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November 11, 2024

Hand Delivered at November 13, 2024 Board Hearing

City of Coral Gables Planning and
Zoning Planning and Zoning Board
427 Biltmore Way
Coral Gables, Florida 33134

Re: Conditional Use Application for subdivision and development of 5810 Maggiore St. -
to be considered November 13, 2024

Ladies and Gentlemen of the City of Coral Gables Planning and Zoning Board:

I am the Attorney-in-Fact and representative for Katherine P. Hartnett, owner of the property located at 510 Marmore Avenue, which is located adjacent to and immediately west of 5810 Maggiore St., Coral Gables, Florida. Katherine Hartnett has lived at 510 Marmore since she purchased the property around 1965 with her husband James D. Hartnett. James was the son of former Mayor of Coral Gables, Fred Hartnett. James died in July 2023. Katherine is 86 and still lives at 510 Marmore. I write to oppose the Condition Use Application for subdividing the 5810 Maggiore St. property submitted by Legacy 5810 LLC, and further oppose the attempts for an application to demolish and remove the existing single-family residence in order to then subdivide and build two two-story single-family residences on the existing property.

The subject property at 5810 Maggiore St. is subject to the 1982 Declaration of Restrictive Covenant (Book 11474, Page 207) and the 1983 Amended Declaration of Restrictive Covenant (Book 11760, Page 606) that restrict the subdivision of the property. At the time the application was apparently submitted in early-mid 2024, the criteria for a conditional use application included consideration of whether the property was subject to a restrictive covenants, encroachments, easements or the like existed to prevent the separation of the site. See Section 14-202.6(F)4 Coral Gables Zoning Code in effect as of June 2024. We submit the application was defective when submitted for the failure to meet three of the 4 criteria in Section 14-202.6(F) and should have been rejected as submitted. Furthermore, we note that Section 14-202.6(E)3 states that where a single-family residence is removed, no permit can be issued for construction of more than one building on the building site. Similar provisions exist in other places in the Code as well. The Applicant's proposed demolition of the existing home that physically sits on three of the 4 platted lots also should lead The City to reject the application.

As the Applicant Legacy 5810 LLC's submittal mentions in the September 24, 2024 letter submitted as Exhibit A to the Staff Report before you, it appears that the applicant first requested to subdivide the property in 2023, and was advised on December 22, 2023, that the subject property could not be subdivided. See Building Site Determination Letter (No. BUSD-23-12-0012) referenced in the Applicant's September 24, 2024, letter. Notably, this was before the Applicant Legacy 5810 LLC purchased the property on January 26, 2024.

We agree with the Staff Report recommending denial of the application for the criteria expressed in the Staff Report. Additionally, contrary to the applicant's submittal, the 1982 and 1983 Restrictive Deeds are valid. See Save Calusa Trust v. St. Andrews Holdings, LTD., 193 So. 3d 910 (Fla. 3d DCA 2016) (holding restrictive covenant, recorded in compliance with a government-imposed condition of a land use approval, was not a title interest subject to extinguishment by Marketable Record Title Act "MRTA"). The City of Coral Gables should uphold its restrictions that were imposed through an agreement by the property owner in the 1980s. Mrs. Hartnett and the neighborhood have an interest in the City of Coral Gables maintaining those restrictions in the 1982 Declaration of Restrictive Covenant and 1983 Amended Declaration of Restrictive Covenant. Given that Mrs. Hartnett's property abuts the Applicant's property, she has an interest that is measured greater than the general interest in the community. See Save Calusa, Inc. v. Miami-Dade County, 355 So. 3d 534, 540-541 (Fla. 3d DCA 2023).

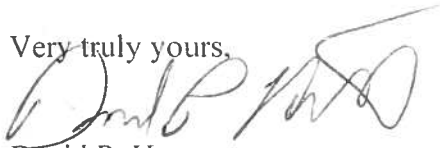
Additionally, Mrs. Hartnett also opposes the application to build 2-story buildings that are not in keeping with the one-story ranch designs in the area. The proposed building to the north side of 5810 Maggiore property (Lots 11 and 12) would block her view to the east, and apparently remove a live oak tree approximately 30 feet high (tree # 152), as well as many other trees in the open space.

We disagree with the Staff Report as to its assessment of item 14-202.6(F).3 that the proposed site maintains and preserves open space and specimen trees and promotes neighborhood compatibility. Rather, the proposed plans eliminate the north side open space of the current property and replaces the open space with a new building that did not exist. Additionally, the proposed buildings would not comport with the neighborhood, but rather would give the appearance of an apartment/condominium style buildings in a neighborhood of ranch houses.

There is also nothing in the plans submitted that we have located that would identify where septic tanks would be located, which is a particular concern regarding potential leaking onto Mrs. Hartnett's property to the immediate west on the Marmore Avenue side of the property.

We respectfully request that the application be denied.

Very truly yours,



David P. Hartnett
DPH
Enclosure