



**City of Coral Gables
CITY COMMISSION MEETING
May 27, 2008**

ITEM TITLE:

Ordinance on Second Reading. Amending Conditions of Approval. An Ordinance of the City Commission of Coral Gables amending previously approved Ordinance No. 3608, which approved a mixed-use project (Gables Rental Apartment Hotel/St. George) on Lots 13-34 and east 7 feet of Lot 35, Block 18, Section "K" [bounded by Navarre Avenue (north), Minorca Avenue (south) and Salzedo Street (east)], Coral Gables, Florida; whereas, the applicant desires to amend two conditions which include the removal of a self-imposed provision restricting the maximum length of stay for hotel occupants and a modification to provide commercial use in place of a restaurant on the ground floor, the approval and all other conditions of approval contained in Ordinance No. 3608 and the Restrictive Covenant shall remain in effect; providing for a repealer provision, a savings clause, and a severability clause; and providing for an effective date.

RECOMMENDATION OF THE CITY MANAGER/PLANNING DEPARTMENT:

Recommend approval of the proposed amendments to previously approved Ordinance No. 3608 and the Declaration of Restrictive Covenants.

The Ordinance and Declaration of Restrictive Covenants with amendments in ~~strikethrough/underline~~ format are provided as Exhibits A and B.

PLANNING AND ZONING BOARD RECOMMENDATION:

The Planning and Zoning Board on 04.09.08 recommended approval of the proposed amendments to Ordinance No. 3608 and the Declaration of Restrictive Covenants (vote: 5-0).

BRIEF HISTORY:

Amendments to the Ordinance and Restrictive Covenant were approved on First Reading by the City Commission on 05.13.08 (vote: 5-0).

On 12.17.02 the City Commission adopted Ordinance No. 3608 which approved a change of land use and zoning for a mixed-use project then referred to as "Gables Rental Apartment-Hotel." The Ordinance and Restrictive Covenant tied to this development contain conditions of approval requested by the applicant and required by Staff. Since that time the property has changed hands and the project is now referred to as "St. George."

The applicant is requesting the removal of a self-imposed restriction limiting the length of stay for extended-stay hotel occupants and a modification to provide commercial use in place of a restaurant use on the ground floor. These changes will not affect the project other than reducing the required amount of parking due to the fact that restaurants require more parking than general commercial use, although the total amount of parking provided will remain the same. This application shall still be subject to the extended-stay and suite hotel provisions of the previous (Archived) Zoning Code, specifically Section 3-6(ff), provided as Exhibit C.

LEGISLATIVE ACTION:

Date:	Resolution/Ordinance No.	Comments
05.14.02		City Commission referred proposal back to the Planning and Zoning Board for further consideration.
12.17.02	Adopted Ordinance No. 3608	City Commission approval (vote: 3-2).
05.13.08	Ordinance	Approved on First Reading (vote: 5-0).

OTHER ADVISORY BOARD/COMMITTEE RECOMMENDATION(S):

Date	Board/Committee	Comments (if any)
03.13.02	Planning and Zoning Board	Forwarded to the Commission with "no recommendation" (Vote: 1-3).
07.24.02	Planning and Zoning Board	Presented as a discussion item. Board identified issues and requested resolution prior to re-submittal.
10.09.02	Planning and Zoning Board	Approved Change in Zoning and Site Plan with Staff Conditions as modified (Vote: 6-0).
04.09.08	Planning and Zoning Board	Recommended approval (vote: 5-0) of amendments to Ordinance No. 3608 and the Declaration of Restrictive Covenants.

PUBLIC NOTIFICATION(S):

Date	Form of Notification
03.27.08	Public Hearing Courtesy Notification to all properties within 1000 feet.
03.27.08	Published ad giving Notice of Public Hearing.
04.28.08	Memorandum to City Clerk requesting advertising of Ordinance heading.
05.13.08	Memorandum to City Clerk requesting advertising of Ordinance heading.

APPROVED BY:

Department Director	City Attorney (If Applicable)	City Manager
Eric Riel, Jr. Planning Director	Elizabeth Hernandez City Attorney	David L. Brown City Manager

EXHIBIT(S):

Exhibit A: Amended Ordinance No. 3608.

Exhibit B: Amended Declaration of Restrictive Covenants.

Exhibit C: Archived Zoning Code Section 3-6(ff) Extended-stay and suite hotels.

NOTE: Amended Ordinance (~~strikethrough~~ and underlining will be removed on codified version)

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 3608

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES AMENDING PREVIOUSLY APPROVED ORDINANCE NO. 3608, WHICH APPROVED A MIXED-USE PROJECT (GABLES RENTAL APARTMENT HOTEL/ST. GEORGE) ON LOTS 13-34 AND EAST 7 FEET OF LOT 35, BLOCK 18, SECTION "K" [BOUNDED BY NAVARRE AVENUE (NORTH), MINORCA AVENUE (SOUTH) AND SALZEDO STREET (EAST)], CORAL GABLES, FLORIDA; WHEREAS THE APPLICANT DESIRES TO AMEND TWO CONDITIONS WHICH INCLUDE THE REMOVAL OF A SELF-IMPOSED PROVISION RESTRICTING THE MAXIMUM LENGTH OF STAY FOR HOTEL OCCUPANTS AND A MODIFICATION TO PROVIDE COMMERCIAL USE IN PLACE OF A RESTAURANT ON THE GROUND FLOOR, THE APPROVAL AND ALL OTHER CONDITIONS OF APPROVAL CONTAINED IN ORDINANCE NO. 3608 AND THE RESTRICTIVE COVENANT SHALL REMAIN IN EFFECT; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Application Nos. 08-01-020-P and 12-01-030-P were submitted for approval for a change of zoning from "XA-15", Apartment to "CB", Commercial on Lots 13-24, and requesting site plan review on Lots 13-34 and East 7 feet of Lot 35, Block 18, Section "K", (no address – bounded by Salzedo Street and Navarre Avenue and Minorca Avenue), Coral Gables, Florida, to permit the construction of a proposed commercial mixed-use project to known as the "Gables Rental Apartment-Hotel" consisting of a 3,481 square foot ~~restaurant~~ feet of commercial space, 123 unit extended stay hotel and 99 residential units; and

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one thousand (1,000) feet, public hearings were held before the Planning and Zoning Board of the City of Coral Gables on March 13, 2002, July 24, 2002 and October 9, 2002 at which hearings all interested persons were afforded the opportunity to be heard; and

WHEREAS, the change of zoning and site plan review are required to permit the construction of the proposed mixed-use project; and

WHEREAS, the Planning and Zoning Board at their regular meeting of October 9, 2002, considered and recommended approval to the City Commission on the applicant's requests; and

WHEREAS, the City Commission at its regular meeting of November 12, 2002

recommended approval of the change in zoning and site plan on first reading; and

WHEREAS, the applicant requested two (2) amendments to the conditions of approval including an amendment to the site plan to provide general commercial use in place of the previously specified restaurant use on the ground floor and removal of the self-imposed condition pertaining only to the length of stay for extended-stay hotel occupants provided in the Declaration of Restrictive Covenants; all other extended-stay and suite hotel provisions of the previous (Archived) Zoning Code, specifically Section 3-6(ff), shall remain in effect; and

WHEREAS, the Planning and Zoning Board on April 9, 2008 reviewed and recommended approval of the amendment to previously approved Ordinance No. 3608 with all other previously required conditions of approval to remain in effect (vote: 5-0); and

WHEREAS, the City Commission on May 13, 2008 held a public hearing to amend previously approved Ordinance No. 3608 and approved the amendment to the conditions of approval (vote: 5-0); and

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

SECTION 1. That from and after the effective date of this ordinance, and pursuant to Ordinance No. 1525, as amended and known as the “Zoning Code”, and in particular Section 3-5, which requires that all proposed plans for commercial mixed-use projects receive Commission approval, the change of zoning from “XA-15”, Apartment to “CB”, Commercial on Lots 13-24, and the site plan review on Lots 13-34, and East 7 feet of Lot 35, Block 18, Section “K”, (no address – bounded by Salzedo Street and Navarre Avenue and Minorca Avenue), Coral Gables, Dade County, Florida, shall be and are hereby approved subject to the following conditions:

1. Construction of the proposed project shall be in conformance with the following documents as modified subject to the conditions contained herein:
 - a) Site plan, building elevations and building program prepared by Cohen, Freedman, Encinosa & Associates, dated October 2, 2002.
 - b) Landscape plan prepared by Fuster Design Associates, P.A. dated September 16, 2002.
 - c) Traffic Impact study prepared by Transport Analysis Professionals, Inc. dated September 2001, and revised on February 27, 2002.
 - d) All representations and exhibits prepared and provided to the Planning Department as a part of the application package (as amended) dated October 2, 2002.
2. All conditions of approval recommended by the City Commission shall be included within a Restrictive Covenant to be reviewed and approved by the City Attorney.
3. Prior to the issuance of any building permits for the project, the applicant, its successors or assigns, shall adhere to the following conditions:
 - a) Apply for and secure administrative review and approval for building setback relief (0' setback proposed) as permitted for approved Mediterranean buildings located

within the City's Central Business District (CBD) pursuant to Zoning Code Section 28-5 (a) 2.

- b) Review and approval of proposed landscape encroachments by the City's Landscape Encroachment Review Committee.
- c) The deficit for sewage capacity and public parks facilities identified by the City's Concurrency Impact Statement is resolved, as specified and approved by the Public Works and Building and Zoning Directors.
- d) Submission and approval from the Building and Zoning Department of a construction parking and traffic management plan.
- e) Off street parking spaces may not be reserved, assigned, identified and/or designated for a certain use, business or individual for any parking spaces in both parking facilities in any way other than that which is otherwise required for disabled or delivery vehicles, and as permitted in item k) herein.
- f) Payment shall be provided by applicant, it successors or assigns according to established City requirements for the loss of two (2) on-street parking spaces resulting from this proposed project.
- g) The commercial portion of the mixed-use project will be an extended stay hotel, which shall meet all Zoning Code's provisions for extended stay hotels established in Section 3-6 (ff) (Ordinance No. 3458).
- h) Any future valet service shall meet all City requirements, shall utilize the proposed circle/drop-off area on Salzedo Street, and shall store all vehicles in building's garage in area designated for hotel guests.
- i) The applicant shall pay all costs and associated expenses for the relocation of the mid-block pedestrian crosswalk to the intersection of Minorca Avenue and Salzedo Street.
- j) Both hotel guests and apartment residents shall have access to the 4th floor recreation deck.
- k) Applicant shall only be permitted to provide a total of fifty-nine (59) public parking spaces for attendant parking, with the remainder dedicated to the project's proposed commercial and residential uses.
- l) Two parking spaces shall be dedicated for loading and deliveries for the residential component of the project by small delivery vehicles. Movers utilizing large tractors – trailers for deliveries to residential apartment units shall be required to use the loading docks facility on the building's south side and internal corridor to the freight elevator located on the north side of the building. The location and total size shall be subject to review and approval by the Parking Director.

4. The maximum permitted building height shall be ninety-seven (97) feet to top of the flat roof. Any increase in height shall require Planning and Zoning Board and City Commission review and approval.

5. The 59 parking spaces for public shall be attended parking available from 8:00 a.m. to 6:00 p.m. Monday through Friday, at City rates, as amended from time to time, as provided for in a ten year period or when the construction of Lot No. 6 occurs, whichever occurs (from the issuance of the Certificate of Occupancy of the property).

SECTION 2. That all ordinances or parts of ordinances inconsistent or in conflict herewith shall be and the same are hereby repealed insofar as there is conflict or inconsistency.

PASSED AND ADOPTED THIS DAY OF A.D., 2008.

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ELIZABETH HERNANDEZ
CITY ATTORNEY

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DECLARATION OF RESTRICTIVE COVENANTS

KNOWN ALL BY THESE PRESENTS, that Gables Centre, LLC, a Florida limited liability company, hereinafter referred to as "Owner", hereby makes, declares, and imposes on the land herein described, the covenants running with the title to the land, which shall be binding on the Owners, their heirs, successors, and assigns, personal representatives, mortgages, lessees, and against all persons claiming by through or under them;

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WHEREAS, Owner holds the fee simple title to the land in the City of Coral Gables, Florida, described as:

Lots 13-34 and the East 7 feet of Lot 35, Block 18, of CORAL GABLES SECTION K, according to the Plat thereof, as recorded in Plat Book 8, Page 53, of the Public Records of Miami-Dade County, Florida.

WHEREAS, Gables Centre, LLC, as developer and owner of property, submitted Application No. 08-01-020 P and 12-01-030 P, to the Planning Department of the City of Coral Gables, requesting the following:

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Amendment to the Future Land Use Map on Lots 13-34 and the East 7feet of Lot 34, Block 18, Section "K" from Residential Use (Multi-Family) Medium Density and Commercial Use, Mid-Rise Intensity to Commercial Use, High-Rise Intensity.

A change of zoning from XA-15, Apartment to "CB" commercial on Lots 13-24; and Site Plan approval on Lots 13-34 and the East 7 feet of Lot 35.

Site Plan Approval to permit the construction of a proposed mixed-use project consisting of 3,481 square feet of commercial space up to 123 unit extended stay hotel and up to 99 residential units.

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WHEREAS, the Planning Department is requiring that the Owner provide a Restrictive Covenant as part and parcel of the approval agreeing to certain condition.

NOW, THEREFORE, IN ORDER TO ASSURE the City of Coral Gables that the representations made by the Owner in connection with the approvals by the City and issuance of a certificate of use and occupancy, will be abided by. The Owner freely, voluntarily, and without duress, makes the following Declaration of Restrictive Covenant covering and running with the Property and agrees as follows;

1. The above recitations are true and correct and are incorporated herein in their entirety.

2. The property will be developed in substantial conformity with the site plan prepared by the architectural firm of Cohen, Freedman, Encinosa & Associates dated October 2, 2002; Landscape plans prepared by Fuster Design Associates, P.A. dated September 16, 2002; and Traffic Impact Study prepared by Transport Analysis Professionals dated September, 2002 and revised February 27, 2002, on file in the office of the Planning Director of the City of Coral Gables (hereinafter referred to as the "Site Plan").
3. All documentation and exhibits prepared and provided to the Planning Department as a part of the application package dated October 2, 2002.
4. Prior to the issuance of any building permits for the project, the applicant, its successors or assigns, shall adhere to the following conditions:
 - a) Apply for and secure administrative review and approval for building setback relief (0' foot setback proposed) as permitted for approved Mediterranean buildings located within the Central Business District (CBD) pursuant to Zoning Code Section 28-5(a)2.
 - b) Review and approval of proposed landscape encroachments by the City's Landscape Encroachment Review Committee.
 - c) The deficit for sewer capacity and public parks facilities identified by the City's Concurrency Impact Statement is resolved, as specified and approved by the Public Works and Building and Zoning Directors.
 - d) Submit a construction parking and traffic management plan for the Building and Zoning Department's review and approval.
 - e) Off street parking spaces may not be reserved, assigned, identified and/or designated for a certain use, business or individual for any parking spaces in both parking facilities in any way other than that which is otherwise required for disabled or delivery vehicles, as permitted in item "K" herein.
 - f) Payment shall be provided by applicant, its successors and/or assigns according to established City requirements for the loss of two (2) on-street parking spaces resulting from the proposed project.
 - g) The commercial portion of the mixed-use project will be an extended stay hotel, which shall meet all Zoning code provisions for extended hotels established in Section 3-6(ff) and may be owned in a condominium for of ownership.
 - h) Any future valet service shall meet all City requirements, shall utilize the proposed circle/drop-off area on Salzedo Street and shall store all vehicles in building's garage in area designated for hotel guests.

Deleted: No person or entity may occupy a unit more than 60 continuous days and no more than 90 days in a calendar year.

- i) The applicant shall pay all costs and associated expenses for the relocation of the mid-block pedestrian crosswalk to the intersection of Minorca Avenue and Salzedo Street.
- j) Both hotel guests and apartment residents shall have access to the 4th floor recreation deck.
- k) Applicant shall only be permitted to provide fifty-nine (59) public parking spaces for attendant parking, with the remainder dedicated to the project's proposed commercial and residential uses.
- l) Two parking spaces shall be dedicated for loading and deliveries for the residential component of the project by small delivery vehicles. Movers utilizing large tractor trailers for deliveries to residential apartment units shall be required to use the loading dock facilities on the building's south side and internal corridor to the freight elevator located on the north side of the building. The location and total size shall be subject to review and approval by the Parking Director.

5. The maximum permitted building height shall be ninety-seven (97) feet to the top of the flat roof. Any increase in height shall require Planning and Zoning Board and City Commission review and approval.

6. The fifty-nine (59) spaces for public use shall be attended parking available from 8:00 a.m. to 6:00 p.m., Monday through Friday, at city rates as amended from time to time, as provided for a ten year period or when the construction of Lot NO. 6 occurs, whichever occurs first (from the issuance of the Certificate of Occupancy of the property).

7. As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City of Coral Gables, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the premises to determine whether or not the requirements of the Building and Zoning regulations and the conditions herein agreed to are being complied with.

8. This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded, at the Owner's expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owner and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

9. This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years unless sooner terminated by the City Commission.

10. This Declaration of Restrictive Covenant may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then, owner(s) of all of the Property, or if the property has been submitted to a condominium form of ownership, by an authorized representative of the condominium association responsible to manage

the condominium, in lieu of all the property owners, including joinders of all mortgages, if any, provided that the same is also approved by the City of Coral Gables. Should this Declaration of Restrictions be so modified, amended or released, the City shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

11. Enforcement shall be by action at law or in equity against any parties or person violating, or attempting to violate, any covenants, either to restrain violations or to recover damages. The prevailing party in any action or suit pertaining to or arising out of this declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of their attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity, or both.

12. In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the City is hereby authorized to withhold any further permits and refuse to make any inspections or grant any approvals, until such time as there is compliance with this Declaration.

13. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute and election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

14. Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the City, and inspections made and approval of occupancy given by the City, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with this Declaration.

15. Invalidation of any of these covenants by judgment or Court shall not affect any of the provisions, which shall remain in full force and effect.

16. This Declaration shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owner.

Signed, sealed, executed, and acknowledged on this _____ of _____, 2005.

Witness:

Gables Centre, LLC, a
Florida Limited Liability Company

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Print Name:

By: _____

Print Name: _____

Print Name: _____

Address: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____ by

on behalf of _____, who is personally known to me or who
produced _____ identification.

Notary Public State of Florida
Print Name: _____

Commission No.: _____
Commission Expires: _____

- 1. A concrete pad or impervious pavers as a base.
- 2. Five (5) foot high enclosure walls.
- 3. An access gate.
- e. An impervious surface shall be provided between the trash container enclosure and the street or alley from which the containers will be serviced.
- f. Whenever possible, a hedge, or similar landscaping material, shall abut the enclosure walls.
- 3. Trash container rooms and enclosures shall be subject to review and approval by the Building and Zoning Department and the Public Service Director.
- (ee) Walls and fences. No wire fences may be erected in C-Use Districts except as provided for in Section 16.
- (ff) Extended-stay and suite hotels. Extended-stay and suite hotels as defined in this Code shall be permitted in all "C", Commercial zoned districts subject to all requirements established herein for the development of hotels, and the provision of the following additional conditions and restrictions. (3458)
 - 1. Each living unit may have a kitchenette, consisting of a kitchen sink, counter and cabinets, two stove cook top burners (no conventional oven) and/or microwave oven and refrigerator.
 - 2. Main service and laundry facilities must be offered and available to extended stay hotel residents.
 - 3. Conference, meeting and workout/fitness facilities must be provided within the hotel and shall only be for use of hotel residents.
 - 4. A restaurant or dining/banquet facility must be provided within the hotel and may be for resident only, or public use.
 - 5. Hotel staff must be on premises and on duty at all times.
 - 6. No more than ten (10%) percent of individual guest shall register, reside, or occupy any room or rooms within the same licensed hotel for more than a 180 day period.
 - 7. No business licenses shall be issued for any business operating from any guestroom of the hotel.
- 8. No facility under this section may be converted to or used as an apartment or condominium.
- 9. Each hotel building shall contain a minimum of twenty-five hundred (2,500) square feet of floor area, exclusive of loggias, open porches, breezeways, porte-cochères, and garages.
- 10. Each hotel guest room shall contain a minimum of two-hundred-fifty (250) square feet of floor area.
- 11. Off-street parking shall be required at the following rate:
 - a. One (1) parking space for each sleeping room.
 - b. One (1) employee parking space for each eight (8) hotel sleeping rooms.
 - c. Required spaces for other uses in hotel shall be provided as required by Code.
- 12. Each guest room having a stove top burner unit shall be required to include a sixty (60) minute (maximum time frame) automatic power off timer for each unit.
- 13. A hard wire smoke detector shall be provided and installed in each guest room.
- 14. Each hotel shall be protected with an alarm system and a sprinkler system meeting the requirements of the Life Safety Code.

Sec. 3-7 - M-Use districts.

M-Uses are intended to accommodate industrial uses within a limited geographic area. In an M-Use District only CA, CB, CC and M Uses as defined herein, and Special-Uses as defined in hereof, shall be permitted. For the purpose of this code M-Uses hereby are defined as follows: (2574)

- (a) Permitted principal uses and structures.
 - 1. Every use permitted in a CC-Use District.
 - 2. Arms, firearms sales (only upon special permission of the City Commission).
 - 3. Adult book store, adult motion picture theater and massage salon.
 - 4. Animal hospital (see Veterinarian clinic).
 - 5. Auto laundries (car wash).
 - 6. Beauty shops (for dogs and cats, no boarding).