

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2015-13 (AS AMENDED)

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA GRANTING APPROVAL OF A PROPOSED PLANNED AREA DEVELOPMENT (PAD) APPROVAL REFERRED TO AS "MEDITERRANEAN VILLAGE" PURSUANT TO ZONING CODE ARTICLE 3, "DEVELOPMENT REVIEW", DIVISION 5, "PLANNED AREA DEVELOPMENT (PAD)", FOR THE CONSTRUCTION OF A PROJECT CONSISTING OF A MIX OF USES INCLUDING OFFICE, COMMERCIAL, RETAIL, HOTEL AND RESIDENTIAL, CONSISTENT WITH THE SEPARATELY PROPOSED SECTION 3-510 "MEDITERRANEAN VILLAGE FORM-BASED PLANNED AREA DEVELOPMENT," ON THE PROPERTY LEGALLY DESCRIBED AS BLOCK 20, BLOCK 23 (LESS LOT 12 AND A PORTION OF LOT 11), AND BLOCK 30, CRAFTS SECTION, ALSO GENERALLY KNOWN AS 2801, 2901, AND 3001 PONCE DE LEON BOULEVARD, CORAL GABLES, FLORIDA; INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A REPEALER PROVISION, SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE. (LEGAL DESCRIPTION OF PROPERTY ON FILE AT THE CITY)

WHEREAS, an Application was submitted requesting approval of a proposed Planned Area Development (PAD) pursuant to Zoning Code Article 3, "Development Review," Division 5, "Planned Area Development," for the construction of a mixed-use project referred to as the "Mediterranean Village" (the Mediterranean Village PAD) on the property legally described as Block 20, Block 23 (Less Lot 12 and a portion of Lot 11), and Block 30, Crafts Section (generally known as 2801, 2901, and 3001 Ponce de Leon Boulevard) (the "Property"), 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 proposed Planned Area Development Site Plan has been submitted concurrently with proposed applications including Comprehensive Plan text amendments, Comprehensive Plan map amendments, Zoning Code text amendments, Development Agreement, and Vacation of an Alleyway, 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, after notice of public hearing was duly published 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 Mediterranean Village PAD on the Property; and

WHEREAS, after notice was duly published, a public hearing for First Reading on the Mediterranean Village PAD and related development agreement 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 PAD on First Reading (vote: 3 – 2); and

WHEREAS, after notice was duly published, a public hearing for Second Reading on the Mediterranean Village PAD and related development agreement was held before the City Commission on May 26, 2015 and was continued to a special City Commission hearing on 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 the PAD on Second Reading (vote: 3-2);

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 Applicant’s request for approval of the proposed Mediterranean Village PAD on the Property pursuant to Zoning Code Article 3, “Development Review,” Division 5, “Planned Area Development” is approved, subject to the following conditions, which must be satisfied by the Applicant or its successors or assigns:

1. **Application/supporting documentation.** Construction of the proposed Project shall be in substantial conformance with the following:
 - a. Applicant’s Submittal Package dated 06.02.2015 prepared by RTKL, including 11x17 summary package and complete binder.
 - b. Traffic Impact, Valet Operations, and Shared Parking Analyses updates prepared by Kimley-Horn and Associates, Inc. dated 05.28.2015.
 - c. The Development Agreement between Agave Ponce, LLC and City of Coral Gables, executed on May 25, 2016. Each requirement of the Development Agreement must be followed, regardless of whether it is specifically referenced in this PAD approval.
 - d. Initial Application submittal as amended by subsequent submittals via the City review process and all representations proffered by the Applicant’s representatives as a part

of the review of the Application at public hearings.

2. **Restrictive Covenant.** Within 30 days of execution, the Applicant shall submit a draft restrictive covenant for City Attorney review/approval outlining all conditions of approval as approved by the City Commission. Failure to submit the covenant within the specified time frame shall render the approval void unless said time frame for submittal of the covenant is extended by the City Attorney after a showing of good cause by the property owner 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. **Development Agreement.** Within 30 days of execution, the Applicant shall record the Development Agreement in the Public Records of Miami-Dade County and shall submit a copy to the Development Review Official and the City Clerk's Office. Failure to submit the recorded Development Agreement within the specified time frame shall render the approval void unless said time frame for submittal of the recorded Development Agreement is extended by the City Attorney after a showing of good cause by the property owner as to why the time frame should be extended.
4. **Exclusive Parking:** Parking spaces may not be sold or rented to those who are not users, tenants or residents of the Mediterranean Village.
5. **Glass roofs.** Glass roofs shall not be permitted to completely cover public rights of way.
6. **Peer Reviews and Inspections.** Due to the large and complex scope of work, accelerated schedule and high cost of development, the Applicant shall reimburse the City for acquiring the services of an outside Peer Review Consultant (or Peer Reviewer). The Peer Reviewer shall ensure code compliance for all building, mechanical, electrical, plumbing and structural aspects of the Project. The Peer Reviewer shall be identified, hired and managed by the Building Division under the direct supervision of the City Building Official.
7. **Construction Staging.** In accordance with City Ordinance No. 3592 (dated 4/23/2002), the Applicant shall be required to provide a construction staging plan which provides information on how the construction activities will be managed to reduce negative off-site impacts on surrounding properties and rights-of-way. The Plan shall provide for maintenance of traffic (MOT), pedestrian and vehicular safety, use of right of way, material delivery and equipment, hours of operation, tree protection, worker parking, etc.
8. **Offsite Improvements.** Upon approval by applicable governmental authorities, the Applicant shall construct and install all offsite improvements pursuant to Exhibits B and H of the Development Agreement, at a schedule to be determined by the City Manager. (Sec. 2.13 of the Development Agreement).
9. **Prior to issuance of a Foundation Permit,** Applicant shall:

- a. **Zoning Review.** Provide measurable floor plans and elevations of the Project in a format determined by City Staff for verification of zoning requirements such as floor area ratio, setbacks, and height.
- b. **Additional Reviews.** Provide for additional review of each individual building by the Board of Architects (BOA), at which time the staff's and BOA's comments on the function and aesthetics of each building shall be addressed. Final approval of the Project by the BOA is required prior to issuance of any building permit.
- c. **Parking Garage Design.** Modify the parking garage to address the following items:
 - i. The parking garage cross connection on the Central Block (2901 Ponce de Leon Boulevard) shall be modified to have two-lane, two-way movement on all levels.
 - ii. The dead-end turnaround at the top level of the garage shall be redesigned to allow comfortable turning movement.
 - iii. All parking stalls shall set back at least one foot (1') from walls.
 - iv. All turning areas in the parking garage, particularly the entry and exit to both ramping systems, shall have a minimum fifteen foot (15') radius.
- d. **Mitigation of Loss of On-Street Parking.** Complete payment of \$420,000 to mitigate the loss of ten (10) on-street parking spaces at a rate of \$42,000 per parking space. (Section 2.14(iii) of the Development Agreement).
- e. **Traffic Signal Warrant Studies.** Submit traffic signal warrant studies for Ponce de Leon Boulevard/Sevilla Avenue, Ponce de Leon Boulevard/Palermo Avenue, and SW 37 Avenue/Almeria Avenue to the City and Miami-Dade County. Should Miami-Dade County not approve the traffic signal warrant studies at any of the above locations based on traffic projections, the Applicant shall submit new traffic signal warrant studies to the City and Miami-Dade County based on actual traffic counts within 90 days after the issuance of a Temporary Certificate of Occupancy for any phased portion of the Project, or as determined by the City. The Applicant shall install any traffic signals that are determined to be warranted within 90 days after Miami-Dade County's approval of the traffic signal warrant study.
- f. **Traffic Improvements.** Obtain conceptual approval of all traffic flow modifications including street design, width, sight triangles, cross walks, diverters, etc. by Miami-Dade County and the City. If any components of the proposed modifications are not approved, the traffic study shall be revised and additional community involvement may be required by the City.
- g. **Upfront Mobility Contribution.** Complete payment of its \$1.34 million mitigation contribution to address the Project's impact on public mobility. (Section 2.15(i) of the Development Agreement).
- h. **Encroachment Plan.** Obtain Commission approval by Resolution of an Encroachment Plan addressing special treatment sidewalks, decorative pavers, landscaping, irrigation, street lighting, landscaping lighting and any other

encroachments into, onto, under, and over the right of way as shown in the site plan and addressed in Article VIII of the Development Agreement.

- i. **Encroachment Agreement and Covenant.** 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. A Hold Harmless agreement shall be executed approving the encroachments. (Article VIII of the Development Agreement).
- j. **Security Bond to Restore Properties:** Provide to the City a surety bond, or other form of security deemed acceptable by the City for the following:
 - i. **The Arts Center Building, Residence at 2915 Coconut Grove Drive, and City Property and Infrastructure** covering the estimated maximum cost of restoration and replacement. (Section 11.21(i) of the Development Agreement).
 - ii. **Project Property** covering the estimated maximum cost of the full restoration of the Property, or in the case of a phased Project, that phased portion of the Project, including installation of sod and landscaping to City Code standards, and removal of all construction fencing. (Section 11.21(ii-iv) of the Development Agreement).
 - iii. **Offsite Improvements** covering 115% of the estimated total hard and soft cost of all Offsite Improvements. (Section 11.21(v) and Exhibit B of the Development Agreement).
- k. **Historic Arts Center Building:**
 - i. Provide a complete structural report by a City approved architect or engineer with knowledge about historic buildings, in particular focusing on the foundations (if any) of the historic building. The report and any implementing measures shall be done with all applicable permits and monitored by the Historic Preservation Officer and the Building Division.
 - ii. Submit a plan prepared by a City approved architect or engineer with knowledge about historic buildings, addressing the method of safeguarding the building during underground parking garage construction and other relevant construction activities, as determined and approved by the Historic Preservation Officer.
 - iii. Provide as-built drawings to the standard set by the Historical American Building Survey to the Planning and Zoning Division and the Historical Resources and Cultural Arts Department.
 - iv. Maintain the building in accordance with Section 3-1108 of the City's Zoning Code.

1. **Existing Single-family residence at 2915 Coconut Grove Drive:**

- i. Conduct and provide to the City a risk management assessment to determine possible impacts to the property and preventative measures to be taken, and submit a protection plan, subject to the review and approval of the City.
 - ii. Submit a construction staging plan indicating how the property owner will access the residence throughout construction of the below-grade and above-grade portions of the Project, and how continuous public services (such as but not limited to potable water, sewer, drainage, sanitation, mail, electric, cable and public safety services) will be provided throughout construction.
 - iii. Submit a plan by a City approved architect or engineer addressing the method of safeguarding the building during underground parking garage construction and other relevant construction activities, as determined by the Building Official.
- m. **Construction Notices.** Provide written notice to all properties within five hundred (500) feet of the Mediterranean Village (2801, 2901, and 3001 Ponce de Leon Boulevard) Project boundaries ("Affected Properties") 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. Provide a minimum of seventy-two (72) hour written notice to Affected Properties of any proposed partial street/alley closures as a result of the Project's construction activity.

10. **Prior to issuance of the first Temporary Certificate of Occupancy**, the Applicant shall:

- a. **Art in Public Places.** Comply with all City requirements for Art in Public Places, which include having the proposed artist and concept for public art to be reviewed and approved by the Arts Advisory Panel, Cultural Development Board and Board of Architects before being submitted to the City Commission. The Applicant's compliance with all requirements of the Art in Public Places program shall be coordinated by the Director of Historical Resources and Cultural Arts.
- b. **Additional Contribution.** In addition to the requirements of the City Code for Art in Public Places, contribute \$2.7 million which, at the discretion of the City Commission, may be used for public art or for public safety or both. (Section 2.11(ii) and Exhibit M of the Development Agreement).
- c. **Conceptual Employee Parking Plan.** Submit and obtain the approval by the City Parking Director a conceptual employee parking management plan for each and every Temporary Certificate of Occupancy to limit spillover parking impacts on residential streets. (Section 2.14 (iv) of the Development Agreement).
- d. **Annual Mobility Contribution.** Submit its first annual Mobility Contribution in the amount of \$626,000, and on every January 1st for the following calendar year until the conclusion of the 25th anniversary of the first Temporary Certificate of Occupancy. (Section 2.15(ii) of the Development Agreement).

- e. **Traffic improvements and study.** Complete all traffic improvements recommended by the Traffic Study prepared by Kimley Horn and Associates and dated 05.28.15 and satisfactorily resolve any outstanding Traffic Study issues as identified by the Public Works Department and City's traffic consultant, subject to review and approval by the Director of Public Works and Miami-Dade County. (Section 2.16 of the Development Agreement).
- f. **Malaga Avenue, University Drive and Ponce de Leon Boulevard Intersection.** Study the intersection of Malaga Avenue, University Drive, and Ponce de Leon Boulevard and obtain approval by the City and Miami-Dade County of all traffic flow modifications, which shall be constructed by the Applicant at its own expense.
- g. **Galiano Street, Malaga Avenue, and University Drive Bicycle Facilities.** Design a bicycle and pedestrian-friendly route, as recommended in the Coral Gables Bicycle / Pedestrian Plan dated April 2014 at the following location: the stretch of Galiano Street, Malaga Avenue, and University Drive between Sevilla Avenue and Le Jeune Road, and all intersections along this stretch. The Applicant shall construct all of the traffic improvements recommended and approved by the City and Miami-Dade County.
- h. **On-Site Bicycle Support Facilities.** For that portion of a phased Project that contains an on-site bicycle support facility, construct such facility to include amenities such as secured bicycle storage, showers, locker rooms, and optional retail uses such as bicycle repair, bicycle sales, or refreshment sales, consistent with the Applicant's submittal prepared by RTKL and dated June 2, 2015. The built-out of the Project shall include a total of two (2) such facilities.
- i. **Residential Parking Zones.** Fund and install decorative signs, approved by the Parking Director, related to developing and upgrading Residential Parking Zones in the neighborhood to the East of the Project as described in the Development Agreement.
- j. **Valet Operations Plan.** Whenever a valet parking operation is proposed related to a phased portion of the Project, submit a valet operations plan subject to the review and approval of the Parking Director. The plan shall ensure that queuing of vehicles for valet during large events or peak traffic hours will not block the flow of traffic on Ponce de Leon Boulevard and any adjacent rights-of-way and shall conform to Exhibit I of the Development Agreement.
- k. **Hotel Special Events Traffic Management.** For that phased portion of the Project that includes a hotel building, submit a conceptual plan for managing traffic related to special events at the hotel ballroom facilities for approval by the Public Works Director. (Section 2.5 of the Development Agreement).
- l. **Taxi Management Plan.** For that phased portion of the Project that includes a hotel building, submit and obtain the approval of the Parking Director, for final plans for

standing, loading, unloading and queuing of taxis, other kinds of vehicles for hire such as ride sharing. (Sec. 2.5 of the Development Agreement).

- m. **Right-of-way and Public Realm Improvements.** Install all right-of-way improvements, traffic flow modifications, landscaping, public realm and streetscape improvements outlined in the Mediterranean Village Traffic Impact Analysis and the Applicant's submittal dated May 28, 2015, subject to review and approval by the Directors of Public Works, Landscape Services, Planning and Zoning, and Parking. Any changes to and departures from the right-of-way and public realm improvements identified on the Applicant's approved plans and associated detail plans and specifications via the permitting process shall be subject to review and approval by Directors of Public Works, Landscape Services, Planning and Zoning, and Parking. (Sec. 2.13 of the Development Agreement).
- n. **Undergrounding of Overhead Utilities.** Submit all necessary plans and documents, and complete the undergrounding of all overhead utilities along all public rights-of-way surrounding and abutting the Project boundary, subject to review and approval by the Directors of Public Works, Landscape Services and Planning and Zoning.
- o. **Utility Upgrades.** Upgrade all sanitary sewer gravity lines serving the Project to handle peak flows all downstream from the points of connection through the serving pump station.
- p. **Publicly Accessible Open Spaces Easement.** Execute and record a Publicly Accessible Open Spaces Easement Agreement between the City and the Owner. (Sections 2.10 and 7.4 of the Development Agreement).
- q. **LEED for Individual Buildings.** Post a bond, escrow or letter of credit based on three percent (3%) of the master building permit construction cost value of each building other than the Historic Arts Center Building pursuant to the requirements set forth in Sec. 5.3 of the Development Agreement.
- r. **LEED-Neighborhood Development.** Post a bond, escrow or letter of credit in the amount of \$250,000, in addition to the bond referenced in subsection p. above. If within two (2) years of the final Temporary Certificate of Occupancy the Project has not qualified for a minimum of forth (40) points toward LEED-Neighborhood Development or equivalent, the City shall draw upon said bond, escrow or letter of credit. (Sec. 5.3 of the Development Agreement).

11. **Following issuance of the first Temporary Certificate of Occupancy**, the following conditions apply:

- a. **Neighborhood Traffic Calming.** At the Applicant's expense, the City shall perform traffic calming studies, one year from the issuance of the first Temporary Certificate of Occupancy and again every year until the final Temporary Certificate of Occupancy is obtained, at the following locations: (a) Sevilla Avenue, Palermo Avenue, Malaga Avenue, and Coconut Grove Drive between Galiano Street and SW

37 Avenue, (b) Malaga Avenue and Catalonia Avenue between SW 42 Avenue and Salzedo Street, and (c) Santander Avenue and San Sebastian Avenue between Ponce de Leon Boulevard and Douglas Road. If the Public Works Director determines that traffic calming is warranted on any of these roadways, the Applicant shall construct or pay for any physical traffic calming improvements required by these studies within one year of the completion of these studies, as approved by the Public Works Director.

- b. **Traffic Monitoring.** At the Applicant's expense, the City shall perform annual traffic monitoring for a period of five years commencing six months from the issuance of the first Temporary Certificate of Occupancy. The traffic monitoring shall include a study of the number of external vehicular trips generated by the Project during the morning and afternoon peak periods. Should the actual number of external vehicular trips during either of these periods result in a 10% increase in the number of external vehicular trips generated by the development above that which was projected during the original traffic impact analysis, the City will conduct traffic impact studies, at the Applicant's expense, to determine appropriate mitigation. The Applicant shall construct or pay for any improvements in the traffic impact studies within one year of completion of these studies. (Sec. 2.16 of the Development Agreement) In approving any extension to the Development Schedule (Exhibit B of the Development Agreement), the City Manager or City Commission, as may be applicable, shall determine whether this traffic monitoring period must also be extended concurrently.
- c. **Hotel Use, Design and Operation.** The Applicant shall not use the top two floors for a use other than a fine dining restaurant without first obtaining City Commission approval of the new use. The Hotel shall be designed and operated in a manner to conform to the standards of a four-diamond American Automobile Association-rated hotel, in the manner required by Sections 2.5 and 2.6 and Exhibit C of the Development Agreement.

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

SECTION 4. 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.

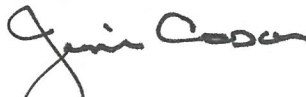
SECTION 5. This development permit by the City of Coral Gables does not in any way create any right on the part of an applicant to obtain a permit from a county, state or federal agency. Likewise, this development permit does not create any liability on the part of the City of Coral Gables for issuance 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 6. This Ordinance shall become effective upon the date that the related

comprehensive plan amendments (Ordinance Nos. 2015-10 and 2015-11) both become final (August 14, 2015).

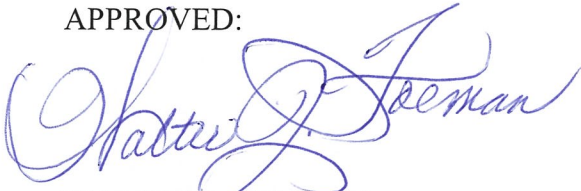
PASSED AND ADOPTED THIS TENTH DAY OF JUNE, A.D., 2015.
(Moved: Quesada / Seconded: Lago)
(Yeas: Keon, Quesada, Cason)
(Majority: (3-2)
(Nays: Lago, Slesnick)
(Agenda Item: A-4)

APPROVED:



JIM CASON
MAYOR

APPROVED:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY