

CITY OF CORAL GABLES, FLORIDA**ORDINANCE NO. 2014-20**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES OFFICIAL ZONING CODE: AMENDING ARTICLE 5, "DEVELOPMENT STANDARDS", SECTION 5-1408, "COMMON DRIVEWAYS AND REMOTE OFF-STREET PARKING", BY PROVIDING REGULATIONS, RESTRICTIONS AND PROCEDURES FOR THE USE OF REMOTE PARKING IN THE CENTRAL BUSINESS DISTRICT ("CBD"); AMENDING THE REFERENCE TO REMOTE PARKING IN ARTICLE 5, "DEVELOPMENT STANDARDS", SECTION 5-1409, "AMOUNT OF REQUIRED PARKING" TO MATCH THE CHANGES TO SECTION 5-1408; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, City Staff is requesting a Zoning Code text amendment to provide detailed regulations, standards and procedures for the use of remote parking; and

WHEREAS, remote parking is presently permitted when the parking is located within 500 feet of the primary use with few restrictions and limited guidance; and

WHEREAS, remote parking provides additional redevelopment opportunities and tools that advance the public welfare if regulated and secured in a manner which ensures the preservation and continued maintenance of the remote parking over time, and timely provision of adequate parking by other means in the event that the remote parking arrangement is no longer in effect; and

WHEREAS, after notice being duly published, a public hearing was held before the Planning and Zoning Board on March 12, April 9, and May 14, 2014, at which hearings all interested persons were afforded the opportunity to be heard; and

WHEREAS, at the May 14, 2014 Planning and Zoning Board meeting, the Board recommended approval (vote: 4-2) of the text amendment with one amendment; and

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on July 22, 2014 at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, on July 22, 2014 the City Commission was presented with a text amendment to the Zoning Code, and after due consideration and discussion, approved the amendment on First Reading (vote:5-0);

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

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 Ordinance upon adoption hereof.

SECTION 2. The Official Zoning Code of the City of Coral Gables is hereby amended as follows:

Section 5-1408. Common driveways and remote off-street parking.

A. *Common driveways.* Adjacent properties are permitted to share a common driveway, provided:

1. The property owner(s) submit an appropriate restrictive covenant or access easement in recordable form acceptable to the City Attorney; and
2. The restrictive covenant or access easement provides for the continued existence of the shared driveway until such time as the City Manager releases the obligation of the restrictive covenant or access easement.

B. *Remote off-street parking.* As an alternative to, or in conjunction with providing required parking onsite or through payment in-lieu of providing required parking pursuant to City Code Section 74-201(d), an applicant may apply to use remote off-street parking to meet the off-street parking requirements of the Zoning Code for an expansion or change in use of an existing project. The ability to use remote parking may be granted in the reasonable discretion of the City in compliance with the terms of this subsection. The Development Services Director shall approve an application to provide remote off-street parking that is located in the City within one thousand (1,000) feet of the site of the applicant’s proposed project, upon finding that all of the requirements of this subsection have been satisfied.

1. *Definition.* For purposes of this subsection, the “applicant” is defined as the owner(s) of the land on which the uses(s) seeking to utilize remote parking is located. The owner of the land on which the remote parking is located may not apply for remote parking, unless that owner also owns the property on which the use seeking to utilize remote parking is located.

2. *Applicability.*

a. *Location of project and of remote parking spaces.* Applications for remote parking shall only be accepted in association with a proposal to expand, or change the use of, an existing project located in the CBD. The remote parking spaces shall be located in the CBD, unless waived pursuant to subsection B.11., but regardless of whether a waiver is obtained, must always be located in the City.

b. *Infeasibility or impracticability of providing required parking.* Applications may be approved if the physical layout of the project, as determined in the reasonable discretion of the

Director of Development Services, cannot reasonably be altered to provide the Zoning Code-required parking onsite as part of the proposed expansion or change of use.

c. *Applicability not a basis for later enforcement.* Notwithstanding anything to the contrary herein, the initial determination of applicability under this subsection B.2. is final, and the City may not later determine that an approved remote parking arrangement is out of compliance based on applicability requirements of this subsection B.2.

3. *Maximum distance and measurement.*

a. *Distance.* The remote parking spaces must be located within one thousand (1,000) feet of the applicant's project site.

b. *Measurement.* The distance shall be measured using airline measurement from the property line of the project site to the property line of the off-street parking facility(ies) containing the remote parking spaces.

4. *Zoning of remote parking facility.* The remote parking facility(ies) must not be located in a single-family zoning district.

5. *No cap on remote parking.* The applicant may request to use remote parking spaces for up to one hundred (100%) percent of the Code-required off-street parking for the project.

6. *Application.* The applicant shall file an application in the form specified by the City, including all of the following at a minimum:

a. a survey showing the exact location, traffic flow and current physical layout of the proposed remote parking spaces;

b. documentation demonstrating and certifying that the remote parking spaces:

i. are owned by the applicant, if the applicant owns the structure containing the use requiring remote parking; or

ii. have been secured for the applicant's use by means of a lease with a term of at least one (1) year, if the applicant leases the structure containing the use requiring remote parking; and

iii. are in excess of those parking spaces required to serve any onsite development. The number of required parking spaces shall be measured based on the square footage and parking demand of each approved onsite use, assuming 100% occupancy;

c. If the remote parking spaces are leased, then documentation of the remote parking lease arrangement must be acceptable to the City Attorney and acceptable in substance to the Development Services Director, and must be recorded in the public records of Miami-Dade County against both the applicant's project site and the property housing the remote parking spaces. The lease for the remote parking spaces must have a term of at least one (1) year and can be terminated on no less than 90 days advance notice, which shall be provided to both the Development Services Director and the parties. The lease must also assure the City's right to access the remote spaces to inspect them as provided herein;

d. copies of the approved plans for the remote parking spaces, as they may have been amended to date;

e. sworn affidavits from the owner of the remote parking spaces establishing that no leases, approved plans, or other commitments exist or will be entered into for the life of the remote parking approval, if the spaces are owned, or the life of the lease if the spaces are leased, that would interfere with the proposed use of the remote parking spaces for remote parking; and

f. the application fee.

7. *Covenants.* The application shall also be accompanied by an appropriate covenant which shall run with the land and declaration of restrictions for the remote parking spaces executed by the owner of the property containing the remote parking spaces and the applicant, as applicable, in recordable form acceptable to the City Attorney and acceptable in substance to the Director of Development Services, including at least all of the following:

a. that the owner of the remote spaces (and the heirs, successors, personal representatives and assigns, and upon all mortgagees and lessees and others presently or in the future having any interest in the property) assures the continued rights to the remote parking spaces until such time as the City Manager or designee releases the obligation, and if the spaces are leased, the City's right to access the remote spaces to inspect them as provided herein;

b. that, if the applicant plans to relocate the remote parking spaces to another location that meets the requirements of this subsection, it shall submit an application to amend the remote parking approval promptly, at least ninety (90) days prior to the termination of the remote parking arrangement. Such amendment shall be subject to the same application requirements, procedure and fee as a new application, and shall be implemented in a manner that assures the continuous availability of the remote parking for the project;

c. that the applicant shall report any unplanned changes in the facts related to the application or approved remote parking arrangement to the Director of Development Services within five (5) business days of the occurrence of the change, and shall submit a remedial plan consistent with the requirements of subsection 8. below, together with the review fee, within ten (10) business days of the occurrence of the change. The Development Services Director shall have the sole but reasonable discretion to approve the remedial plan and set the timing of implementation, and may extend the above deadlines if good cause is shown;

d. that the applicant and the property owner of the remote parking spaces authorize the City to inspect the remote parking spaces at will to determine the continuing adequacy of the remote parking arrangements, during the normal hours of operation of the use that is being served by the remote parking spaces;

e. that the applicant shall annually submit an affidavit confirming that the facts supporting the applicant's initial approval of the use of remote parking remain accurate at the time of renewal of the certificate(s) of use for the applicant's property(ies);

f. that at the time of entering into a new lease or renewing a lease, the applicant shall submit renewed documentation and affidavits as required by B.6. above; and

- g. that the applicant recognizes and accepts that any material failure to meet the requirements of this subsection (or the requirements of the related agreements, covenants or conditions) that is not cured as provided herein will immediately subject the applicant to the original and full parking requirements of the Zoning Code. The materiality of any failure shall be determined by the Development Services Director, in consultation with the City Attorney.

8. *Remedial plan.* The submittal of a remedial plan, whether required pursuant to subsection B.7. above or subsection B.9. below, shall be accompanied by a review fee which shall be the same as the application fee. If the Development Services Director finds, in his or her reasonable discretion, that the remedial plan fully meets the parking requirements for the remaining uses and square footages, utilizing any combination of alternatives permitted by the City Code and Zoning Code in effect at the time, and the requirements of this subsection B., then the Development Services Director shall approve the remedial plan. The remedial plan may include any or all of the following options, and shall be implemented according to the timing and schedule established in the individual remedial plan:

- a. provide a payment in lieu of required parking in accordance with Section 74-201(d) of the Code of Ordinances, or
- b. modify the use of the applicant's property(ies) so that the remote parking spaces are no longer required to be provided to meet the Code parking standards (for example, by reducing the square footage of uses, or changing one or more uses to a use(s) with a lower parking requirement), or
- c. secure alternate remote parking spaces meeting all of the requirements of this subsection, including execution of any required agreements and affidavits, or
- d. provide additional onsite parking spaces.

9. *Renewal.* The applicant shall, prior to the annual renewal of the certificate(s) of use for the applicant's property(ies) using remote parking, submit renewed documentation if required by 7.f. above, and an affidavit affirming that the matters addressed under subsections B.6.b. and B.6.e. above as originally approved remain in effect, which shall be reviewed by the Development Services Director. The certificate(s) of use shall not be issued unless the affidavit, and documentation if required, demonstrates that all the requirements of this subsection B.3.-B.9. continue to be met for the remote parking arrangement as it was approved.

10. *Noncompliance.* If the Development Services Director discovers at any time, including during a renewal review, that the applicable requirements of this subsection are not met in any material way or that the remote parking is not maintained continually as described in the application and provided in the recorded covenant, he or she shall notify the applicant and require the applicant either to (i) demonstrate that the violation has been cured or did not exist, or (ii) provide a remedial plan meeting the requirements of subsection B.8. above, together with the review fee. The materiality of any noncompliance shall be determined by the Development Services Director, in consultation with the City Attorney. The applicant's response shall be reviewed and approved in the sole but reasonable discretion of the Development Services Director. The Development Services Director shall set the deadline for the applicant to develop and submit the remedial plan and may extend it if good cause is shown.

Also, if the Development Services Director determines that the applicant has failed to meet any of the following four requirements, the Director shall deem the applicant's remote parking approval void, and the applicant shall not again seek to use remote parking until six months have elapsed from the date that the approval is deemed void:

- a. the requirement to notify the City of changes pursuant to 7.c. above within the required time frame;
- b. the requirement to submit a remedial plan by any deadline set or extended by the Development Services Director;
- c. the requirement to implement the remedial plan according to the implementation schedule approved or extended by the Development Services Director; or
- d. the requirement to comply in any other material regard with all of the requirements of this subsection, including failure to comply with the recorded covenants as required herein. The materiality of any noncompliance shall be determined by the Development Services Director, in consultation with the City Attorney.

11. *City Commission waiver.*

- a. *Standard for waivers.* The City Commission may approve a waiver pursuant to this subsection B.11. upon finding that the waiver will neither (A) harm the public interest nor (B) create parking problems in the area surrounding the applicant's project site.
- b. *Requirements that may be waived.* If the Director of Development Services reviews and rejects a remote parking application on the basis of any of the following requirements, then an applicant may request that the City Commission review its application for remote parking and, following a public hearing, approve a waiver of one or more of these requirements, and may impose any conditions it deems necessary on such waiver:
 - i. the 1,000 foot maximum distance between the remote parking spaces and the applicant's project site; and
 - ii. the requirement that the remote parking be located in the CBD; and
 - iii. the requirement that the land containing the use seeking to utilize remote parking be located in the CBD.
- c. *Effect of waiver.* All of the remaining requirements of section 5-1408.B., that have not been waived by the City Commission, must be satisfied.

12. *Appeals.* The applicant may appeal any determinations made by the Development Services Director under this subsection through the process set forth in Article 3, Division 6 of the Zoning Code.

5-1409. Amount of required parking.

* * *

E. Calculation of compliance with parking requirement.

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3. *Remote parking spaces.* Remote parking spaces may comprise up to one hundred (100%) percent of the required parking spaces if approved pursuant to Section 5-1408.B.

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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. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the "Zoning Code" of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 6. If the Official Zoning Code of the City of Coral Gables Table of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2014.

2014. PASSED AND ADOPTED THIS TWENTY-SIXTH DAY OF AUGUST, A.D.,

(Moved: Quesada / Seconded: Lago)
(Yeas: Quesada, Keon, Kerdyk, Lago, Cason)
(Unanimous: 5-0 Vote)
(Agenda Item: E-5)

APPROVED:



JIM CASON
MAYOR

ATTEST:



WALTER L. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



CRAIG E. LEEN
CITY ATTORNEY