

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA GRANTING APPROVAL OF A PLANNED AREA DEVELOPMENT (PAD) PURSUANT TO ZONING CODE ARTICLE 3, "DEVELOPMENT REVIEW," DIVISION 5, "PLANNED AREA DEVELOPMENT (PAD)" FOR A PROPOSED MIXED-USE PROJECT REFERRED TO AS "MERRICK 250" ON THE PROPERTY LEGALLY DESCRIBED AS LOTS 1 THROUGH 11, INCLUSIVE, LESS THE SOUTH 7.5 FEET THEREOF, AND LOTS 32 THROUGH 42, INCLUSIVE, LESS THE SOUTH 7.5 FEET THEREOF, BLOCK 3, "CORAL GABLES INDUSTRIAL SECTION," TOGETHER WITH THAT PORTION OF THE 30 FOOT PLATTED ALLEY LYING NORTH OF THE NORTH LINE OF THE SOUTH 7.5 FEET OF SAID LOT 11 PROJECTED WESTERLY AND SOUTH OF THE NORTH LINE OF SAID BLOCK 3 (250 BIRD ROAD) CORAL GABLES, FLORIDA; INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE. (LEGAL DESCRIPTION ON FILE)

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 a proposed Mixed-Use project referred to as "Merrick 250" on the property legally described as lots 1 through 11, inclusive, less the south 7.5 feet thereof, and lots 32 through 42, inclusive, less the south 7.5 feet thereof, Block 3, "Coral Gables Industrial Section," together with that portion of the 30 foot platted alley lying north of the north line of the south 7.5 feet of said lot 11 projected westerly and south of the north line of said block 3 (250 Bird Road) Coral Gables, Florida; and

WHEREAS, the Application has been submitted concurrently with an application for Transfer of Development Rights (TDRs), Conditional Use Review for a Mixed-Use Site Plan, and Tentative Plat; 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 (1,000) feet, a public hearing was held before the

Planning and Zoning Board of the City of Coral Gables on August 12, 2020 at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, at the Planning and Zoning Board’s August 12, 2020 meeting, the Board recommended approval of the proposed Planned Area Development application (vote: 6-0) subject to conditions of approval; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on September 8, 2020, 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: _- _).

WHEREAS, after notice duly published, a public hearing for Second Reading was held before the City Commission on (month) (day), 2020, 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, the Planned Area Development on Second Reading (vote: ____); 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, the City additionally and separately approved Transfer of Development Rights (TDRs), Conditional Use Review for a Mixed-Use Site Plan, and Tentative Plat applications for Merrick 250.

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 project referred to as “Merrick 250” 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. That this Ordinance shall become effective upon the date of its adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF _____ A.D., 2020.

APPROVED:

RAUL VALDES-FAULI
MAYOR

ATTEST:

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY

“Attachment A”

1. **Application/supporting documentation.** Construction of the proposed project shall be in substantial conformance with all of the following:
 - a. The Applicant's Planning and Zoning Board submittal package dated 04.15.20, prepared by Gunster, Yoakley & Stewart, P.A., and Behar Font & Partners, P.A. to include:
 - i. Maximum building height of 120 feet to the top of the roof; 130'-4" to top of architecture
 - ii. 3.58 FAR (220,322 sq. ft. including 4,904 sq. ft. of TDRs)
 - iii. 215 Residential units
 - iv. 18,650 sq. ft. (8.46%) of ground floor office/commercial uses
 - v. 362 parking spaces on site (including lifts)
 - vi. 12,931 sq. ft. (21%) landscape open space on-site
 - b. Traffic Impact Study dated February 27, 2020 prepared by A&P Consulting Transportation Engineers.
 - c. All representations proffered by the Applicant's representatives in their Application and as a part of the review of the Application at public hearings. Including, that the Applicant shall, prior to the issuance of a building permit for the project, provide a \$100,000 contribution to the City for public realm and public open space improvements in the Industrial District. These public realm and public open space improvements shall be undertaken by the City subject to the review and approval of the Planning Director and Public Works Director.
2. **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.
3. **Bond.** Within 90 days of approval, the Applicant, property owner(s), its successors or assigns shall post a bond in favor of the City in an amount determined by the Public Works Director to cover the costs of restoring the property to a clean, safe, and attractive condition in the event that the project is not completed in a timely manner, consistent with the Site Plan approval and applicable conditions.
4. **Construction information/contact person.** Prior to the issuance of a City Building Permit for the project, the Applicant, property owner(s), its successors or assigns, shall provide a written notice to all properties within five hundred (500) feet of the Merrick 250 project boundaries, providing a specific liaison/contact person 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.
5. **Vertical clearance.** Prior to the issuance of a City Building Permit for the project, the Applicant, property owner(s), its successors or assigns, shall provide a minimum vertical clearance of thirteen feet (13') along the full length and width of the public easement, locate on the southside of the subject site.

6. **Utility relocation.** Prior to the issuance of a City Building Permit for the project, the Applicant, property owner(s), its successors or assigns, shall secure all required approvals and be responsible for the relocation of existing utilities located in the alley in accordance with all applicable City, County, State or outside agency, and or utility company requirements.
7. **Encroachments Plan.** Prior to the City's issuance of a Foundation Permit or any other major Building Permit for the project, Commission approval is required for a special treatment sidewalk, decorative pavers, landscaping, irrigation, street lighting, landscaping lighting and any other encroachments into, onto, under and over the right of way. The above encroachments must be approved by City resolution and a Hold Harmless agreement must be executed.
8. **Art in Public Places.** Prior to the issuance of a City Building Permit for the project, the Applicant, property owner(s), its successors or assigns, shall Comply with all City requirements for Art in Public Places, which will include either a contribution to the Art in Public Places Fund, or having the proposed artist and public art concept be reviewed by the Arts Advisory Panel and Cultural Development Board, and Board of Architects approval before being submitted to the City Commission. The Applicant's compliance with all requirements of the Art in Public Places program shall be coordinated by the Department of Historical Resources and Cultural Arts.
9. **Written notice.** Provide a minimum of seventy-two (72) hour written notice to all properties within five hundred (500) feet of the Merrick 250 project boundaries of any proposed partial street closure as a result of the project's construction activity. Complete street closure shall be prohibited.
10. **Replacement parking spaces.** Replacement or payment in lieu of approximately seven (7) on-street parking spaces lost as a result of this project shall be provided by the Applicant, property owner, its successors or assigns according to established City requirements subject to review and approval by the Parking Director.
11. **Tandem parking spaces.** Each set of tandem parking spaces within the building shall be assigned to an individual residential unit or leased commercial space within the building, and, shall not be designated or used for public parking or parking for retail customers.
12. **Bird Road.** Applicant must seek approval and permit from Florida Department of Transportation for proposed improvements on Bird Road as shown in the approved Site Plan with enhanced pedestrian areas and enhanced landscape beyond the minimum code requirements.
13. **Encroachments.** Applicant must seek Commission approval and provide fully executed hold harmless agreement or restrictive covenant for all proposed encroachments into, onto, under and over the City's rights-of-way.
14. **Design District Implementation.** The ground floor shall be designed to optimize pedestrian activity and retail uses.
 - i. All storefronts shall be flush with the sidewalk grade.
 - ii. Storefronts shall remain transparent and allow visibility into the interior of the ground-level space from the public right of way and pedestrian areas of the project. Tinting, curtains, blinds, paper, or other materials that obstruct visibility into the interior of the

- ground level space shall not be permitted except as required by the City during construction.
- iii. Pedestrian entrances into active spaces (lobbies, retail, etc.) shall be provided on all ground floor facades with an average spacing of 40 feet.
 - iv. Paseo shall not be interrupted by stairwells, elevators, or solid walls.
15. **Alley Vacation Ordinance No. 2015-08 as amended.** The Public Works Department requires the following in association with the amended alley vacation:
- a. The applicant grants to the City by Deed of Dedication absolute rights of public ingress and egress whatever interests they need.
 - b. That a minimum width of ten feet (10') and a minimum vertical clearance of thirteen feet (13') extending the full length and width of the easement shall be provided above the substitute easement.
 - c. That the cost of removal and/or relocation of any and all utilities, including storm and sanitary sewers, installation of any required drainage facility, removal of curbs or abandoned concrete approaches and sidewalks and the paving and construction of the substitute easement shall be borne by the applicant whose actions necessitate such expense.
 - d. That the substitute easement shall be constructed in accordance with the specifications of the Public Works Department of the City and the plans for such construction shall be submitted to and shall be subject to approval by the Public Works Department. The permits and inspections for such construction shall be handled in the same manner as the paving for streets and alleys.
 - e. That the City of Coral Gables shall have the right to exercise the same control over the substitute easement as if the same were a dedicated alley and the acceptance and approval of such easements shall in no way relieve the applicant from complying with any and all regulations pertaining to alleys including but not limited to the building, zoning and other applicable regulations.
 - f. That the substitute easement shall at all times be kept free and clear of any and all encroachments and obstructions, including but not limited to, motor vehicles, trucks, trailers, debris, stoops, waste containers, and the like, and the City shall have the authority to monitor and enforce same.
 - g. That the use of the vacated property shall be limited to the same uses as to which the adjacent properties are zoned.
 - h. That the reversionary rights to the portion of the alley vacated shall revert to the owners abutting on each side of the vacated alley.
 - i. Utility easements by deed reservation along the side and rear lines of platted lots (a.k.a. Merrick Easements) are to be vacated via Resolution by the City Commission or Coral Gables.
16. **Improvements to existing building.** Prior to the issuance of the first Temporary Certificate of Occupancy (CO) for the new building, all renovations and improvements to the existing building shall be completed as part of the overall project.
17. **Right-of-way and public realm improvements.** Prior to the issuance of the first Temporary Certificate of Occupancy (CO) for the project, the Applicant, property owner, its successors or assigns shall install all right-of-way improvements and all landscaping, public realm and streetscape improvements, subject to review and approval by the Directors of Public Works,

Public Service and Planning and Zoning. Any deviation from the approved site plan will be reviewed in accordance with the PAD amendment process outlines in Section 3-507 of the Zoning Code.

18. **Enhanced Landscape Requirements.** Provided landscape shall exceed requirements provided in Article 5, Division 11 of the Coral Gables Zoning Code. Minimum tree planting height in the right-of-way shall exceed sixteen (16) feet, three-and-a-half (3.5) inch caliper, and regularly spaced at 25 to 35 feet on-center. Tree species shall be consistent with the streetscape master plan or existing street species, as deemed appropriate by the Landscape Division. Silva cells under sidewalks near proposed trees shall be provided at 32" minimum in depth within the public right-of-way and subject property.
19. **Undergrounding of overhead utilities.** Prior to the issuance of the first Temporary Certificate of Occupancy (CO) for the project, the Applicant, property owner, its successors or assigns shall, in accordance with Zoning Code Article 4, "Zoning Districts," more specifically, Section 4-201, "Mixed use District (MXD)," Table 1, sub-section L, "Utilities," submit all necessary plans and documents, and shall complete, at its expense, the undergrounding of all overhead utilities along all public rights-of-way surrounding and abutting the project boundary, subject to review and approval by the Directors of Public Works, Public Service and Planning and Zoning.
20. **Public Easement Maintenance and Access Agreement.** Prior to the issuance of the first Temporary Certificate of Occupancy (CO) for the project, the Applicant, property owner, its successors or assigns shall submit a Public Easement Maintenance and Access Agreement for City Attorney review and approval, which provides for the Applicant's payment of the costs of maintaining the public vehicular easement (the relocated public alleyway) and the provision of clear and unrestricted public access along and through this easement at all times. The agreement shall also state that should the property owner, its successors or assigns fail to meet the terms of the agreement, the City shall complete necessary maintenance and/or access improvements, which costs shall be reimbursed to the City by the property owner. The agreement shall be recorded in the public records for Miami-Dade County, Florida, in the form of a restrictive covenant.
21. **Sustainability Certification.** Prior to the Temporary Certificate of Occupancy, 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.
22. Following issuance of the first Certificate of Occupancy, the Applicant, property owner, its successors or assigns shall complete the following:
 - 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 review of traffic monitoring studies for three (3) years 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.

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