

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2015 14 (AS AMENDED)

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA REQUESTING PARTIAL ABANDONMENT AND VACATION OF A 20-FOOT WIDE PUBLIC ALLEYWAY GENERALLY RUNNING EAST-WEST APPROXIMATELY 85 FEET IN LENGTH, DIVIDING BLOCKS 3, 4 AND TRACT F FROM BLOCK 5 AND TRACT G OF PONCE PLACE VILLAS EAST PURSUANT TO ZONING CODE ARTICLE 3, DIVISION 12, "ABANDONMENT AND VACATIONS" AND CITY CODE CHAPTER 62, ARTICLE 8, "VACATION, ABANDONMENT AND CLOSURE OF STREETS, EASEMENTS AND ALLEYS BY PRIVATE OWNERS AND THE CITY; APPLICATION PROCESS," AND THE DEDICATION OF A PUBLIC ACCESS EASEMENT GENERALLY RUNNING OVER AN INTERNAL DRIVEWAY FROM PALERMO AVENUE TO COCONUT GROVE DRIVE RELATED TO PROPOSED DEVELOPMENT CONSISTENT WITH THE SEPARATELY PROPOSED SECTION 3-510 "MEDITERRANEAN VILLAGE FORM-BASED PLANNED AREA DEVELOPMENT," ON THE PROPERTY GENERALLY KNOWN AS 2801, 2901, AND 3001 PONCE DE LEON BOULEVARD, CORAL GABLES, FLORIDA; INCLUDING REQUIRED CONDITIONS; PROVIDING FOR SEVERABILITY, REPEALER AND AN EFFECTIVE DATE. (LEGAL DESCRIPTION OF VACATION ON FILE AT THE CITY)

WHEREAS, an Application was submitted requesting the partial abandonment and vacation of a 20-foot wide public alleyway generally running East-West approximately 85 feet in length, dividing blocks 3, 4 and Tract F from Blocks 5 and Tract G of Ponce Place Villas East as legally described in Exhibit "A" attached hereto and incorporated herein (the "Vacation"), and

WHEREAS, in conjunction with the Vacation, the applicant proposes the dedication of a public access easement generally running over an internal driveway from Palermo Avenue to Coconut Grove Drive as legally described in Exhibit "B" attached hereto and incorporated herein (the "Easement"), and

WHEREAS, the Vacation and Easement are necessary for the construction of a mixed-use project referred to as the "Mediterranean Village" (the Mediterranean Village PAD) on the property generally known as 2801, 2901, and 3001 Ponce de Leon Boulevard, Coral Gables, Florida; and

WHEREAS, the Applicant has submitted an application for Zoning Code text amendments which propose Section 3-510, “Mediterranean Village Form-Based Planned Area Development” and related supporting Comprehensive Plan text amendments which the applicant seeks to utilize in the design and development of the Mediterranean Village PAD; and

WHEREAS, the Vacation has been submitted concurrently with proposed applications including Comprehensive Plan map amendments, a proposed Planned Area Development Site Plan, and Development Agreement, which consistent with the proposed Section 3-510 of the Zoning Code, are all necessary for the Mediterranean Village PAD to be reviewed in its totality; and

WHEREAS, the procedures and requirements for the Abandonment and Vacation of non-fee interests are provided in Zoning Code, Article 3, Division 12, entitled “Abandonment and Vacations,” and in City Code Chapter 62, Article 8, entitled “Vacation, Abandonment and closure of streets, easements and alleys by private owners and the city; Application process;” and

WHEREAS, in accordance with Section 62-262 of the City Code, property owners within 1,000 feet of the proposed alley to be vacated were notified by letter of the Development Review Committee public meeting on January 30, 2015, where the Agave Ponce LLC’s application was reviewed; and

WHEREAS, in accordance with Section 62-262 of the City Code, following publication of notice of public hearing and notification of all property owners of record within one thousand (1000) feet, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on February 11, 2015, at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, at the February 11, 2015 Planning and Zoning Board meeting, the Board recommended approval with conditions (vote: 7 – 0) of the Vacation; and

WHEREAS, after notice was duly published, a public hearing for First Reading on the Vacation was held before the City Commission on March 25, 2015 at which hearing all interested parties were afforded the opportunity to be heard, and the item was continued to a special City Commission hearing on April 2, 2015 and the City Commission, after due consideration and discussion, approved with conditions the Vacation on First Reading (vote: 5 – 0); and

WHEREAS, in accordance with Section 62-262 of the City Code, following publication of notice of public hearing and notification by certified mail of all property owners of record within one thousand (1000) feet, a public hearing for Second Reading on the Vacation was held before the City Commission on May 26, 2015 and was continued to June 10, 2015 at which hearing all interested parties were afforded the opportunity to be heard, and the City Commission, after due consideration and discussion, approved with conditions the Vacation on Second Reading (vote: 5-0); and

WHEREAS, it is felt that the vacation of said alley and the provisions of the substitute easement are in the interest of public health, safety, order, convenience, comfort, prosperity and general welfare;

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 Ordinance upon adoption hereof.

SECTION 2. That the City Commission hereby finds:

1. The granting of the Vacation provides some benefit to the public health, safety, welfare, or convenience, but the overall benefit anticipated to result from the abandonment outweighs the specific benefit derived from the non-fee property interest, in that:
 - a. The Vacation or abandonment will not frustrate any comprehensive plan, special purpose plan, or capital improvement program of the City; and
 - b. The Vacation or abandonment will not interfere with any planning effort of the City that is underway at the time of the application but is not yet completed;
2. The Vacation or abandonment will provide a material public benefit in terms of promoting the desired development and improves the City’s long-term fiscal condition and the applicant provides beneficial mitigation in the form of a proffered mitigation plan which mitigates the loss of real property, the increase in the intensity of use and/or impacts on the public health, safety and welfare including increased parking and traffic;
3. The general public will be best served by the Vacation and proposed Easement together providing broader access to the city street system;
4. The Vacation is consistent with the city's comprehensive plan;
5. The Vacation and proposed Easement together provide a material public benefit to the public health, safety and welfare;
6. That sufficient alternative public access to the remaining alleyway has been provided by means of a proffered substitute access easement running over an internal driveway from Palermo Avenue to Coconut Grove Drive;
7. The effect of the proposed action will not have a negative impact upon the safety of pedestrians and vehicular traffic, because the Vacation involves an alleyway;
8. No evidence has been submitted to indicate that the Vacation will have an adverse or negative effect upon the provision of municipal services, including, but not limited to, emergency services and waste removal; and

9. The Vacation is part of a master development plan for this area of the community, and therefore, mitigation is a part of the development plan proposed by the applicant to offset any potential impacts.

SECTION 3. That a portion of the 20-foot wide public alleyway generally running East-West approximately 85 feet in length, dividing blocks 3, 4 and Tract F from Blocks 5 and Tract G of Ponce Place Villas East as legally described in Exhibit "A" attached hereto and incorporated herein, shall be and is hereby vacated, abandoned and discontinued for the purpose for which it was dedicated to public use subject to the following conditions of approval:

Alley vacation and abandonment. Prior to the issuance of a Temporary Certificate of Occupancy (TCO) for the Mediterranean Village PAD, and in accordance with Chapter 62, Article VIII, Sections 62-257 through 62-265 of the City Code, the Public Works Department recommendation of approval of the proposed alley vacation and abandonment is incorporated herein, and the Applicant, property owner(s), its successors or assigns shall address the following:

- a. The Owner of record, by proper instrument, shall grant an access and utility easement to the City of Coral Gables and any and all applicable utility companies to be used for utility purposes including storm and sanitary sewers and for use as a passageway for City vehicles and the general public. A legal description of said access and utility easement shall be provided to and approved by the City prior to issuance of the first Temporary Certificate of Occupancy.
- b. The easement described hereinabove 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. In addition, approval from Miami-Dade County Public Works and Waste Management Department is required where the public access easement intersects with public streets. The permits and inspections for such construction shall be handled in the same manner as the paving for streets and alleys.
- c. The City of Coral Gables shall have the right to exercise the same control over the easement described hereinabove 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 building, zoning and other applicable regulations.
- d. The easement described hereinabove 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 shall be maintained to a standard commensurate with City alleyways, and the City shall have the authority to monitor and enforce same.
- e. A vertical clearance of sixteen feet (16') minimum extending the full length and width of the easement shall be provided above the easements described hereinabove.
- f. 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 hereinabove described, shall be borne by the applicant whose actions necessitate such expense.

- g. The use of the vacated property shall be limited to the same uses as to which the adjacent properties are zoned.
- h. The reversionary rights to the portion of the alley vacated shall revert to the owners abutting on each side of the vacated alley.

SECTION 4. In the event that the Applicant has not constructed the project within three (3) years of the issuance of a Building Permit for any portion of any property abutting and adjacent to the public right-of-way vacated, ownership of the Alley will revert to the City, unless such time period is extended in the discretion of the City Manager.

SECTION 5. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 6. 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 7. 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 8. This Ordinance shall become effective upon the date of its adoption; provided, that Section 3. of this Ordinance shall not become effective until this Ordinance is recorded in the Public Records of Miami-Dade County, Florida.

PASSED AND ADOPTED THIS TENTH DAY OF JUNE, A.D., 2015.

(Moved: Quesada / Seconded: Lago)

(Yeas: Lago, Quesada, Slesnick, Kerdyk, Cason)

(Unanimous: 5-0 Vote)

(Agenda Item: A-5)

APPROVED:



JIM CASON
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY