

CITY OF CORAL GABLES, FLORIDA**ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES APPROVING THE VACATION OF A PUBLIC ALLEYWAY PURSUANT TO ZONING CODE ARTICLE 3, DIVISION 12, "ABANDONMENTS AND VACATIONS", FOR THE PROPOSED MIXED USE PROJECT REFERRED TO AS "DYL MERRICK MXD", ON THE PROPERTY LEGALLY DESCRIBED AS ALL OF BLOCK 16, INDUSTRIAL SECTION (4601 LEJEUNE ROAD) CORAL GABLES, FLORIDA; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Application No. 06-08-070-P was submitted for one development proposal including a request for the abandonment and vacation of a public alleyway and mixed-use (MXD) site plan review for a project referred to as "DYL Merrick MXD" on property legally described as Block 16, Industrial Section (detailed legal description on file within City records), Coral Gables, Florida; and,

WHEREAS, the proposed public alleyway bisects the project site and vacation of the alleyway is required to allow for the construction of the proposed MXD site plan; and,

WHEREAS, as required by the Zoning Code, the proposed public ROW vacations and dedications have been reviewed by the Public Works Department and the Development Review Committee (DRC), and the Public Works Department and DRC had no objections to the proposed public alleyway vacation; and,

WHEREAS, after notice of public hearing duly published and notification of all property owners of record within the South MXD Industrial District and within one thousand five hundred (1,500) foot radius from the District, a public hearing was scheduled before the Planning and Zoning Board, however the application was deferred on October 8, 2008; and was held on November 12, 2008 and continued to December 10, 2008, at which hearings all interested persons were afforded the opportunity to be heard; and,

WHEREAS, at the December 10, 2008 Planning and Zoning Board meeting, the Board with a tie vote (vote: 3-3) provided "no recommendation" on the proposed applications; and,

WHEREAS, after further notice of public hearing was duly published and notifications of all property owners of record within the South MXD Industrial District and within one thousand five hundred (1,500) foot radius from the District, a public hearing was held before the City Commission on January 13, 2009, at which hearing all interested persons were afforded the opportunity to be heard; and,

WHEREAS, it was determined and included in the "findings of fact" that the proposal satisfied the criteria for the vacation of a public alleyway established in the Zoning Code, as follows:

The Zoning Code specifies that applications for the abandonment and vacation of public streets, alleyways and other non-fee interests may be approved provided the following is demonstrated:

- A. *The non-fee property interest sought to be abandoned:*
 1. *Does not provide a benefit to the public health, safety, welfare, or convenience, in that:*
 - a. *It is not being used by the City for any of its intended purposes.*
 - b. *The Comprehensive Land Use Plan, special purpose plan, or capital improvement program does not anticipate its use; or*
 2. *Provides some benefit to the public health, safety, welfare, or convenience, but the overall benefit anticipated to result from the abandonment outweighs the specific benefit derived from the non-fee property interest, in that:*
 - a. *The vacation or abandonment will not frustrate any comprehensive plan, special purpose plan, or capital improvement program of the City;*
 - b. *The vacation or abandonment will not interfere with any planning effort of the City that is underway at the time of the application but is not yet completed; and*
- B. *The vacation or abandonment will provide a material public benefit in terms of promoting the desired development and improves the City's long-term fiscal condition and the applicant provides beneficial mitigation in the form of a proffered mitigation plan which mitigates the loss of real property, the increase in the intensity of use and/or impacts on the public health, safety and welfare including increased parking and traffic.*

WHEREAS, the applicant has proffered various improvements and contributions to mitigate the proposed development's potential impact; and,

WHEREAS, the City Commission at its regular meeting of January 13, 2009 recommended _____ (vote: -) of the proposed vacation of the public alleyway on First Reading.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The request for the vacation of a public alleyway for a mixed-use (MXD) project referred to as "DYL Merrick MXD" on property legally described as Block 16, Industrial Section (4601 LeJeune Road), Coral Gables, Florida, as set forth in Application No. 06-08-070-P, shall be and is hereby _____.

SECTION 3. That it is the intention of the City Commission that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other portion of this Ordinance, the Coral Gables Comprehensive Land Use Plan, or the Coral Gables Zoning Code.

SECTION 4. All rights, actions, proceedings and Contracts of the City, including the City Commissioners, the City Manager, or any of its departments, boards or officers undertaken pursuant to the existing code provisions, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.

SECTION 5. All ordinance or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 6. If any section, part of session, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 7. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of Coral Gables, Florida, as amended, which provisions may be renumbered or relettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 8. This Ordinance shall become effective _____, 2009.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2009.

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ELIZABETH HERNANDEZ
CITY ATTORNEY