

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2021-_____

A RESOLUTION OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA AUTHORIZING AN AMENDMENT TO THE DECLARATION OF RESTRICTIONS ENTERED INTO FOR THE GABLES STATION PROJECT LOCATED AT 211-237 SOUTH DIXIE HIGHWAY; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2016-43 (Amended) approved a Planned Area Development (PAD), including required conditions, for the “Gables Station” project on the property located at 211-237 South Dixie Highway, Coral Gables, Florida; and

WHEREAS, that certain Declaration of Restrictions dated December 29, 2017 recorded in Book 30815, Page 1893, of the Public Records of Miami-Dade County, Florida, (the “Declaration”) was proffered in order to comply with the conditions included in Ordinance No. 2016-43 (Amended); and

WHEREAS, unforeseeable delays due to subsurface conditions, namely the discovery of environmental contamination in the Underline area adjacent to the Gables Station project, have prevented strict compliance with some of the conditions of approval required pursuant to Ordinance No. 2016-43 (Amended); and

WHEREAS, the City desires to amend the Declaration so as to modify certain conditions of approval which require adjustment based on the existing situation; and

WHEREAS, the City finds it in the interest of public health, safety, order, convenience, comfort, prosperity, and general welfare to amend the Declaration.

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

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

SECTION 2. That the Declaration is hereby amended as follows:

(3) Prior to Issuance of first Building Permit:

f. **Signage.** ~~No signs shall be placed more than forty five (45) feet above the~~

sidewalk elevation. Signs shall comply with the sign plan submitted to the Planning Department on September 22, 2020 and shall comply with the applicable regulations of the City's Sign Ordinance.

i. Ground Floor Design. The ground floor of all buildings shall continue to be designed to optimize pedestrian activity and retail success. All Storefronts shall be transparent.

iv. Arcades shall have an 18' minimum vertical clearance, measured from the sidewalk grade to the lowest point of the beam above. The Planning Director may approve minor modifications of this vertical clearance requirement.

~~(4) **RESERVED. Underline Improvement Plan.** By December 28th, 2017, Owner shall complete an Underline Improvement Plan for that area of the Metrorail right of way between Grand Avenue to the southwest and Ponce de Leon Boulevard to the northeast. The plan shall be approved by the City Commission as an amendment to the Mixed Use Site Plan and shall be consistent with and uphold the minimum standards set forth by The Underline Framework Plan and Demonstration Projects Masterplan by James Corner Field Operations dated December 18, 2015. Within 15 business days of the City's final approval subject to no changes of the Underline Improvement Plan, the Applicant shall submit the approved plan to the Miami Dade Transit Agency ("MDTA") for its approval. Applicant shall submit building permit plans for the construction of the Underline Improvement Plan following MDTA's written approval of the Underline Improvement Plan, and complete the work pursuant to the terms of its Development Agreement with Miami Dade County. The Underline Improvement Plan shall also be subject to written approval by other permitting agencies, and subject to review by The Underline Design Advisory Committee, as part of The Underline implementation process. The Underline Improvement Plan shall include the following:~~

~~a. Owner shall provide to the City a surety bond, letter of credit, cash deposit, or other form of security deemed acceptable by the City, in the amount of 100% of the estimated total hard and soft costs necessary to implement the approved Underline Improvement Plan, as provided for in the proposed budget for the approved Underline Improvement Plan, less those costs previously paid by the Owner, as reasonably approved by the Public Works Director, prior to the issuance of a City permit for the improvements pursuant to the Underline Improvement Plan. The security furnished shall be utilized by the City to complete the proposed Underline Improvements in the event that the building permit has expired, or twenty four months have passed since expiration, and no new application for building permit has been submitted. Such bond, or other form of security, shall not be duplicative of (and reduced by the amount of) any surety required by another government unit for the same scope of work. At periodic intervals to be determined by City and Owner, the security provided shall partially reduced or released as the improvements are constructed commensurate with the percentage of Underline improvements actually completed.~~

~~_____ b. _____ Owner shall secure the necessary approvals from Miami Dade County for the driveways that will be located within the Metrorail right-of-way.~~

~~_____ c. _____ Owner shall coordinate the design and location of the bicycle path and the pedestrian path with Miami Dade County and the Underline Design Advisory Committee. Owner shall ensure that all locations where the Underline bicycle path and pedestrian path intersect with driveways, sidewalks, or any other potential conflict point, is designed for maximum safety for users, subject to the requirements of Miami Dade County and the Underline Design Advisory Committee and applicable codes.~~

~~_____ d. _____ Owner shall reconfigure the current bicycle and pedestrian crossing at Grand Avenue and LeJeune Road to allow one crossing movement during a pedestrian/bicycle priority phase of the signals at this five-way intersection, subject to Miami Dade County and FDOT approval.~~

~~_____ e. _____ Owner shall consider developing a remote shared parking agreement in order to provide parking within the Gables Station and Gables Ponce parking garages so as to reduce the surface parking area within the Underline right of way. Owner shall also consider landscape and materials that mitigate storm water runoff and negative visual impact of an uninterrupted surface lot.~~

~~_____ f. _____ Internal Project Driveway. Owner shall coordinate with the Underline Design Advisory Committee and Miami Dade County to provide, if permitted, a more pedestrian oriented design with less pavement markings / signage as well as the possibility of a one way / one lane driveway and low speed, curbless shared street spaces. Owner shall control vehicular speed and volume through the following design features: narrow lanes, pavers, parallel parking on both sides of the drive, ten (10) foot maximum width travel lanes, no six (6) inch double solid yellow marking down the middle, two lanes at the Ponce de Leon Boulevard entrance instead of four (left turn only southbound / right turn only north bound), include pedestrian crosswalk leading into the courtyard and crossing Ponce de Leon Boulevard, indicate the design, lighting and signage that will be used to mark the crosswalk across Ponce de Leon Boulevard, subject to a signal warrant analysis.~~

~~_____ g. _____ Design, funding and construction of The Underline Improvement Plan shall include safety improvements for bicycle and pedestrian crossings at the following intersections: Grand Avenue, LeJeune Road, Riviera Drive, and Granada Boulevard, subject to approval by Miami Dade Transit, The Underline Design Advisory Committee, and other permitting agencies.~~

~~_____ h. _____ Owner shall provide a pedestrian crosswalk across Ponce de Leon Boulevard, between The Underline and the northwest side of the street, that will continue across The Underline, and across the internal drive, to connect to the courtyard. The location, design, lighting and signage for this crosswalk shall be subject to approval by the Public Works Director and the Development Review Official, as well as Miami Dade County.~~

~~_____ i. _____ Owner, with appropriate input from the City and MDTA, shall maximize the number of parallel parking spaces on Ponce de Leon Boulevard and the internal driveway.~~

~~j. Owner shall provide landscape improvements for the linear parks on the south side of US1, as per the conceptual plan provided, including the planting of shade trees and the placement of relocated specimen trees, to be reviewed and approved by the Landscape Services Director in coordination with the adjacent property owners as part of the Underline Improvement Plan.~~

~~k. The bicycle and pedestrian paths shall comply with the City's Bicycle Pedestrian Master Plan as updated, at the time of issuance of a building permit for the Underline improvements.~~

~~l. Bicycle Station. Per the City's Bicycle Pedestrian Master Plan, Owner shall provide a bicycle station within The Underline area, to be maintained and operated by a public entity, non-profit entity, or another entity contracted by either, that offers a wide variety of services, such as secure parking facilities, and bicycle and repair services or facilities.~~

(6) **Prior to issuance of the First Temporary Certificate of Occupancy, Applicant shall:**

~~f. RESERVED. LEED Certification. Prior to the issuance of the Temporary Certificate of Occupancy for any individual building, such individual building must achieve LEED Silver or equivalent certification, or, if not achieved, Owner shall post such surety as required by Zoning Code Section 5-1302.~~

~~m. RESERVED. US1 Improvements. Subject to approval by the Florida Department of Transportation ("FDOT") and Miami Dade County, the Owner shall explore the feasibility of providing full four-way crosswalks at the following US1 intersections: Grand Avenue and Ponce de Leon Boulevard, including pedestrian and bike crossings with countdown signalization and pedestrian priority. All crosswalks shall be located away from the intersection for safety and visibility in accordance with FDOT standards. Owner shall provide a minimum of eight (8) feet of landscape buffer in the form of planters facing US1, to be reviewed and approved by the Landscape Services Director.~~

~~n. RESERVED. Underline Improvements. Owner shall complete the improvements proposed pursuant to the Underline Improvement Plan prior to issuance of the First Temporary Certificate of Occupancy. Notwithstanding anything in this paragraph, City shall issue a Temporary Certificate of Occupancy if the City Manager, at his/her reasonable discretion determines that the improvements proposed pursuant to the Underline Improvement Plan are substantially complete and that completion of the improvements has been delayed due to force majeure or modifications required or delays caused by the City, the County, or the Underline Design Advisory Committee.~~

~~o. Underline Improvements. Pay to the City the impact fees in the amount of \$2,179,090.42 which were previously waived and which will be utilized for construction of the Underline pursuant to the Memorandum of Understanding entered into between the City and Miami-Dade County dated _____.~~

m. City Parking Spaces in Parking Garage. The Applicant shall, subject to approval by the City Parking Director, revise its Parking Management Plan so that a minimum of forty (40) parking spaces within the Project's parking garage will be provided for the use of the City at the City's exclusive and absolute discretion.

(7) **Following Issuance of the First Temporary Certificate of Occupancy**, Owner shall:

e. MacFarlane Linear Park. The Applicant shall, in conjunction with the City and the owner/developer of the property located at 218-220 Florida Avenue, provide for a revised and updated landscape improvement plan for MacFarlane Linear Park. The scope of the type of improvements and the value of the improvements to which Applicant is obligated to provide or contribute shall remain equivalent to the scope and value provided for in the MacFarlane Linear Park conceptual plan approved by Ordinance No. 2016-43 (Amended). The updated MacFarlane Linear Park improvement plan shall be reviewed and approved by the Landscape Services Director.

f. LEED. Withing one (1) year of issuance of the Temporary Certificate of Occupancy, for any individual building, such individual building must achieve LEED or equivalent certification or either (i) provide the City with a performance bond, cash, or irrevocable letter of credit payment in the amount of 3% of the master building permit construction cost value at any point in time within one (1) year of issuance of the Temporary Certificate of Occupancy, such bond being subject to Section 5-1302.C.2-3 of the Zoning Code, or (ii) vacate the building within sixty (60) days from the one (1) year date, at which time the Temporary Certificate of Occupancy shall be revoked. Applicant understands that the issuance of a Certificate of Occupancy will require Application to have obtained final LEED or equivalent certification.

g. Ponce de Leon Boulevard Crosswalk. Provide a pedestrian crosswalk across Ponce de Leon Boulevard, between the Underline and the northwest side of the street, that will continue across the Underline, and across the internal drive, to connect to the courtyard. The location, design, lighting and signage for this crosswalk shall be subject to approval by the Public Works Director and the Development Review Official, as well as Miami-Dade County.

h. AIPP. The on-site public art approved through the Art in Public Places process pursuant to Zoning Code Section 3-2103 through 2105 shall be fully installed at the earliest of either (1) issuance of final Certificate of Occupancy, or (2) within 45 days of approval to travel from abroad for the artist and his team to perform the installation. Until the art is installed, a sign approved by the City, shall be installed explaining that art is forthcoming at that location and explaining the name of the artwork and a short description.

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

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

SECTION 5. This approval 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 approval does not create any liability on the part of the City of Coral Gables for issuance of any building 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 Resolution shall become effective upon the date of its adoption.

Passed and Adopted this ____ day of March, A.D. 2021.

APPROVED:

RAUL VALDES-FAULI
MAYOR

ATTEST:

BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

MIRIAM SOLER RAMOS
CITY ATTORNEY