

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. _____

RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR AN AMENDMENT TO A PREVIOUSLY APPROVED MIXED-USE PROJECT (APPROVED VIA RESOLUTION NO. 2008-58) REFERRED TO AS "GABLES GATEWAY", LOCATED ON PROPERTY LEGALLY DESCRIBED AS LOTS 1-23 AND LOTS 76-88, BLOCK 17, INDUSTRIAL SECTION (INTERSECTION OF LEJEUNE ROAD, GRANELLO AVENUE AND PONCE DE LEON BOULEVARD), CORAL GABLES, FLORIDA; PROVIDING FOR AN AMENDMENT TO THE PREVIOUSLY REQUIRED ATTAINABLE/AFFORDABLE HOUSING CONDITION; PROVIDING FOR AN ALTERNATIVE CONDITION OF APPROVAL; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Application No. 12-07-042-P was submitted requesting a mixed-use (MXD) site plan and alley relocation review for proposed amendments to a previously approved mixed-use project referred to as "Gables Gateway", located on Lots 1-23 and Lots 76-88, Block 17, Industrial Section (intersection of LeJeune Road, Granello Avenue and Ponce de Leon Boulevard), Coral Gables, Florida; and,

WHEREAS, Application No. 05-05-346-P was granted approval for MXD3 site plan review on July 11, 2006 (Resolution No. 2006-146); and,

WHEREAS, the property known as "Gables Gateway" has, since approval, changed ownership and due to market conditions the current owner is proposing proposed revisions to the project which receive a revised site plan received an amended mixed use site plan approval pursuant to Resolution No. 2008-58 approved by the City Commission on April 29, 2008; and,

WHEREAS, after notice of public hearing was duly published, a public hearing was held before the City Commission on April 29, 2008, at which hearing this item was presented and discussed as a public hearing item, and approved by the City Commission (vote: 5-0) subject to conditions;

WHEREAS, after notice of a public hearing being duly published and a courtesy public notice was mailed to all property owners of record within a one thousand five hundred (1,500) foot radius from the boundary of the Southern Industrial Mixed-Use District (MXD), a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on February 13, 2008, at which hearing all interested persons were afforded the opportunity to be heard; and,

WHEREAS, at the February 13, 2008 Planning and Zoning Board meeting, the Board deferred the application at the request of the applicant and continued consideration of the

~~item at the March 12, 2008 meeting at which time the Board recommended approval of the proposed site plan and easement relocation review subject to Staff conditions of approval (vote: 5-0); and,~~

~~**WHEREAS**, As a part of the site plan review, the applicant is requesting to repeal Ordinance No. 1515, which was approved by the City Commission on December 7, 1965; and,~~

~~**WHEREAS**, the conditions of approval required for the previously approved “Gables Gateway” project remain in effect with revised site plan references; and,~~

~~**WHEREAS**, after notice of public hearing was duly published, a public hearing was held before the City Commission on April 8, 2008, at which hearing this item was presented and discussed, and all interested persons were afforded the opportunity to be heard; and,~~

WHEREAS, Condition D.3. of Resolution No. 2008-58 required that 15% of the project’s units be rented at “attainable/affordable” rental rates, based on 30% of 100% of the City’s median household income, for a period of 15 years; and,

WHEREAS, the property owners on November 4, 2010 submitted a letter to the City requesting consideration of an alternative attainable/affordable housing condition; and,

WHEREAS, the City as a part of its 2010 rewrite of the Comprehensive Plan amended the Policy requiring attainable/affordable housing which provided for the deferral of the implementation of City’s program(s) governing attainable/affordable housing; and,

WHEREAS, the property owners has provided an alternative condition which has been accepted and approved by the City Commission on November 9, 2010.

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

SECTION 1. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Resolution upon adoption hereof.

SECTION 2. The property owner desires to amend the previously approved Condition D.3. of Resolution No. 2008-58 providing for an alternative condition (referenced herein as new Condition D.3.) to satisfy the attainable/affordable housing requirements pursuant to the City Commission April 29, 2008 approval for the construction of a mixed-use project consisting of ground floor retail and multi-family residential units on Lots 1-23 and Lots 76-88, Block 17, Industrial Section (intersection of LeJeune Road, Granello Avenue and Ponce de Leon Boulevard), Coral Gables, Florida, shall be and it is hereby granted subject to the following conditions:

- A. Application/supporting documentation. Construction of the proposed project shall be in conformance with the following documents:
 - 1) Site plan, landscape plan, building elevations and building program prepared by Behar Font and Partners, P.A., dated 12.22.07, as amended on plan dated 04.17.08 providing for 9 on-street parking spaces as approved by the City Commission on 04.29.08.
 - 2) Traffic impact study prepared by David Plummer & Associates, Inc., dated December

2005 and updated on November 2007.

- 3) All representations and exhibits as prepared and provided to the Planning Department as a part of the application submittal package, and proffered by the applicant's representatives as a part of the review of the application at public hearings.
- B. Restrictive Covenant. Within 30 days of approval of the adoption of the ordinance and resolution, the property owner, its successors or assigns shall submit a Restrictive Covenant for City Attorney review and approval outlining all conditions of approval required by the City Commission. Failure to submit the draft Restrictive Covenant within the specified time frame shall render the approval void unless said time frame for submittal of the draft Restrictive Covenant is extended in writing by the City Attorney after good cause as to why the time frame should be extended has been demonstrated by the applicant.
- C. Prior to the issuance of a building permit for the project, the property owner, its successors or assigns, shall adhere or agree to the following conditions:
 - 1) Parking garage gates. No vehicular gates or similar devices shall be installed that prohibit public access and use of required commercial parking spaces during all hours that any commercial businesses are open.
 - 2) Parking spaces. The sale or leasing of parking spaces to any person, business or entity that is not a tenant or resident of this project shall be prohibited.
 - 3) Retail parking spaces. Reservation of parking spaces for retail or commercial uses is prohibited.
 - 4) Public realm improvements. Provide landscaping, public realm and streetscape improvements in accordance with the City of Coral Gables Master Streetscape Plan and pursuant to the standards in Section 4-201 (D) through (M) and Article 5, Division 11 for LeJeune Road, both sides of Granello Avenue, the portion of Ponce de Leon Boulevard adjacent to the project site, and the intersection of Granello and Greco Avenues, to be reviewed and approved by the Public Works and Public Service Directors.
 - 5) Underground facilities master plan. Prepare and submit an Underground facilities master Plan for water, sewer, gas, electrical and other infrastructure facilities upon request by the Director of the Public Works Department for review and approval.
- D. Prior to the issuance of the final Certificate of Occupancy (CO), the property owner, its successors or assigns shall complete the following:
 - 1) Traffic improvements. Provide the following traffic improvements, subject to the Public Works Director's review and approval:
 - a. Install northeast bound left turn lane on Ponce de Leon Boulevard at project alleyway.
 - b. Extend southwest right turn lane on Ponce de Leon Boulevard at LeJeune Road.
 - c. Install westbound left turn lane on Granello Avenue at LeJeune Road.
 - d. Reconfigure intersection at Granello and Greco Avenues.
 - e. Reconfigure intersection at Biltmore and Riviera Drives.
 - f. Install roundabout at Blue Road and Riviera Drive.
 - 2) Traffic calming and roadway improvements. In addition to the above traffic improvements the property owner, its successors or assigns shall provide roadway resurfacing and sidewalk reconstruction with curb and gutter along both sides of Granello Avenue and install traffic calming improvements at the intersection of Granello and Greco Avenues including reconfiguration of roadway geometry and pedestrian crosswalks, subject to Public Works Director review and approval.
 - 3) ~~Attainable (affordable) housing. The project shall provide 35 attainable (affordable) housing rental units on-site, subject to the following:~~
 - a. ~~Expedited permit review incentive for providing attainable (affordable) housing:~~
 - i. ~~The applicant may utilize an expedited building permit review process whereby building permit plans will be reviewed and approved by a private provider as~~

permitted by Florida Statutes which also provide that the City Building Official retains the final authority to review plans of any disciplines, or the applicant may utilize an expedited parallel City building permit review. Either of the above options requires submittal of City comments for all disciplines within 30 calendar days after a submittal of completed plans. The applicant shall submit revised plans satisfying City comments within 30 calendar days of receipt of the City's comments. Any additional City comments and applicant resubmittal of plans for each round of comments are subject to a 20 calendar day turnaround.

ii. Zoning review shall be concluded concurrently within 30 calendar days of the initial submittal of a complete set of building permit plans, provided no changes are completed for the project which substantially varies from the previously provided Preliminary Zoning Analysis (PZA), dated 01.24.2008. If changes are completed which substantially vary from the PZA, the 30 calendar day review shall be void as determined by the Development Review Official.

b. Attainable (affordable) housing requirements:

- i. Priority shall be given to the City of Coral Gables' senior citizens, residents, and public sector workforce.
- ii. The applicant, its successors, or assigns shall provide a minimum of 15% of the residential units to be set aside exclusively to households whose income does not exceed 100% of the City's median income, based on the data and methodology established and adjusted annually (January of each calendar year) by the U.S. Department of Housing and Urban Development (HUD).
- iii. The maximum rental rates for these attainable (affordable) units shall follow the maximum rental rates for attainable (affordable) housing established and adjusted annually by HUD, to be based on 30% of 100% of the City's median income. This provision shall remain in effect for fifteen (15) years from the date of issuance of a Certificate of Occupancy for all units.
- iv. The management and all corresponding costs associated with this program, including, but not limited to administration, monitoring, enforcement, etc., shall be the sole responsibility of the applicant, its successors, or assigns. The property owner shall submit an annual report to the City's Planning Department by January 1st of each year advising as to compliance with these provisions. All provisions contained herein shall be controlled via a restrictive covenant that is effective for fifteen (15) years from the date of issuance of a Certificate of Occupancy for all units.
- v. Should the project convert from rental to owner occupied units within the fifteen (15) year timeframe, the maximum sales price of the attainable (affordable) units shall follow the maximum sales price for attainable (affordable) housing established and adjusted annually by HUD, to be based on 30% of 100% of the City's median income, and all other provisions herein shall continue to apply.
- vi. Failure to satisfy any or all of these requirements shall result in enforcement measures and/or penalties as prescribed in Article 7 of the City's Zoning Code.

3) The property owner to promote affordable/attainable housing within the City shall provide for a payment in lieu subject to the following:

- a. Prior to issuance of a building permit or April 29, 2011, whichever occurs first, the property owner(s), successors or assigns shall allocate \$100,000 dollars to the LBW Homeowner's Foundation, Inc. for the delivery of affordable/attainable housing units within the MacFarlane Homestead Historic District. Said contribution to the LBW Homeowner's Foundation Inc. will be made pursuant to an agreement between the property owner and the LBW Homeowners Foundation

whereby the contribution amount will be deposited in an interest bearing escrow account and only be released for the funding of affordable housing initiatives. Allocation of the funding by LBW Homeowner's Foundation Inc. shall be subject to City review and consent.

b. Prior to the issuance of a building permit or April 29, 2011, whichever occurs first, the property owner(s), successors or assigns shall contribute \$200,000 dollars to the City.

c. The Restrictive Covenant which was previously executed and recorded in the Public Records of Miami-Dade County at Official Records Book 27071, at Page 3052, shall be amended to indicate this amended condition of approval. With 30 days of approval of this Resolution, the property owner, its successors, or assigns shall submit an Amendment to Restrictive Covenant for City Attorney review and approval. Failure to submit the draft Amendment to Restrictive Covenant within the specified time frame shall render the approval void unless said time frame for submittal of the draft Amendment to Restrictive Covenant is extended in writing by the City Attorney after good cause as to why the time frame should be extended has been demonstrated by the property owner.

4) Public access via Lot 9, Block 17, Industrial Section. The applicant shall provide a perpetual public access via an easement. Access shall be provided via Lot 9, Block 17, Industrial Section, in lieu of agreed upon dedication of Lot 10, Block 17, Industrial Section, as provided for in Ordinance No. 1515. All costs, including maintenance, to relocate the dedicated easement shall be at the expense of the applicant. Enforcement shall be via Restrictive Covenant and shall be subject to City Attorney review and approval. If the applicant does not exercise his right to construct the proposed project, Ordinance No. 1515 shall remain valid and enforceable.

SECTION 3. That the applicant shall further be required to comply with all applicable zoning regulations, and that any changes to the submitted plans in connection with the site plan herein granted shall require a recommendation from the Planning and Zoning Board and approval by the City Commission.

SECTION 4. The modification requested via this Resolution shall become effective upon the date the payment in lieu monies identified in above Condition (3)(a) and (3)(b) are paid as prescribed herein. Failure to provide payment by April 29, 2011 renders this Resolution null and void.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D., 2010.

APPROVED:

DONALD D. SLESNICK II
MAYOR

ATTEST:

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

ELIZABETH M. HERNANDEZ
CITY ATTORNEY