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May 6, 2009

VIA HAND DELIVERY

Ernesto Pino,
Assistant Director
City of Coral Gables
Public Works Department
2800 SW 72nd Avenue
Miami, Fl 33155

**Re: Request for Permission for Encroachments
Into Right-Of-Way at 396 Alhambra Circle.**

Dear Mr. Pino:

I represent 396 Alhambra Plaza, LLC, ("396 Alhambra") the owner of the referenced property ("subject property"). The subject property takes up most of the block bounded by Le Jeune Rd., Alhambra Plaza, Galiano Ave. and Salzedo St. There is an existing 7 story building and a two-story parking garage on the property. The proposed development has received Board of Architects and zoning approvals as well as a building permit for construction.

During preliminary zoning and building reviews, staff determined that there were some encroachments (all above the second floor) into the right-of-way. Staff determined, and there is a comment on the permit plans that require 396 Alhambra to obtain further city approval for those encroachments that extended more than nine inches into the right-of-way. By this letter 396 Alhambra seeks city permission for such encroachments as described in the attached encroachment legend and plans. (Exhibit "A") Please note that all these encroachments are above the second floor.

The legal description of the property that is being developed is attached as Exhibit "B".

The owner of the property is 396 Alhambra, LLC.

The proposed encroachments are described in the legend and architectural drawings in Exhibit "A". The Architectural Review Board representatives signed the plans on November 20, 2008.

Historical Review Board, Miami-Dade County and Florida Department of Transportation approvals are not required for this project.

Attached as Exhibit "C" is one full set of final working drawings, along with 20 (11x17) copies of those plans.

396 Alhambra agrees to the following conditions, if the encroachments are permitted:

1. The owner shall maintain the encroachments in good repair at all times.
2. In the event the Public Works Department issues a permit for a utility cut in any areas where special paving is approved, the owner shall replace the special paving.
3. The City of Coral Gables has the right to remove, add, maintain or have the owner remove any of the approved encroachments within the right-of-way.
4. The owner shall meet with the City Attorney's office and provide it all information necessary for that office to prepare a restrictive covenant to be executed by the owner. The restrictive covenant shall run with the title of the property. That document shall acknowledge that the owner shall provide public liability insurance coverage for the encroachments in the minimum limits required by the city and naming the city as an additional insured under the policy (see Exhibit "D").
5. The owner shall obtain all necessary permits from the Building and Public Works departments.

396 Alhambra respectfully requests that the engineering staff of the Public Works Department recommend approval of the requests for encroachments to the city commission and schedule this matter before the city commission at its next available meeting.

Representatives of the owner, as well as I am available to provide you and your staff any additional

information you require in your review of this request.
Thank you for your assistance.

Sincerely,



W. Tucker Gibbs

enclosures

cc: Elizabeth Hernandez, City Attorney
Edward Weller, Interim Director, Building Department
Eduardo Avila
John Fullerton

EXHIBIT "A"

Encroachments Into Right-of-Way

396 Alhambra Circle
Coral Gables, Florida

1. 1'-8" Precast Decorative Cornice (Roof Level)
2. 1' Precast Decorative Moulding (2d Level)
3. 1' Precast Decorative Moulding (15th Level)
4. 2' Precast Decorative Moulding and Balcony (7th - 14th Level)
5. 2'-5" Precast Decorative Moulding and Balcony (6th Level)
6. 1'-11" Precast Decorative Cornice (5th Level)
7. 1'-10" Precast Decorative Cornice (5th Level)
8. Decorative Lighting Fixture (Ground Level, 8'-1" clearance)

EXHIBIT "B"

PARCEL I:

LOT 25 THROUGH 31, IN BLOCK 27, OF CORAL GABLES SECTION "K", LESS THE WESTERLY 3.00 FEET OF LOT 31, IN BLOCK 27, OF CORAL GABLES SECTION "K"; THE WEST 3.00 FEET OF LOT 31 AND ALL OF LOTS 32 THROUGH 38, IN BLOCK 27, OF CORAL GABLES SECTION "K", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

LESS

THE WEST 12.62 FEET OF LOT 38, IN BLOCK 27 CONVEYED TO THE CITY OF CORAL GABLES AS A PUBLIC ALLEY.

LESS

A TRIANGULAR SHAPED SECTION OF LAND IN THE NORTH PORTION OF LOTS 38 AND 37, BLOCK 27 OF SAID CORAL GABLES SECTION "K" DESCRIBED AS FOLLOWS:

BEGIN AT A POINT ON THE NORTH LINE OF LOT 38, BLOCK 27 OF THE SAID CORAL GABLES SECTION "K", WHICH SAID POINT OF BEGINNING IS 12.62 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 38 AND BEING A POINT ON THE SOUTH LINE OF AN EXISTING EAST-WEST ALLEY TWENTY (20') FEET IN WIDTH IN SAID BLOCK 27; THENCE RUN EAST ALONG THE NORTH LINE OF SAID LOTS 38 AND 37 AND BEING ALONG THE SOUTH LINE OF THE SAID EXISTING EAST-WEST ALLEY TWENTY (20') FEET IN WIDTH FOR A DISTANCE OF 13 FEET TO A POINT; THENCE RUN IN A SOUTHWESTERLY DIRECTION ALONG A LINE OVER A PORTION OF SAID LOTS 37 AND 38 TO ITS INTERSECTION WITH THE EAST LINE OF THE WEST 12.62 FEET OF THE SAID LOT 38; THENCE RUN NORTH ALONG THE EAST LINE OF THE WEST 12.62 FEET OF THE SAID LOT 38 FOR A DISTANCE OF FIFTEEN (15') FEET TO THE POINT OF BEGINNING; ALL IN BLOCK 27, ACCORDING TO SAID CORAL GABLES SECTION "K", PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

COMMONLY KNOWN AS 301 GERALDA AVENUE, CORAL GABLES, MIAMI-DADE COUNTY, FLORIDA.

PARCEL II:

A. LOTS 1 THROUGH 10 AND LOTS 39 THROUGH 48, BLOCK 27, CORAL GABLES SECTION "K", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA;

AND

ALL THAT PORTION OF THE EAST-WEST ALLEY TWENTY FEET (20') IN WIDTH LYING WITHIN BLOCK 27, CORAL GABLES SECTION "K", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING WEST OF A LINE PROJECTED NORTHWARD WHICH LINE IS PARALLEL TO THE EAST LINE OF LOT 39 IN SAID BLOCK AND 7.38 FEET WEST THEREOF;

LESS

THE EAST 6.10 FEET OF SAID LOT 10 IN BLOCK 27 AND FURTHER EXCEPTING THEREFROM AS A PUBLIC ALLEY CONVEYED TO THE CITY OF CORAL GABLES, THE EAST 7.38 FEET OF LOT 39.

LESS

A PORTION OF LOT 48, IN BLOCK 27, OF CORAL GABLES SECTION "K", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS THE EXTERNAL AREA FORMED BY A 15.00 FOOT RADIUS ARE CONCAVE TO THE NORTHEAST, TANGENT TO THE SOUTH LINE OF SAID LOT 48 AND TANGENT TO THE WEST LINE OF SAID LOT 48.

AND

B. THE WEST 3.00 FEET OF LOT 31 AND ALL OF LOTS 32 THROUGH 38, BLOCK 27, OF CORAL GABLES SECTION "K", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA,

LESS

THE WEST 12.62 FEET OF LOT 38 IN BLOCK 27 CONVEYED TO THE CITY OF CORAL GABLES AS A PUBLIC ALLEY.

LESS

A TRIANGULAR SHAPED SECTION OF LAND IN THE NORTH PORTION OF LOTS 38 AND 37, BLOCK 27 OF THE SAID CORAL GABLES SECTION K DESCRIBED AS FOLLOWS: BEGIN AT A POINT ON THE NORTH LINE OF LOT 38, BLOCK 27 OF THE SAID CORAL GABLES SECTION "K", WHICH SAID POINT OF BEGINNING IS 12.62 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 38 AND BEING A POINT ON THE SOUTH LINE OF AN EXISTING EAST-WEST ALLEY 20 FEET IN WIDTH IN SAID BLOCK 27; THENCE RUN EAST ALONG THE NORTH LINE OF SAID LOTS 38 AND 37 AND BEING ALONG THE SOUTH LINE OF THE SAID EXISTING EAST-WEST ALLEY 20 FEET IN WIDTH FOR A DISTANCE OF 13 FEET TO A POINT; THENCE RUN IN A SOUTHWESTERLY DIRECTION ALONG A LINE OVER A PORTION OF SAID LOTS 37 AND 38 TO ITS INTERSECTION WITH THE EAST LINE OF THE WEST 12.62 FEET OF SAID LOT 38; THENCE RUN NORTH ALONG THE EAST LINE OF THE WEST 12.62 FEET OF SAID LOT 38 FOR A DISTANCE OF FIFTEEN (15') FEET TO THE POINT OF BEGINNING; ALL IN BLOCK 27 ACCORDING TO SAID CORAL GABLES SECTION "K", PLAT BOOK 8, PAGE 33, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

COMMONLY KNOWN AS 396 ALHAMBRA CIRCLE, CORAL GABLES, MIAMI-DADE COUNTY, FLORIDA.

EXHIBIT "D"

Prepared By:
W. Tucker Gibbs, Esq.
2980 McFarlane Road, Suite 205
Coconut Grove, Florida 33133

DECLARATION OF RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned Eduardo Avila, as corporate representative of 396 Alhambra, LLC is the fee simple owner of the following described property situated and being in the City of Coral Gables, Florida:

See Attached Exhibit "A"

WHEREAS, it is the desire of the undersigned to encroach over the public right-of-way(s) as depicted on the legend set forth in Exhibit "B" and in order to induce the City of Coral Gables to issue permits allowing for said encroachments, the undersigned agree(s) to (1) maintain the encroachments in good repair at all times; (2) save the City harmless and; (3) furnish the City with a policy or certificate of insurance coverage in the minimum limits of \$300,000 each person and \$300,000 each occurrence for the bodily injury and \$250,000 each occurrence on property damage or \$300,000 single limit coverage and naming the city as co-insured under such policy.

NOW, THEREFORE, for good and valuable consideration, the undersigned does hereby declare that it will not convey or cause to be conveyed the title to the above property without requiring the successor in title to abide by all terms and conditions set forth herein.

FURTHER, the undersigned declares that this covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment and title to the above property and shall constitute a covenant running with the land and shall be binding upon the undersigned, its successors and assigns and may only be

released by the City of Coral Gables, or its successor, in accordance with the ordinance of said City then in effect.

IN WITNESS WHEREOF, the undersigned has caused its hand and seal to be affixed hereto on this day of April 2009.

WITNESSES

OWNER

Sign above

Sign above

Print name above

Print name above

Sign above

Print name above

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this day personally appeared before me Eduardo Avila as corporate representative of 396 Alhambra, LLC, who is personally known to me or has produced _____ as identification and he acknowledge that he executed the foregoing, freely and voluntarily, for purposes therein expressed.

SWORN TO AND SUBSCRIBED before me on this day of April 2009.

Notary Public
State of Florida

My commission expires:

Approved as to Form:

Elizabeth M. Hernandez
City Attorney