

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2018-29

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA GRANTING APPROVAL OF A PROPOSED PLANNED AREA DEVELOPMENT (PAD) REFERRED TO AS “REGENCY ON THE PARK” PURSUANT TO ZONING CODE ARTICLE 3, “DEVELOPMENT REVIEW,” DIVISION 5, “PLANNED AREA DEVELOPMENT (PAD),” FOR THE CONSTRUCTION OF A PROJECT CONSISTING OF A MIX OF USES INCLUDING OFFICE, LIVE/WORK, AND RESIDENTIAL, ON THE PROPERTY LEGALLY DESCRIBED AS LOTS 5 TO 12, BLOCK 12, DOUGLAS SECTION (100, 114, AND CALABRIA AVENUE AND 912 AND 918 EAST PONCE DE LEON BOULEVARD), CORAL GABLES, FLORIDA; INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A SEVERABILITY, REPEALER, AND AN EFFECTIVE DATE.

WHEREAS, an Application was submitted requesting approval of a proposed Planned Area Development (PAD) pursuant to Zoning Code Article 3, “Development Review,” Division 5, “Planned Area Development,” for the construction of a mixed-use project referred to as “Regency on the Park” on the property legally described as Lots 5 to 12, Block 12, Douglas Section, Coral Gables, Florida, and

WHEREAS, a project referred to as “Regency on the Park,” consisting of a mix of uses including office, live/work, residential, and an innovative site plan, including a public park, a corner plaza, and other public realm improvements, is proposed to be constructed on the subject property, and the project qualifies for consideration as a Planned Area Development; and

WHEREAS, companion applications for “Regency on the Park” were filed seeking a Comprehensive Plan Map amendment from “Multi-Family Medium Density” Land Use to “Mixed Use” Land Use and extension of the “North Ponce de Leon Mixed Use Overlay District,” Zoning Map amendment to extend the “North Ponce de Leon Mixed Use District,” and a Mixed-Use Conditional Use site plan; and

WHEREAS, Staff finds that the procedures for reviewing and recommending on proposed Planned Area Development are provided in Zoning Code Article 3, Division 5, “Planned Area Development”, and that the proposed Planned Area Development Site Plan has met those criteria and standards; and

WHEREAS, in advance of public hearing consideration, the City’s staff analysis and recommendation were expressly incorporated into the record of this proceeding and are available for inspection at City of Coral Gables Planning Department and City Clerk’s office and available on the City’s Web page at www.coralgables.com for easy retrieval; and

WHEREAS, after notice of public hearing duly published and courtesy notifications of all property owners of record within one-thousand (1,500) feet of the subject property, the application was presented to the Planning and Zoning Board of the City of Coral Gables on June 13, 2018; and

WHEREAS, at the Planning and Zoning Board's June 13, 2018 meeting, a public hearing was held and at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, at the Planning and Zoning Board's June 13, 2018 meeting, the Board recommended approval regarding the proposed Planned Area Development application (vote: 5-0) subject to conditions of approval; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on July 10, 2018, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with the Planned Area Development, and after due consideration and discussion, (approved/denied) the Planned Area Development on First Reading (vote: 5-0); and

WHEREAS, after notice duly published, a public hearing for Second Reading was held before the City Commission on (month) (day), 2018, at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with a Planned Area Development, and after due consideration and discussion, approved the Planned Area Development, on Second Reading (vote: 5-0); and

WHEREAS, in accordance with Section 3-502(B)(2), the Commission finds based upon the written evidence and testimony received into the record – including the design modifications during the Commission's consideration of this matter – that the public realm improvements on and off-site, the design and construction of the substantial public open spaces, the design, construction, and solutions for pedestrian and vehicular access, ingress, egress, shared parking and circulation, as well as the design treatment of the project's architecture, massing, setbacks, and stepbacks, although not literally in accord with these PAD regulations, satisfy public benefits to at least an equivalent degree and in fact exceed them; and

WHEREAS, public hearings have been completed as indicated herein by the Coral Gables City Commission in consideration of a request to change the Zoning pursuant to Florida Statutes, and including careful consideration of written and oral comments by members of the public; and

WHEREAS, the City additionally and separately approved the Comprehensive Plan Map amendment, Zoning Map amendment, and the Mixed-Use Conditional Use site plan applications for the "Regency on the Park" project more particularly described above;

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

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. That the Applicant’s request for approval of the proposed Regency on the Park project on the Property pursuant to Zoning Code Article 3, “Development Review”, Division 5, “Planned Area Development” is approved, subject to conditions, provided in Attachment “A”, attached, which must be satisfied by the Applicant or its successors or assigns.

SECTION 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

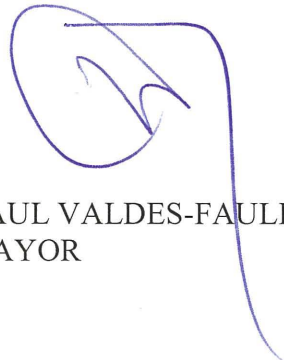
SECTION 5. This development permit by the City of Coral Gables does not in any way create any right on the part of an applicant to obtain a permit from a county, state or federal agency. Likewise, this development permit does not create any liability on the part of the City of Coral Gables for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a county, state or federal agency, or if the applicant undertakes actions that result in a violation of county, state or federal law. In addition, as a condition of this approval, all county, state and federal permits must be obtained before commencement of the development.

SECTION 6. This Ordinance shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-EIGHTH DAY OF AUGUST, A.D.,
2018.

(Moved: Lago / Seconded: Keon)
(Yeas: Quesada, Keon, Lago, Mena, Valdes-Fauli)
(Unanimous: 5-0 Vote)
(Agenda Item: F-4)

APPROVED:



RAUL VALDES-FAULI
MAYOR

ATTEST:



For WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



MIRIAM SOLER RAMOS
CITY ATTORNEY

“Attachment A”

1. Site Plan modifications.

- a. The proposed site plan design shall be updated to include the following:
 - i. Inclusion of streetscape improvements on both sides of the streets.
 - ii. Additional lawn/landscaped area on proposed corner plaza to enhance the residential character of East Ponce de Leon Boulevard.
- b. Submit Sustainability Certification checklist to meet LEED Silver or equivalent requirements.

2. Application/supporting documentation. Construction of the proposed project shall be in substantial conformance with all of the following:

- a. The Applicant’s submittal package dated June 20 2018, prepared by Greenberg Traurig and Behar Font & Partners to include:
 - i. 180,000 total square feet, 3.4 FAR;
 - ii. 10 ground floor live / work units
 - iii. Approximately 1,650 square feet of ground floor retail space;
 - iv. Approximately 21,000 square feet of landscape open space;
 - v. Approximately 5,000 square feet of landscaped open space open shall be restricted to public open space and/or a public park;
 - vi. Approximately 11,000 square feet of office space;
 - vii. 8 feet minimum interior side setback and 5 feet minimum upper story rear setback; and,
 - viii. 151 residential units.
- b. Traffic Impact Study, dated April 2018, prepared by David Plummer & Associates as reviewed by the Public Works Department.
- c. All representations proffered by the Applicant’s representatives as a part of the review of the Application at public hearings.

3. Restrictive covenant. Within thirty (30) days of City Commission approval of the Application, the Applicant, property owner(s), its successors or assigns shall submit a restrictive covenant for City Attorney review and approval outlining all conditions of approval as approved 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 by the City Attorney after good cause as to why the time frame should be extended. It is recognized that the requirements contained in the restrictive covenant constitute regulatory conditions of approval and shall survive as regulatory conditions of approval even if the restrictive covenant is later found to be void or unenforceable.

4. **Prior to issuance of the first Building Permit**, Applicant shall:
- a. **Impact Fees.** The Applicant shall include the payment of all applicable City of Coral Gables impact fees, sewer capacity fees and service charges prior to the issuance of a building permit. No impact fee shall be waived.
 - b. **Off-site and Public Realm Improvements Contribution.** The Applicant shall contribute \$125,000 toward street improvements for Galiano Street from proposed development site to SW 8th Street in addition to the required impact fees. Funds shall be spent on enhancements to the neighborhood area, such as repainted and new crosswalks, bikeways, street trees, ADA-compliant curb ramps, improvements to Freedom Plaza park, and other active transportation upgrades to be approved the Directors of Public Works and Planning and Zoning.
 - c. **Art in Public Places.** Applicant shall provide a complete and notarized copy of the Project Value Application to the City. Prior to the issuance of the first Building Permit, Applicant must make the required contribution to the appropriate Art in Public Places fund or receive approval for a waiver in accordance with the requirements of Article 3, Division 21, Section 3-2103(B).
 - d. **Emergency Vehicle Signal Preemption Technology.** The Applicant, property owner(s), their successors or assigns shall contribute to emergency vehicle technology improvements for traffic signal preemption to improve response times within the Gables Redevelopment Infill District (GRID) in an amount not to exceed \$50,000 as determined by the Public Works Director.
 - e. **On-street parking.** Payment shall be provided by Applicant, its successors or assigns according to established City requirements for the loss of any on-street parking space as a result of the project.
 - f. **Additional Reviews.**
 - i. Board of Architects. Final approval of the project by the Board of Architects is required prior to issuance of any building permit.
 - ii. Zoning Review. The Applicant shall provide measurable floor plans of the project to City Staff for verification of Zoning requirements such as floor area ratio, setbacks, height and parking.
 - iii. Landscape Plan. Final approval of the overall landscape plan by the Landscape Services Director is required prior to issuance of any building permit, including the approval of adequate sized specimen trees as reflected in the Landscape Plan.
 - g. **Signage.** Provide Signage Plan indicating size and location of all proposed exterior signage, including tenant signs, directory signs, parking garage signs, etc.
 - h. **Parking Garage Design.** The parking garage shall be designed to optimize pedestrian safety on adjoining sidewalks and address the following items subject to the review and approval of the Planning and Zoning and Public Works Directors:
 - i. All curb cuts shall be flared to minimize the amount of asphalt in the public right of way.
 - ii. Sidewalks through flare curb cuts shall match the width and cross slope of adjacent sidewalks to create a continuous, even pedestrian path.
 - iii. Provide direct pedestrian access from the parking garage to all adjacent streets and open spaces in the project.
 - iv. All parking garage openings shall be screened so that interior lights and car headlights are not visible from surrounding properties and rights-of-way.

- i. **Ground Floor Design.** The ground floor of all buildings shall continue to be designed to optimize pedestrian activity, residential privacy, and retail success.
 - i. All storefronts shall be transparent, non-reflective, and allowed by the Florida Energy Efficiency Conservation Code.
 - ii. All arcades shall be flush with the sidewalk grade; open to the public; maintain a minimum width of 8 feet; and not be interrupted by stairwells or solid walls.
 - iii. All green areas shall be open to the public.
- j. **Construction Staging.** A construction staging plan shall be submitted to the Building Division. A checklist of requirements shall be provided upon request. Construction phasing/staging shall maintain pedestrian access and circulation along Calabria Avenue and East Ponce de Leon Boulevard, with sidewalks to remain open throughout construction.
- k. **Traffic Improvements.** All proposed traffic flow modifications including street design, width, sight triangles, cross walks, diverters, etc. shall require written conceptual approval of Miami-Dade County and the City prior to the issuance of the first City permit for vertical construction. If any components of the proposed modifications are not approved, the traffic study shall be revised and additional community involvement may be required.
- l. **Bond to Restore Project Property.** Provide to the City a surety bond, or other form of security deemed acceptable by the City, covering the estimated maximum cost of the full restoration of the Property, including installation of sod and landscaping to City Code standards, and removal of all construction fencing.
- m. **Bond for Offsite Improvements.** Provide to the City a surety bond, or other form of security deemed acceptable by the City, in the amount of 100% of the estimated total hard and soft cost of all Offsite Improvements as determined by the Public Works Director.
- n. **Construction Notices.** Provide written notice to all properties within one thousand (1,000) feet of the project boundaries providing a specific liaison/contact person for the project including the contact name, contact telephone number and email, to allow communication between adjacent neighbors or interested parties of construction activities, project status, potential concerns, etc.
- o. **Sustainability Certification.** Prior to the issuance of a Building Permit, the developer/owner/contractor shall provide the City with a performance bond, cash or irrevocable letter of credit payment (Green Building Bond) in the amount of three (3%) percent of the master building permit construction cost value.
- p. **Bicycle Amenities.**
 - i. Bicycle parking shall be located throughout the ground floor on all frontages and proposed park to encourage visitors to travel by bicycle. Bicycle parking should be located on all parking levels for use by any resident. All bicycle parking shall be in accordance with the Bicycle & Pedestrian Master Plan, Resolution No. 2014-123.
 - ii. Bikeways shall be included in the street improvements for Galiano Street in accordance with the Bicycle & Pedestrian Master Plan to be approved the Directors of Public Works and Planning and Zoning.

- iii. **Bike Sharing Facilities.** The Applicant shall reserve space within the project for future bike sharing facilities. Final design shall require written conceptual approval of the Parking Director and Public Works Director prior to issuance of the first City permit.
- q. **Car Sharing Facilities.** To the same extent of other projects of similar size within the City, the Applicant shall reserve space within the project for future car sharing facilities in coordination with the City's parking Director. Final design shall require written conceptual approval of the Parking Director prior to issuance of the first City permit. Required parking spaces may be utilized for car sharing.

5. Prior to issuance of the first Certificate of Occupancy or Temporary Certificate of Occupancy, Applicant shall:

- a. **Public Parking.** Thirty (30) parking spaces will be open to the public, managed by the Applicant, and constitute public parking.
- b. **Underground utilities.** Submit all necessary plans and documents, and complete the undergrounding of all new utilities along all public rights-of-way surrounding and abutting the project boundary, subject to review and approval by the Directors of Public Works, Landscape Services and Planning and Zoning.
- c. **Utility Upgrades.** Sewer improvements may be required, at the Applicants expense, based on the proposed connections.
- d. **Traffic improvements and study.** Complete all traffic improvements recommended by the Traffic Study prepared by David Plummer & Associates, and satisfactorily resolve any outstanding Traffic Study issues as identified by the Public Works Department and City's traffic consultant, subject to review and approval by the Director of Public Works.
- e. **Bicycle / Pedestrian Plan.** The bicycle and pedestrian paths shall comply with the City's Bicycle & Pedestrian Master Plan, Resolution No. 2014-123.
- f. **Right-of-way and public realm improvements.** Install all right-of-way improvements and all landscaping, public realm and streetscape improvements identified on the Applicant's approved plans, subject to review and approval by the Directors of Public Works, Landscape Services, Planning and Zoning, and Parking. Any changes to and departures from the right-of-way and public realm improvements identified on the Applicant's approved plans and associated detail plans and specifications via the permitting process shall be subject to review and approval by Directors of Public Works, Landscape Services, Planning and Zoning, and Parking.
- g. **Publicly Accessible Open Spaces Easement.** Execute and record a Publicly Accessible Open Spaces Easement Agreement between the City and the Owner for all proposed park areas and arcades.
- h. **Open Space & Park Facilities.**
 - i. The Applicant shall work collaboratively with the City to designate the 5,000 square feet portion of the Property reflected in the Applicant's submittal package dated June 20, 2018, prepared by Greenberg Traurig and Behar Font & Partners as an official City Park to be included on the City's Parks and Open Space directory. The 5,000 square feet open space shall be restricted to public open space and/or a public park.
 - ii. The Open Space Parcel shall be constructed and installed, at the Applicant's sole cost and expense, as a landscaped open space accessible to the general

- public from sunrise to sunset on Monday through Sunday.
- iii. The improvements and maintenance of the Open Space Parcel shall be mutually determined by the City and Applicant at a later date (the “Improvements”), with final approval from the City, including the Planning and Zoning Director, City Manager, Parks and Recreation Director or such City representative. Said Improvements must be installed and constructed on the prior to the issuance of the final Certificate of Occupancy for the Project. The Applicant, or future association established for the maintenance of the Project, shall be responsible for the payment of all reasonable costs associated with the Open Space Parcel including but not limited to security, electricity, water and sewer, and all other utilities associated with the operation and maintenance of the Open Space Parcel.
 - iv. The security and public access to the Open Space Parcel will be managed by Applicant or Applicant’s designee. The Applicant shall install gates and/or fencing at the northern and southern walkway entrances located on Calabria Avenue and Santillane Avenue for security purposes. The Applicant or Applicant’s designee shall lock the security gates at sunset every day, restricting public access to the Open Space Parcel after sunset. The Applicant shall unlock the security gates and allow public access to the Open Space Parcel at sunrise, 7 days a week.

6. Following issuance of the first Certificate of Occupancy, Applicant shall:

- a. **Sustainability Certification.** Within two years of the issuance of a Final Certificate of Occupancy, the building must achieve LEED Silver or equivalent certification. If the Applicant chooses to pursue NGBS Silver Certification, an Energy Star Label will also be required within two years of the Final Certificate of Occupancy.
 - i. The City will hold the Green Building Bond for the time necessary for the green certification, or equivalent, to be issued for twenty-four (24) months after issuance of the Certificate of Occupancy or Completion; whichever occurs first. Upon receiving final documentation of certification from the developer/owner/contractor, the City shall release the full amount of the bond within thirty (30) days.
 - ii. If the developer/owner/contractor is unable to provide proof of green certification, or equivalent, within twenty-four (24) months after issuance of the Certificate of Occupancy or Completion, the full amount of the Green Building Bond shall be forfeited to the City. Any proceeds from the forfeiture of the bond under this section shall be allocated toward funding Sustainability Master Plan initiatives.
- b. **Traffic Monitoring.** At the Applicant’s expense, the City shall perform an annual traffic monitoring study for three years beginning one year from the issuance of the first Temporary Certificate of Occupancy at locations to be determined by the Public Works Director. If the Public Works Director determines that livability improvements are warranted on any of these roadways, the Applicant shall construct or pay for any physical livability improvements required by these

studies within one year of the completion of these studies, as approved by the Public Works Director.

7. **Right of Way Encroachment Approvals.** The public realm improvements which encroach into the City rights of way, such as bike racks, pavers, landscape planters, landscape areas, tree grates, irrigation lines, and light fixtures, indicated in the Applicant's submittal package are hereby approved. A Hold Harmless agreement and restrictive covenant must be executed by Applicant and the City regarding encroachments and utilities in, below and above the public rights-of-way, in a form acceptable to the Public Works Director, the Risk Management Division, and the City Attorney, which shall include the precise locations and dimensions of the proposed areas of all encroachments. It is recognized that the requirements contained in the restrictive covenant constitute regulatory conditions of approval and shall survive as regulatory conditions of approval even if the restrictive covenant is later found to be void or unenforceable.