thereof, as recorded in Plat Book 15, at Page 9, 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 8 day of November, 2022.



Monica Perez
Council President

Attest:



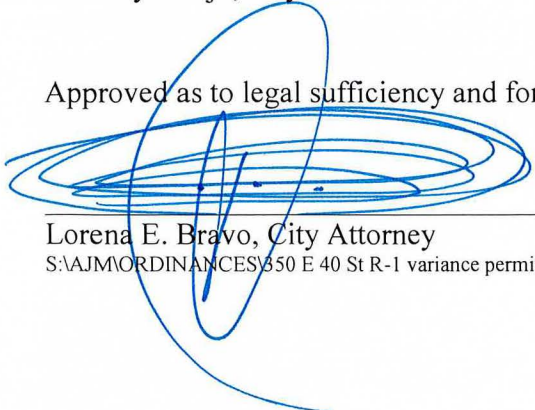
Marbelys Fatjo, City Clerk

Approved on this 17 day of November, 2022.



Mayor Esteban Bovo, Jr.

Approved as to legal sufficiency and form:



Lorena E. Bravo, City Attorney

S:\AJM\ORDINANCES\350 E 40 St R-1 variance permit to allow construction of multi-family building substandard lot (p&z 10.12.22).docx

Ordinance was adopted by 6-0-1 vote with Councilmembers Calvo, Garcia-Roves, Perez, Rodriguez, Tundidor, and Zogby voting "Yes" and with Councilmember Casals-Muñoz absent.