

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2019-131 (AS AMENDED)

A RESOLUTION OF THE CITY COMMISSION APPROVING AN AMENDED DECLARATION OF RESTRICTIONS REGARDING THAT CERTAIN PROPERTY LEGALLY DESCRIBED AS LOTS 15-16, BLOCK 29, GRANADA SECTION CORAL GABLES, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 8, AT PAGE 113 OF THE PUBLIC RECORDS OF MIAM-DADE COUNTY, FLORIDA.

WHEREAS, North Gables Building, LLC (the “Owner”) is the owner of the real property legally described as

Lots 15-16, Block 29, GRANADA SECTION CORAL GABLES, according to the Plat thereof, recorded in Plat Book 8, at Page 113 of the Public Records of Miami-Dade County, Florida (the “Property”); and

WHEREAS, on January 30, 1973, the City Commission adopted Ordinance No. 2001, attached as Exhibit A, which amended the conditions and restrictions for the use of the offstreet parking lot located at the Property and required that the use be subject to the Declaration of Restrictions dated January 24, 1973 and subsequently recorded on February 2, 1973 at Official Records Book 8109, Page 848 of the Public Records of Miami-Dade County, Florida (the “Declaration of Restrictions”) attached as Exhibit B; and

WHEREAS, the Owner has requested that certain provisions of the Declaration of Restrictions be modified as follows:

- 1) Modify paragraph 2(g) to allow parking beginning at 7:00 A.M. instead of 8:00 A.M.;
- 2) Modify paragraph 2(i) to allow the parking of vans and pick-up trucks used by patients, employees, or managing personnel of the professional offices and/or medical clinic, but not for the parking, loading, and/or unloading of passenger vans; and
- 3) Eliminate paragraphs 2(e) and 2(k) because the conditions requiring replacement of sidewalks and improvements to the parking lot have been complied with; and

WHEREAS, the Owner has agreed that the parking area shall only be used on Mondays through Fridays between the hours of 7:00 A.M. and 9:00 P.M. each day and on Saturdays between the hours of 8:00 A.M. and 9:00 P.M. and that the parking area shall not be used on Sundays; and

WHEREAS, Owner has agreed to install a gate at the entrance to the parking area to prevent its use during all prohibited times and has agreed that such gate shall be permanently locked during all such times; and

WHEREAS, Owner has agreed that the parking area will not be rented or leased to any third party for any purpose; and

WHEREAS, the Owner has agreed that if vans and pick-up trucks used by patients, employees, or managing personnel of the professional office and/or medical clinic are allowed to use the parking area, at no time shall the parking area be used for parking, loading, and/or unloading of passenger vans, including but not limited to vans transporting patients of the medical clinic and that no commercial vehicles used by the medical clinic or any of its vendors shall be allowed to park or use the parking area for any purpose, except as may be required for emergency repairs; and

WHEREAS, The Owner has agreed to replace the existing hedge on the Property and install a hedge on the East side of the Property. The hedge to be installed shall be uniform and consistent around the Property and at least four (4) feet in height at the time of planting. Such landscaping shall be reviewed and approved by the City's Landscape Services Division prior to installation. Such hedge shall be grown to a height of at least eight (8) feet and Owner shall provide for a continued maintenance program which will include the installation and operation of sprinklers and provision of fertilizer; and

WHEREAS, a notice of public hearing was mailed to the property owners within a one thousand (1,000) foot radius of the Property;

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

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 Resolution upon adoption hereof.

SECTION 2. That the City Commission does hereby approve the Amended Declaration of Restrictions in substantially the form attached as Exhibit C, with any such modifications as approved by the City Manager and City Attorney which are consistent with the Commission's intent.

SECTION 3. That this Resolution shall become effective upon the date of its passage and adoption herein.

PASSED AND ADOPTED THIS TWENTY-EIGHTH DAY OF MAY, A.D.,
2019.


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

APPROVED:



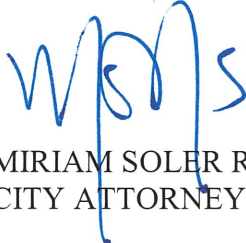
RAUL VALDES-FAULI
MAYOR

ATTEST:



BILLY Y. URQUIA
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



MIRIAM SOLER RAMOS
CITY ATTORNEY

AMENDMENT TO DECLARATION OF RESTRICTIONS

This Amendment to Declaration of Restrictions (“Amendment”) is made and entered this ___ day of June, 2019, between North Gables Building, LLC (the “Owner”) and the City of Coral Gables (the “City”), to that certain Declaration of Restrictions recorded on February 2, 1973 at Official Records Book 8109, Page 848 of the Public Records of Miami-Dade County, Florida (the “Declaration”).

WHEREAS, Owner is the owner of the real property legally described as

Lots 15-16, Block 29, GRANADA SECTION CORAL GABLES, according to the Plat thereof, recorded in Plat Book 8, at Page 113 of the Public Records of Miami-Dade County, Florida (the “Property”).

WHEREAS, on January 30, 1973, the City Commission adopted Ordinance No. 2001, attached as Exhibit A, which amended the conditions and restrictions for the use of the offstreet parking lot located at the Property and required that the use be subject to the Declaration attached as Exhibit A; and

WHEREAS, the Owner requested that certain provisions of the Declaration be modified and agreed to certain conditions; and

WHEREAS, a notice of public hearing was mailed to the property owners within a one thousand (1,000) foot radius of the Property and on May 28, 2019, the City Commission approved this Amendment to Declaration of Restrictions on, pursuant to Resolution No. 2019-131 (As Amended).

NOW, THEREFORE, for other good and valuable consideration, the receipt of and sufficiency of which is acknowledged hereof, the Owner voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and shall be binding upon the Owner, its heirs, grantees, successors and assigns as follows:

1. The foregoing recitals are true and correct and are incorporated herein as if repeated in their entirety.

2. Paragraph 2(g) of the Declaration is replaced with the following language:

Said parking area shall only be used on Mondays through Fridays between the hours of 7:00 A.M. and 9:00 P.M. each day and on Saturdays between the hours of 8:00 A.M. and 9:00 P.M. The parking area shall not be used on Sundays. No car or any other vehicle shall enter said parking area at any other time, and further no car, shall be permitted to remain thereon overnight. Owner agrees to install a gate at the entrance to the parking area to prevent such use during all times when use the parking area is not allowed. Such gate shall be permanently locked during all such times. The parking area may not be rented or leased to any third party for any purpose.

3. Paragraph 2(i) of the Declaration is replaced with the following language:

No trucks, trailer trucks, trailers, vans or commercial vehicles of any kind shall use said lots for parking purposes or for any other purpose, except that vans and pick-up trucks used by patients, employees, or managing personnel of the professional office and/or medical clinic, but the lots shall not be used for parking, loading, and/or unloading of passenger vans, including but not limited to vans transporting patients of the medical clinic. No commercial vehicles used by the medical clinic or any of its vendors shall be allowed to park or use the parking area for any purpose, except as may be required for emergency repairs.

4. Paragraphs 2(e) and 2(k) of the Declaration are modified to indicate that the conditions requiring replacement of sidewalks and improvements to the parking lot have been complied with.

5. Paragraph 2(d) of the Declaration is modified to add the following language:

Owner shall replace the existing hedge on the Property and install a hedge on the East side of the Property. The hedge to be installed shall be uniform and consistent around the Property and at least four (4) feet in height at the time of planting. Such landscaping shall be reviewed and approved by the City's Landscape Services Division prior to installation. Such hedge shall be grown to a height of at least eight (8) feet and Owner shall provide for a continued maintenance program which will include the installation and operation of sprinklers and provision of fertilizer.

6. The following terms and conditions are added to the Declaration:

- a. **Effective Date and Term.** This Declaration shall run with the land and become effective upon its recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time it shall be extended automatically for successive periods of ten (10) years unless released in writing pursuant to and as described in this Declaration.
- b. **Amendments, Modifications, and Releases.** This Declaration may not be amended, modified, or released unless said amendment, modification, or release is by a written instrument executed by: (i) the then Owner(s) of the fee simple title to the Property, to be affected by such amendment, modification, or release and (ii) the Director of Planning and Zoning and approval by the Coral Gables Commission with the notice and procedural requirements for advertisements and public hearings in effect under the City Code at such time. All costs shall be at the sole expense of the Owner. Any amendment, modification, or release shall be subject to the approval of the City Attorney as to legal form and sufficiency.
- c. **Enforcement.** Enforcement shall be by action at law or in equity against any parties or person violating, or attempting to violate, any covenants, either to

restrain violations or to recover damages. The prevailing party in any action or suit pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of its attorney. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

In addition, in the event of a breach of this covenant, enforcement may be by action at law or in equity against any parties or person(s) violating, or attempting to violate, any covenants, either to restrain violations or to recover damages. The parties agree that a breach of this covenant shall create, in favor of the City, the presumption of irreparable harm for the purposes of any injunctive relief.

For the avoidance of doubt, in addition to any other available enforcement actions or remedies, a violation of this Declaration shall constitute a City code enforcement violation.

- d. **City Inspections.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the City of Coral Gables, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.
- e. **Authorization to Withhold Permits and Inspections.** In the event the terms of this Declaration are not being complied with, in addition to any other remedies available, the City of Coral Gables is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.
- f. This instrument shall constitute a covenant running with the title to the Property and be binding upon Owner(s), its heirs, vendees, grantees, successors, and assigns upon recordation in the Public Records of Miami-Dade County, Florida. These restrictions shall be for the benefit of, and a limitation upon, all present and future owners of the Property and for the public welfare. The Owner(s), and their heirs, successors and assigns, acknowledge that acceptance of this Declaration does not in any way obligate or provide a limitation on the City of Coral Gables.
- g. **Severability.** Invalidation of any one of the covenants in this Declaration by judgment of Court shall not affect any of the other provisions of the Declaration, which shall remain in full force and effect. In the event of a violation of this Declaration, in addition to any other remedies available, the City is hereby authorized to withhold any future permits and refuse to make any inspections

or grant any approval, until such time as the Owner is in compliance with this Declaration. All rights, remedies and privileges granted pursuant to this Declaration shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the City from exercising such other additional rights, remedies or privileges.

- h. **Recording.** This Declaration shall be filed of record among the Public Records of Miami-Dade County, Florida, at the cost of the Owner, and the City Planning and Zoning Director will be furnished a recorded copy by the Owner within thirty (30) days of this Declaration being recorded.

7. This Amendment shall have no bearing or implications on any other terms, conditions, or aspects of the Declaration, which remains in full force and effect, except as modified herein, or to any other unities of title, restrictive covenants, liens, assessments, or other encumbrances that may presently exist on the Property.

IN WITNESS WHEREOF, the undersigned have set their hands and seals to this Declaration of Restrictive Covenants this _____ day of _____, 2019.

North Gables Building, LLC:

WITNESS:

Print Name: _____

Name:
Title:

Print Name: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by _____, as _____ of North Gables Building, LLC, a Florida limited liability company, this _____ day of _____, 2019 who is personally known to me or who produced _____ as identification.

Notary Public, State of Florida at Large
Print Name: _____
My commission expires: _____

Approved as to form and legal sufficiency:

Miriam Soler Ramos
City Attorney

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DECLARATION OF RESTRICTIONS

*Cas
Pmt*

WHEREAS, Vestus Inc. a Delaware Corporation, and Ambuware International Inc. a Florida Corporation, d/b/a Casa Grande Venture, are the owners in fee simple of the following described property in the City of Coral Gables, Dade County, Florida, to-wit:

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Lots 15 and 16 in Block 29 of GRANADA SECTION CORAL GABLES, according to the Plat thereof, recorded in Plat Book 8 at Page 113 of the Public Records of Dade County, Florida, and

WHEREAS said property under the present existing zoning regulations of the City of Coral Gables has been restricted to single family residential use, being designated in the Zoning Code of the City of Coral Gables as being in R-5 Single Family Residential Use District, and used for off-street car parking in connection with a Restaurant formerly located on adjoining property to the North, and

WHEREAS, it is the desire of the owners of said property that exceptions to the Zoning Code of said City be made to permit an additional or alternative use, namely, a use for off-street car parking in connection with professional offices and medical clinic located on adjoining property to the North, but that while such alternative use is desirable, nevertheless certain restrictions should be imposed in the regulation of such use in the event the City of Coral Gables through its Zoning Board or City Commission approve the use of said property for off-street parking.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That said owners do hereby declare that the use of the real estate hereinabove described shall be and is hereby restricted as follows:

1. That said property, in addition to the present permissive use of same for single family residences, may be used for the parking of cars but solely in connection with the professional offices and medical clinic located on Lots 1 through 7 inclusive of Block 29 of GRANADA SECTION OF CORAL GABLES, Plat Book 8, Page 113.
2. That the actual use of same for off-street car parking purposes is further restricted as follows:
 - a. That the use of said property for the parking of cars shall be confined to those who may be patients, employees, or the managing personnel of said professional offices and medical clinic.
 - b. The parking area shall be paved with a hard surface.
 - c. The stalls or individual parking areas for each car must be marked on the paved surface and in a manner as may be prescribed by the City of Coral Gables.

*Bill
Jov*

- d. A stuccoed masonry Wall not less than four feet in height shall enclose the parking area on the following sides, to-wit:
1. Along the West end of said Lots 15 and 16, Block 29, GRANADA SECTION.
 2. Along the South side of said Lot 15, Block 29, GRANADA SECTION.
 3. Along the East end of Lots 15 and 16, Block 29, GRANADA SECTION.

The above walls along the West and East ends of said lots may be set back from the actual ends of said lots if deemed desirable, but that the Wall, along the South line of Lot 15 (being the North side of San Miguel Avenue) must, under all circumstances, be set back at least 3 feet from the South line of said Lot 15.

The Walls referred to herein shall not be of open grille work but must be solid in structure, meaning thereby that they must be so constructed as to prevent the passage of light through them. However, the solid Wall that may face San Miguel Ave. shall have affixed thereto on its outer side (the side facing San Miguel Avenue) decorative block of an ornamental grille design.

Any area outside of said Walls between the Walls and the boundary lines of said lots shall be planted in grass and maintained as such at all times, or in lieu thereof, such area may be landscaped with suitable foliage.

Any of said Walls that may deteriorate or may be damaged by storm, or otherwise, shall be repaired immediately.

- e. The sidewalks along Genoa Street and San Miguel Ave. contiguous to said lots shall be replaced by new sidewalks.
- f. The only access to said parking area on said lots shall be from Genoa Street at the Northwest corner of said Lot 16, or from adjacent Lot 1 on the North thereof. The width of such entrance shall not be more than 25 feet.
- g. Said parking area shall only be used between the hours of 8:00 A.M. and 9:00 P.M. No car shall enter said parking area at any other time, and further no car, shall be permitted to remain thereon over night. From 9:00 P.M. to 8:00 A.M. of each nexttday, a durable chain shall be placed across the entrance to the parking area to prevent such use as aforesaid during that time.
- h. Any illumination of the parking area during the evening hours must come from underground conduits, and not from overhead wires. The illumination equipment must be erected in such a manner that no direct beam from any light shall extend over the walls and beyond the parking area. Under no circumstances, shall the parking area be illuminated by lights coming from fixtures affixed or bracketed to said professional offices and medical clinic. All illumination of the parking area shall be discontinued after 9:00 o'clock P.M. of each night.

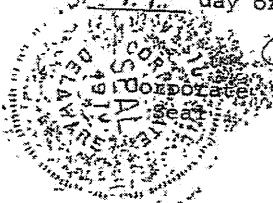
- i. No trucks, trailer trucks, trailers, vans or commercial vehicles of any kind shall use said lots for parking purposes or for any other purpose.
- j. No garbage cans, refuse or material of any kind shall be left or deposited upon said lots. Said lots shall be used solely for the parking of cars in the manner as expressed herein, except that, in the alternative, said lots may be used for the construction of single family residences thereon.
- k. Said lots, however, shall not be used for the parking of cars until the following have been complied with:

The paving of the parking area, the marking out on the paved surface of the individual parking stalls, the erection of the masonry walls, the planting of the grass or foliage, the construction of the new sidewalks and the erection of the illumination equipment in accordance with the above and foregoing restrictions.

These restrictions shall not become operative until the City of Coral Gables has made an exception to the present Zoning Code or Ordinance of said City by permitting the use of said property for off-street parking. When such exception or change in the Zoning Regulations of said City have been made, then this Declaration shall have full force and effect and the above and foregoing restrictions shall thereupon become covenants running with the land, the violation or breach of which shall constitute a nuisance. In the event of such violation or breach, the owners of said lots and also the owners of any lots in the Granada Section of Coral Gables, jointly and severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof, or to prevent the violation or breach of any of them.

When such exception or change in said Zoning Regulations has been made then this Declaration shall be recorded in the Public Records of Dade County, Florida.

IN WITNESS WHEREOF, Casa Grande Venture by Vestus, Inc, Managing Venturer by M. James Spitzer, has hereunto set his hand and seal this 24th day of January, 1973.



RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA
RECORD VERIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT

CASA GRANDE VENTURE
By Vestus Inc, Managing Venturer
By M. James Spitzer
M. James Spitzer, President

Attest: M. James Spitzer
Assistant Secretary

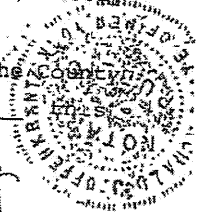
I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, M. James Spitzer, President of Vestus, Inc., to me well known, and well known to be, the person described in and who executed the foregoing Declaration of Restriction, and acknowledged before me that he executed the same on behalf of Vestus, Inc., freely and voluntarily, for the purpose therein expressed.

WITNESS my hand and official seal at New York City, in the County of New York of New York, in the State of New York 24th day of January, 1973.

APPROVED AS TO FORM

Charles H. [Signature] 1-30-73
City Attorney Date

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA
RECORD VERIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT



ORDINANCE NO. 2001

AN ORDINANCE AMENDING ORDINANCE NO. 1525, AS AMENDED, AND KNOWN AS THE "ZONING CODE", BY DEALING WITH THE CONDITIONS AND RESTRICTIONS FOR USE OF THE OFFSTREET PARKING LOT LOCATED ON LOTS 15 AND 16, BLOCK 29, "GRANADA SECTION", CORAL GABLES, FLORIDA; REPEALING ALL ORDINANCES INCONSISTENT HERewith AND DECLARING THIS TO BE AN EMERGENCY MEASURE.

WHEREAS, an application has been made for a change in the conditions and restrictions as to the use of the offstreet parking lot located on Lots 15 and 16, Block 29, "Granada Section"; and

WHEREAS, after Notice of Public Hearing duly published and notification of all property owners of record within three hundred feet (300'), a public hearing was held before the Planning Board of the City of Coral Gables, Florida, on December 18, 1972, at which hearing all interested persons were afforded an opportunity to be heard; and

WHEREAS, the Planning Board at its regular meeting of December 18, 1972 recommended that the application be approved;

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

SECTION 1. That Ordinance No. 1525, as amended, and known as the "Zoning Code", and, in particular, that certain Use and Area Map, Plate No. 1, attached to and by reference made a part thereof, be and the same hereby is amended to require henceforth that the use of the offstreet parking located on Lots 15 and 16, Block 29, "Granada Section", shall be subject to the terms and conditions as set forth in the Declaration of Restrictions dated January 24, 1973, signed by M. James Spitzer, President of Vestus, Inc. Its corporate seal affixed thereto and attested by M. James Spitzer, Jr. as recorded in the public records of Dade County, Florida.

SECTION 2. That all ordinances or parts of ordinances in conflict or inconsistent herewith be and the same hereby are repealed insofar as there is conflict or inconsistency.

SECTION 3. That this ordinance hereby is declared to be an emergency measure upon the grounds of urgent public need for the preservation of peace, health, safety and property of the City of Coral Gables, Florida.

PASSED AND ADOPTED THIS THIRTIETH DAY OF JANUARY, A.D. 1973.

APPROVED:


W. Keith Phillips, Jr., MAYOR


C. L. Dressel, VICE MAYOR

ATTEST:


Loretta M. Sheehy, CITY CLERK