

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA APPROVING MIXED-USE SITE PLAN AND ENCROACHMENT REVIEW PURSUANT TO ZONING CODE ARTICLE 14, "PROCESS" SECTION 14-203, "CONDITIONAL USES," FOR A PROPOSED MIXED-USE PROJECT REFERRED TO AS "PONCE PARK RESIDENCES" ON THE PROPERTY LEGALLY DESCRIBED AS LOTS 8 THROUGH 21, LESS THE WEST ½ OF LOT 8, BLOCK 29, CRAFTS SECTION, TOGETHER WITH THAT PORTION OF THE 20-FOOT PLATTED ALLEY LYING EAST OF LOTS 11 AND 19, OF SAID BLOCK 29; (3000 PONCE DE LEON BLVD, 216 & 224 CATALONIA, 203 UNIVERSITY DR, AND 225 MALAGA), 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 mixed use site plan review pursuant to Zoning Code Section 14-203 for the mixed-use project referred to as "Ponce Park Residences" on the property legally described as Lots 8 through 21, less the West ½ of lot 8, Block 29, Crafts Section, together with that portion of the 20-foot platted alley lying east of Lots 11 and 19, of said Block 29, (3000 Ponce de Leon Blvd, 216 & 224 Catalonia, 203 University Dr, and 225 Malaga), Coral Gables, Florida;

WHEREAS, the Application requires City of Coral Gables mixed use site plan and encroachment review and public hearing consideration pursuant to the Zoning Code Mixed Use District (MX) provisions;

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one-thousand five hundred (1,500) feet from the subject property, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on December 13, 2023 at which hearing all interested persons were afforded the opportunity to be heard;

WHEREAS, at the Planning and Zoning Board's December 13, 2023 meeting, the Board recommended approval with conditions for the proposed mixed use site plan and encroachment (vote 4-2);

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one-thousand five hundred (1,500) feet from the subject property, a public hearing was held before the City Commission of the City of Coral Gables on March 12, 2024, at which hearing all interested persons were afforded the opportunity to be heard;

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one-thousand and five hundred (1,500) feet, the City Commission held a public hearing on March 12, 2024, at which meeting the Applicant deferred the item;

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one-thousand and five hundred (1,500) feet, the City Commission held a public hearing on April 16, 2024 at which hearing all interested persons were afforded an opportunity to be heard;

WHEREAS, after notice of public hearing duly published and notifications of all property owners of record within one-thousand and five hundred (1,500) feet, the City Commission held a public hearing on May 21, 2024 at which hearing all interested persons were afforded an opportunity to be heard;

WHEREAS, public hearings have been completed as indicated herein by the Coral Gables City Commission in consideration of a request for mixed use site plan review as required by the Zoning Code, and including careful consideration of written and oral comments by members of the public; and

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 proposed mixed use site plan review for the mixed-use project referred to as “Ponce Park Residences” for the property legally described as Lots 8 through 21, less the West ½ of lot 8, Block 29, Crafts Section, together with that portion of the 20-foot platted alley lying east of Lots 11 and 19, of said Block 29 (3000 Ponce de Leon Blvd, 216 & 224 Catalonia, 203 University Dr, and 225 Malaga), Coral Gables, Florida, shall be and is hereby approved subject to all of the following conditions:

- 1. 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 11/15/2023 prepared by Zyscovich Architects to include:
 - I. Maximum building height shall not exceed 115’-8” to roof deck with 20’ high to pool cabana
 - II. 4.05 FAR (172,352 sq. ft.)
 - III. 57 dwelling units
 - IV. 20,142 square feet of commercial space
 - V. Approximately 22,712 square feet of landscaped open space, including the right-of-way
 - VI. Reconstruction of both the Ponce Circle Park and the immediate roadway (the “Ponce Circle Park project”)

- b. All representations proffered by the Applicant's representatives as a part of the review of the Application at public hearings.

- 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. **Ponce Circle Park.** The Ponce Circle Park project consists of two phases: 1) a series of designed and permitted roadway improvements surrounding Ponce Circle Park; and 2) the off-street improvements to the park itself. The estimated costs of the roadway and park improvements total approximately \$8.9 million, of which the roadway improvements total an estimated \$4.5 million and the park improvements total an estimated \$4.4 million. The City has approved funding of \$5.3 million for the Ponce Circle Park project (the "City Contribution"). The Applicant has proffered to contribute no less than \$2 million toward the funding of the Ponce Circle Park project.
 - a. **Roadway Improvements:** The Applicant shall construct the permitted roadway improvements as permitted by the City. The Applicant shall also work with the City Manager to coordinate the execution of the improvements to, the maximum extent feasible, minimize traffic disruption on Ponce de Leon Boulevard.
 - b. **Park Improvements:** The park improvements design shall be developed in coordination with the City. The Applicant shall then construct and complete the park improvements consistent with the approved design.

- 4. **Prior to issuance of the first Building Permit, the 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 fees shall be waived.
 - b. **Final Plat.** Prior to the issuance of any Building Permit for vertical construction, the Applicant is required to obtain City Commission approval of the Final Plat, per Section 14-210.3 of the Zoning Code. Notwithstanding this provision, the Applicant shall obtain Miami-Dade County Plat Committee approval of the tentative plat within 6 months of the date of this Resolution and shall proceed to process the final plat for approval by the City Commission and recording in the Public Records of Miami-Dade County. The City Manager, or designee, may provide an extension of time to these timeframes based for good cause.
 - c. **Off-site and Public Realm Improvements and Contribution.**

- i. **Safety Improvements.** The Applicant shall revise the proposed design of the slip lane to address both the future traffic flow needs of planned commercial uses at Ponce de Leon Boulevard and Malaga (The Plaza) and the traffic configuration of Malaga and University Drive. The proposed modifications shall prioritize pedestrian circulation and safety. The revised design shall require conceptual approval by the Directors of Public Works, Parking, and Planning & Zoning and a “Dry-Run” approval of Miami-Dade County and the City prior to the issuance of the first City permit for vertical construction.
- ii. **Public Plaza.** The design of the Public Plaza shall be revised to prioritize pedestrian movement and landscaping. The Applicant shall coordinate with Public Works and the community on the Public Plaza design and preservation or relocation of any existing shade trees. The revised Public Plaza design shall require written conceptual approval of the City Public Works Department prior to the issuance of the first City permit for vertical construction.
- iii. **Ponce Circle Park & Roadway Improvements.** As voluntarily proffered, the Applicant shall provide the following:
 1. **Cash Bond.** The Applicant shall provide a cash bond in the amount of two-million dollars (\$2,000,000) to be applied toward construction of the Ponce Circle Park project (the “Applicant Contribution”), pursuant to a cash bond agreement in a form acceptable to and approved by the City Attorney. The cash bond agreement shall be executed, and the cash bond shall be posted, prior to the issuance of the first City permit for vertical construction.
 2. **Project progress schedule.** A project schedule for the Ponce Circle Park project shall be reviewed and approved by the City Manager, or designee. The schedule shall be approved by the City Manager prior to the issuance of the first City permit for vertical construction.
- iv. **Construction & Reimbursement Agreement.** The City reimbursement payments to the Applicant shall be made pursuant to a construction and reimbursement agreement between the City and Applicant (the “Reimbursement Agreement”), which, among other things, shall include terms regarding the process for finalizing the design of the Park Improvements, reimbursement by the City to Applicant up to the amount of the City Contribution and Applicant Contribution, and general coordination of the construction of the Ponce Circle Park project. The Applicant shall be responsible for that portion of the estimated cost of the Ponce Circle Park project which exceeds the amount of the City Contribution. The Reimbursement Agreement shall be in a form acceptable to the City Attorney and approved by the City Commission pursuant to a separate Resolution. The construction and reimbursement agreement shall be approved and executed prior to the issuance of the first City permit for vertical construction.
- d. **Art in Public Places.** The 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, the 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 9.

- e. **On-street parking.** Payment shall be provided by the 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. **Signage.** Provide Signage Plan indicating code compliant size and location of all proposed exterior signage.
- g. **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 vehicle circulation along Ponce de Leon Boulevard with all sidewalks on Ponce de Leon Boulevard to remain open throughout construction.
- h. **Encroachment Agreement and Covenant.** All encroachments illustrated in the Applicant's submittal package, including the proposed canopy on Catalonia, special treatment sidewalks, decorative pavers, landscaping, irrigation, street lighting, landscaping lighting and any other encroachments into, onto, under and over the right of way are approved by the City Commission in the site plan approval and a Hold Harmless agreement must be executed approving the encroachments. Execute and record a restrictive covenant 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.
- i. **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.
- j. **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.

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

- a. **Sustainability Certification.** 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.
- b. **Underground utilities.** Submit all necessary plans and documents and complete the undergrounding of all utilities along all public rights-of-way surrounding and adjacent project boundary, subject to review and approval by the Directors of Public Works, Landscape Services and Planning and Zoning.
- c. **Utility Upgrades.** Water and Sewer system upgrades and all associated right-of-way improvements may be required to be completed, at the Applicant's expense.
- d. **Art in Public Places.** The Applicant shall comply with all City requirements for Art in Public Places.

- e. **Bicycle/Pedestrian Plan.** The bicycle and pedestrian paths on University Drive/Malaga shall comply with the City's Bicycle Pedestrian Master Plan to be designed as Bike Lanes and be reviewed and approved by the Public Works Director. All driveways shall be designed with a flare-style curb cut with a continuous and level sidewalk through each driveway to create a pedestrian-friendly environment.
- f. **Completion of Ponce Circle Park Project.** The Applicant shall complete at least 75% of the construction of the Ponce Circle Park project prior to issuance of Temporary Certificate of Occupancy (Completion Threshold"). In the event Applicant has not achieved the Completion Threshold and requests the issuance of a Temporary Certificate of Occupancy, the City Manager, or designee, shall only issue such a Temporary Certificate of Occupancy upon the satisfaction of the following conditions:
 - i. Applicant has provided the City with an assignment of the construction contract between the Applicant and contractor for the completion of the Ponce Circle Park Project authorizing City to assume supervision and management of the same upon its election; and
 - ii. Applicant has provided a cash bond to the City in the total amount equal to the contract amount for the completion of the Ponce Circle Park Project, as the same may be increased by an approved change order, less any expended or unexpended portions of the City Contribution or Applicant Contribution previously paid to or presently held by the City.

Unless the City elects to complete the Ponce Circle Park Project pursuant to the assignment provided by the Applicant and described hereinabove, the Ponce Circle Park Project shall be 100% completed prior to the issuance of a Final Certificate of Occupancy for the project.

- g. **Right-of-way and public realm improvements.** Install all right-of-way improvements and the abutting Public Plaza area, subject to review and approval by Public Works Department and the Planning and Zoning Division. Any changes to and departures from the right-of-way and public realm improvements identified via the permitting process shall be subject to review and approval by Directors of Public Works, Landscape Services, Planning and Zoning, and Parking. The construction of all Improvements shall be exclusively performed by the Applicant prior to temporary Certificate of Occupancy. Upon completion, the Applicant shall thereafter maintain the Public Plaza area at its sole cost and expense.
- h. **Construction, Maintenance and Expense.** The construction of all improvements shall be exclusively performed by the Applicant prior to the Temporary Certificate of Occupancy. The Applicant, at its sole cost and expense, shall maintain the Public Plaza area and the Improvements thereon in good order, condition, and repair and in a safe, clean, fully functional and attractive manner.
- i. **Insurance.** The Applicant, at its sole cost and expense, shall procure and maintain at all times, a comprehensive commercial general liability insurance policy written on an occurrence basis, issued by a good and solvent insurance company authorized and licensed to do business under the laws of the State of Florida.
- j. **Publicly Accessible Easement.** A publicly accessible open space easement shall be executed and recorded between the City and the Owner of the public paseo and all pedestrian areas along all sides of the proposed buildings. Gates, fencing or enclosures of any kind are prohibited. All open spaces and any associated furniture and amenities shall be maintained by the applicant or its successor in perpetuity.

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 choose 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.

SECTION 3. That the applicant shall further be required to comply with all applicable zoning regulations and any changes to the application herein granted shall be in conformance with the requirements of Zoning Code Section 14-203.10, “Changes to an approved conditional use.”

SECTION 4. 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 5. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS _____ DAY OF _____ A.D., 2024.

APPROVED:

VINCE C. LAGO
MAYOR

ATTEST:

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRISTINA SUAREZ
CITY ATTORNEY