



April 18, 2008

Mr. David Brown
City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

Dear Mr. Brown,

The University of Miami is requesting a personal appearance before the City Commission on April 29, 2008 to present our Campus Art Master Plan.

On December 11, 2007, the Commission of the City of Coral Gables passed and adopted Ordinance Number 2007-37 (enclosed) that established a formal policy pertaining to the funding, acquisition, placement and maintenance of public art, outlined in the City of Coral Gables Art in Public Places Program (the "Art in Public Places Ordinance"). The Art in Public Places Ordinance exempts from its requirements an accredited college and/or university that maintains at its campus a publicly accessible permanent collection of art, and requires that in order to maintain its exempt status, the college and/or university submit a Campus Art Master Plan for review by the City Commission to confirm its sufficiency.

The University of Miami wishes to present its Campus Art Master Plan in compliance with the Art in Public Places Ordinance. We look forward to a favorable review by the City Commission on April 29, 2008.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Natoli", written over a large, faint, circular watermark or stamp.

Joe Natoli

JN/mp
Enclosure

Senior Vice President for Business and Finance
230 Ashe Building
P.O. Box 248106
Coral Gables, Florida 33124-4626
305-284-6100
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CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2007-37 (AS AMENDED)

AN ORDINANCE OF THE CITY OF CORAL GABLES ZONING CODE CREATING A NEW DIVISION WITHIN ARTICLE 3, DEVELOPMENT REVIEW, DIVISION 20, ENTITLED "ART IN PUBLIC PLACES"; PROVIDING DEFINITIONS; ESTABLISHING POLICY, ESTABLISHING AN ART FUND TO BE USED FOR PUBLIC ART PURPOSES; PROVIDING PROCEDURES AND ADMINISTRATION CRITERIA; PROVIDING EXEMPTIONS AND WAIVERS; PROVIDING FOR OWNERSHIP AND MAINTENANCE; AND PROVIDING FOR ENFORCEMENT FOR AN ART IN PUBLIC PLACES PROGRAM; PROVIDING FOR REPEAL, PROVIDING SEVERABILITY, PROVIDING FOR CODIFICATION THEREOF, AN EFFECTIVE DATE, AND REPEALING ALL ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, over three hundred communities throughout the United States have implemented public art programs committing to the placement of public art; and

WHEREAS, Coral Gables has a proud history of incorporating public art in the landscape of the City to create both function and beauty including numerous fountains and plazas which have been designated as local historic landmarks; and

WHEREAS, the City of Coral Gables is responsible for the maintenance of these historic landmarks and established a policy in 1985 that took into consideration the maintenance of these landmarks as Art in Public Places; and

WHEREAS, the Miami Dade County Art in Public Places Ordinance (adopted in 1973 and amended in 1978, 1982 and 1994), the 2002 Downtown Coral Gables Charrette, and the City of Coral Gables Comprehensive Master Plan, each outlined or encouraged the establishment of a municipal Public Art Program; and

WHEREAS, the City of Coral Gables, with the support of the Miami-Dade County Art in Public Places professionals, now wishes to develop a more formal Art in Public Places program to assist in the maintenance of the historic public art through Municipal Construction Project funding and the acquisition, installation, and maintenance of new, equally significant public art for the enjoyment of citizens and visitors through the non-Municipal construction contributions; and

WHEREAS, the City's art in public places program shall promote the City's diversity, character and heritage through the artworks and designs by artists integrated in the architecture throughout Coral Gables on public and private property; and

WHEREAS, it is the purpose of the City of Coral Gables Art in Public Places Program to promote the health, safety, general welfare and quality of life in the City; to guide the orderly growth and development of the City; to establish rules and procedures for land development approvals; to enhance the character of the City and the preservation of neighborhoods; to make the beautification of the City a matter of the highest priority; to require that existing and future

uses and structures in the City are attractive and well-maintained to the maximum extent permitted by law; and to enhance the quality of life of all residents and property owners of the City by requiring that public art planning be integrated within all new development; and,

WHEREAS, after notice of a public hearing being duly published, the City Commission on October 23, 2007 recommended approval on First Reading this Ordinance (5-0 vote) and requested the Planning and Zoning Board consider the Ordinance prior to City Commission second and Final Reading; and,

WHEREAS, the City Commission on October 23, 2007 as a part of First Reading approval made a separate motion (3-2 approval vote) requesting the Planning and Zoning Board provide specific direction as it relates to exemption language for Educational Institutions; and,

WHEREAS, after notice of a public hearing being duly published, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on November 14, 2007 at which hearing all interested parties were afforded the opportunity to be heard; and,

WHEREAS, at the November 14, 2007 meeting, the Planning and Zoning Board in summary made the following motions (Please refer to the verbatim record of the Planning and Zoning public hearing proceeding for the exact motions):

1. Recommended approval of the Ordinance as referenced and provided in the November 14, 2007 Planning Department Staff Report, Attachment A including various text amendments to provide further clarification of the provisions. This final vote of the motion resulted in no recommendation (3-3 vote).
2. Recommended approval of the Ordinance as referenced and provided in the November 14, 2007 Planning Department Staff Report, Attachment A subject to the following amendments:
 - a. Including various text amendments to provide further clarification of the provisions.
 - b. Providing for a blanket exemption for the University of Miami in recognition of the University's Arts contribution to date subject to the University maintaining an Arts program.
 - c. Clarification of the replacement value language for private developers.This final vote of the motion resulted in no recommendation (3-3 vote).
3. Recommended approval of the Ordinance as referenced and provided in the November 14, 2007 Planning Department Staff Report, Attachment A with various text amendments to provide further clarification to the provisions and providing for no exemptions and/or removal of the exemption provisions for Educational Institutions. This final vote of the motion resulted in no recommendation (3-3 vote).

WHEREAS, various text amendments were identified by both the Planning and Zoning Board and City Staff since First Reading, to clarify the provisions, these changes have been included:

1. Requested additional clarification that construction costs included maintenance, lighting, signage, etc. of the art.
2. Include a consumer pricing index adjustment for the \$1,000,000.00 Non-Municipal Construction Project valuation.
3. Addition of language indicating the applicability of the exaction of fees is upon City Commission approval of the Public Art Master Art Plan.
4. Other changes to clarify provisions, including definitions, etc.

WHEREAS, after notice of a public hearing being duly published, the City Commission on December 11, 2007 recommended approved (vote 5-0) on Second Reading of this Ordinance.

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 Zoning Code of the City of Coral Gables, Florida is hereby amended to create a new Division 20, to be entitled "Art In Public Places," to read as follows:

DIVISION 20. Art in Public Places

Section 20-101. Purpose.

It is the purpose of this Division to establish a formal policy for the City pertaining to the funding, acquisition, placement and maintenance of public art and the maintenance of historic public art. The policy is outlined in *The City of Coral Gables Art in Public Places Program: Funding Goals and Implementation Guidelines*, which may be revised and clarified from time to time upon the recommendation of the Cultural Development Board and final approval by Resolution of the City Commission. It is the intention of this program to preserve the City's artistic heritage, enhance its character and identity, contribute to economic development and tourism, add beauty and interest to public spaces and increase opportunities for the public to experience and participate in the arts through the acquisition and installation of world-class art in publicly accessible areas.

Section 20-102. Definitions.

For the purpose of this Division, the following terms are defined:

Aggregate project value means the total of all construction costs associated with a particular site plan project regardless of the number of permits associated with the project, or whether it is a phased project.

Arts advisory panel means a panel composed of art experts, appointed by the Cultural Development Board, who along with the City Architect shall make recommendations to the Cultural Development Board on acquisitions for individual artwork projects. Arts Advisory Panel members are professionals in the field of art, art history, architecture or architectural history.

Art acquisition fund means a separate, dedicated, interest bearing and revolving fund established in the City Treasury into which non-City developer contributions are collected and deposited for the purposes of acquiring, installing, and maintaining world-class public art.

Art in public places or public art is defined as works of art of exceptional quality executed on an appropriate scale and for general public access, other than museums, which enrich and give diversion to the public environment.

Artist means, for the purpose of this ordinance, an individual generally recognized by critics and peers as a professional practitioner of the visual arts, as judged by the quality of that professional practitioner's body of work, educational background, experience, past public commissions, exhibition record, publications, receipt of honors and awards, training in the arts, and production of artwork.

City Manager means the City Manager, Assistant City Manager, or any public officer designated by the City Manager.

The City of Coral Gables Art in Public Places Program: Funding, Goals, and Implementation Guidelines is the guiding document for the City of Coral Gables' Art in Public Places program. The document may be revised from time to time and approved by Resolution of the City Commission upon recommendation of the Cultural Development Board.

Construction cost means the total cost of the construction or renovation work, as determined by the building official in issuing a building permit for construction or renovation. Construction costs include all labor, structural materials, plumbing, electrical, mechanical, infrastructure, maintenance, insurance, lighting, signage site work and other costs in order to maintain the art as approved by the City. All construction and renovation costs shall be calculated as of the date the building permit is issued.

Extraordinary maintenance means any non-routine repair or restoration to sound condition of Public Art that requires specialized professional services.

Historic public art Fund means a separate, dedicated, interest bearing and revolving fund established in the City Budget into which Municipal Project Construction contributions are collected and deposited.

Municipal construction project(s) means any project to be paid for wholly or in part by the City, regardless of the source of the monies, to construct or renovate any public buildings, decorative or commemorative structures, parking facilities and parks, or any portion of any such buildings, structures, facilities or parks belonging to the City or where construction occurs on City-owned land where the City is a party to a public private joint venture agreement on City owned land.

Non-municipal construction project(s) is defined as any non-City construction or renovation in Coral Gables in excess of one million dollars (\$1,000,000.00), excluding single-family homes.

1. Developers may petition to have the public art acquisition incorporated within their project provided there is regular public access at no charge to the public.
2. If the developer seeks to incorporate the art within his/her project, the artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory

Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.

3. The art acquisition to be incorporated within the project shall have a minimum appraised value of one (1.0%) percent of the construction costs. The value of the artwork shall be confirmed by a certified art appraiser (or a person with professional arts credentials) as determined by the City whose evaluation fee shall be paid by the developer and reviewed by the City. If the appraised value of the artwork is less than one (1.0%) percent of the construction costs of the project, the difference in the value of the artwork and the one (1.0%) percent shall be contributed to the Art Acquisition Fund.
4. Instead of providing credentialed artwork on the project site, the developer may choose to contribute one (1.0%) percent of the aggregate project value as the required art fee.
5. In Lieu of providing artwork on the project site or contributing a one (1%) percent art fee, the developer may choose to donate artwork to the City. The artwork shall be valued at one (1%) percent of the aggregate project value inclusive of the cost of maintenance, insurance, lighting and signage. The artwork shall be reviewed by the Cultural Development Board, with the assistance of the Arts Advisory Panel. The Cultural Development Board shall recommend to the City Commission whether to approve, deny, or approve with conditions the selection and location of the artwork.
6. The Non-Municipal Construction Project one million dollar (\$1,000,000.00) threshold shall be adjusted annually based upon the consumer price index.

Ordinary maintenance means any routine maintenance necessary to maintain the public art which is undertaken on a regular basis.

Public art collection means the works of public art owned by the City.

Public art in-lieu fee means a fee paid to the City pursuant to this Division equal to one (1.0%) percent of construction costs as defined herein for those non-municipal projects with an aggregate project value of one million dollars (\$1,000,000.00) or more.

Public art master art plan means a five-year plan developed to further define the City of Coral Gables as a unique city of artistry and beauty while insuring open access to public art. The document at a minimum will identify locational placement priorities, standards for installation, detailed criteria for artist and artwork selection, and a conservation/maintenance protocol.

Publicly accessible means locations that are highly visible and accessible in areas where people congregate at no charge to public.

Works of art is defined as tangible creations by artists exhibiting the highest quality of skill and aesthetic principles, including but not limited to paintings, sculptures, stained glass, statues, bas reliefs, engravings, carvings, frescos, mobiles, murals, collages, mosaics, tapestries, photographs, drawings, monuments, and fountains or combinations thereof. Appropriate expenditures may also include the repair and maintenance of works of art acquired under this ordinance. For the purposes of this ordinance, Historic Public Art consists of plazas, entrances, fountains, murals, sculptures, and other decorative features that have been designated as local historic landmarks and represent the original civic art designed by the founders of the City. In

the Historic Public Art Fund, appropriate expenditures may include the acquisition of historic public art or the repair, maintenance, signage, lighting or reinstallation of the art subject to the City Commission's approval upon recommendation of the Historic Preservation Board.

Section 20-103. Art funds.

A. General. Two funds will be established for the Art in Public Places Program. The first fund will be entitled Historic Public Art Fund and will be funded through Municipal Construction Projects following City Commission approval of the Public Art Master Art Plan. The second fund will be entitled Art Acquisition Fund and will be funded through Non-Municipal Construction Projects over one million dollars (\$1,000,000.00), excluding single family homes, following City Commission approval of the Public Art Master Art Plan. Each of these funds will be interest bearing and revolving and may only be used for the purposes outlined in *The City of Coral Gables Art In Public Places Program: Funding, Goals, and Implementation Guidelines*.

1. Historic Public Art Fund. One (1.0%) percent of the aggregate project value for City of Coral Gables municipal projects shall be transferred to an account entitled historic Public Art Fund which will be used on the restoration, maintenance and acquisition of Historic Public Art as recommended by the Historic Preservation Board and approved by the City Commission.
2. Art Acquisition Fund. One (1.0%) percent of the aggregate project value of non-Municipal projects of one million dollars (\$1,000,000.00) or more (excluding single family homes) shall be contributed to an account designated as the Art in Public Places Trust Fund established by the City for use only on Art in Public Places as defined by the Guidelines and managed by the Cultural Development Board when the developer does not petition to place the artwork within their project. This one (1.0%) percent fee is in-lieu of the art being placed within the developer's project and shall be used to support public art in other locations within the City.

B. Waiver of requirements. A developer may seek a reduction, adjustment or complete waiver of the requirements of this ordinance. The reduction, adjustment or complete waiver shall be made by Resolution of the City Commission. Before considering any request for waiver of the art allocation, the City Commission will seek a recommendation of the appropriate Board and City Manager. The following waivers may be considered by the City Commission:

1. Projects that cause the purchase, designation, restoration, or perpetual maintenance of historically significant buildings equal to or greater than the calculated dollar contribution otherwise required for the Art in Public Places Fund.
2. Projects that cause the purchase of parcels identified in the City's Parks and Open Space Inventory Analysis that are equal to or greater than one (1.0%) percent of the construction costs of the project and donated to the City. The value of the donation shall be confirmed by MIA appraisals, which will be paid by the developer, reviewed, and approved by the City.

C. Exemptions. The following are exempt from the requirements of this Division:

1. Single-family homes.

2. Construction projects, which are required to pay a public art fee under other applicable Miami-Dade County regulations, provided payment has been documented and approved to the City's satisfaction.
3. Non-municipal projects whose aggregate project value is less than one million dollars (\$1,000,000.00).
4. An accredited college and/or university that maintains at its campus a publicly accessible permanent collection of art of at least thirty (30) sculptures and/or other public art in accordance with a Campus Art Master Plan. In order to maintain this exempt status, all of the following criteria will be satisfied:
 - a. A Campus Art Master Plan describing the selection criteria, placement, and maintenance of the permanent collection and future sculptures and other public art, and describing plans for the evolution and growth of such public art collection over time, shall initially be submitted for review by the City Commission to confirm the sufficiency of the Campus Art Master Plan; and
 - b. A report of the campus art master plan, demonstrating changes to the collection of art on the campus during the previous three year interval, shall be made to the City Commission during the anniversary month of the effective date of this ordinance.

Section 20-104. Policy.

It is the intent of this policy to capture municipal and non-municipal construction related contributions through existing building permit processes so as to be implemented and monitored without adding significant time or expense, beyond the required contribution, to the pertinent selection and contract procedures.

Section 20-105. Administration.

- A. Annual priorities and Inventories. The Historic Preservation Board or their designee as determined by the City Manager shall submit to the City Commission an annual inventory and recommended priority for the disbursement of Historic Public Art Fund as they become available.
- B. Master art plan and written guidelines. The Cultural Development Board shall develop a Public Art Master Art Plan, which shall be reviewed by the Board of Architects for the placement of artwork. The recommendation of each Board shall be subject to final review and approval by the City Commission. If approved, the Plan will govern location and selection criteria for art work. The Master Art Plan and written guidelines shall govern the manner and method of submission of proposed works of art to the Arts Advisory Panel, the process by which the Arts Advisory Panel shall make recommendations to the Cultural Development Board, and the process by which the Cultural Development Board shall recommend to the Coral Gables City Commission.

- C. Accounting. The Historic Preservation Board and the Cultural Development Board shall submit an annual report, detailed accounting of monies spent or earmarked for future expenditures to the City Manager.
- D. Selection of works of art. The selection of works of art, under the Art Acquisition Fund, shall be by Resolution of the Coral Gables City Commission upon recommendation by the Cultural Development Board with the assistance of the Arts Advisory Panel. In the selection process, all of the following principles shall be observed:
1. Works of art shall be publicly accessible.
 2. The Cultural Development Board shall consider the inherently intrusive nature of Public Art on the lives of those frequenting public places. Artworks reflecting enduring artistic concepts, not transitory ones should be sought.
 3. The Cultural Development Board's recommendations should reflect the cultural and ethnic diversity of the City without deviation from a standard of excellence.
 4. Final selection shall also take into account appropriateness to the site, permanence of the work in light of environmental conditions at the site, maintenance requirements, quality of the work, likelihood the artist can successfully complete the work within the available funding, and diversity of the artist.
 5. Ownership and maintenance.
 - a. The City shall be deemed the owner of and shall retain title to each work of Public Art acquired under the provisions of this Division. The City is charged with the custody, supervision, and preservation of such works of art.
 - b. Ownership of all works of art incorporated into private construction projects shall be vested in the property owner who shall retain title to each work of art. If the property is sold, the seller may either include restrictions in the deed that require maintenance of the artwork and prevent its removal from the property, transfer ownership of the artwork to the City of Coral Gables to be maintained as a public artwork, or remove the artwork and make a contribution to the Art Acquisition Fund equal to one (1.0%) percent of the initial Aggregate Project Value. If the title is passed to a subsequent owner and, as a result, a deed restriction exists as to the artwork, the subsequent owner shall maintain the artwork in accordance with established guidelines. Property owners will be required to maintain the work of art in good condition in the approved location, as required by law or other applicable guidelines including but not limited to code enforcement rules, to ensure that proper maintenance is provided.
 - c. All contracts for artwork that will be acquired or accepted for ownership by the City must be reviewed and approved by the City Attorney's Office.
 - d. Artists, as part of any contractual agreement with the City for the provision of a work of art, shall be required to submit to the Cultural Development Board a "Maintenance and Inventory Sheet", including the annual cost projections, which details the maintenance and ongoing care of the work and signage/credit recommendations.

- E. Enforcement. The City shall not issue a building permit for a qualified Municipal or Non-Municipal Construction project (where the developer has chosen to pay the in-lieu fee) until the required contribution has been deposited in the appropriate fund as described in *The City of Coral Gables Art in Public Places Program: Funding, Goals, and Implementation Guidelines*.

SECTION 3. Applicability of the Ordinance. The provisions of this ordinance are not effective until the City of Coral Gables Public Art Master Art Plan, as referenced herein, is reviewed and approved by the City Commission. Applicants who have secured preliminary Board of Architects approval prior to City Commission approval of the Public Art Master Art Plan shall not be subject to provisions of this Ordinance.

SECTION 4. Severability.

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Repealer.

All ordinances or parts of ordinances in conflict herewith, be and the same, are hereby repealed.

SECTION 6. Codification.

It is the intention of the Commission of the City of Coral Gables, Florida, that the provisions of this Ordinance shall become and be made a part of the City of Coral Gables Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 7. Effective Date.

This ordinance shall become effective immediately upon the passage and adoption herein.

PASSED AND ADOPTED THIS ELEVENTH DAY OF DECEMBER, A.D., 2007.

(Moved: Anderson / Seconded: Cabrera)

(Yeas: Withers, Anderson, Cabrera, Kerdyk, Slesnick)

(Unanimous: 5-0 Vote)

(Agenda Item: E-1)

APPROVED:



DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY