



**City of Coral Gables
CITY COMMISSION MEETING
December 16, 2014**

E-1

ITEM TITLE:

Resolution. Mixed Use Site Plan Review. A Resolution of the City Commission of Coral Gables, Florida requesting mixed use site plan review pursuant to Zoning Code Article 4, "Zoning Districts", Division 2, "Overlay and Special Purpose Districts", Section 4-201, "Mixed Use District (MXD)" for the mixed use project referred to as "4311 Ponce" on the property legally described as Lots 36-43 , Block 5, Industrial Section (4225 and 4311 Ponce de Leon Boulevard), Coral Gables, Florida; including required conditions; providing for an effective date.

DEPARTMENT HEAD RECOMMENDATION:

Denial. The proposed mixed use project does not comply with the required building setback/stepback for a mixed use project as specified in the Zoning Code. The City Attorney has offered a legal opinion that the Commission's past approval of this project in 2008 may be considered as the Applicant has claimed reliance on that approval.

PLANNING AND ZONING BOARD RECOMMENDATION:

At the Planning and Zoning Board 11.12.14 meeting, a motion to approve the proposed mixed use site plan (vote: 3 yes – 2 no) resulted in the lack of a recommendation, as an affirmative vote of four (4) members of the Board is necessary for the adoption of any motion. (Sec. 2-203(B) Zoning Code) The City Attorney has offered a legal opinion on this matter detailed in this report.

BRIEF HISTORY:

The request is for site plan review for a mixed use project referred to as "4311 Ponce." It was continued at the Planning and Zoning Board's 10.08.14 meeting in order to allow the Applicant an opportunity to address unresolved issues that were identified in the Staff report. At the Board's 11.12.14 meeting, a motion to approve the proposed mixed use site plan resulted in the lack of a recommendation. The plans and application package provided with this Staff report have not been changed from the Board's 10.08.14 public hearing. All the issues identified at that meeting were either resolved or addressed by conditions of approval, with the exception of one (1) setback/stepback issue that is explained below.

The subject property is 0.46 acres (20,035 sq. ft.) in size and is located within the City's North Industrial Mixed Use Overlay District between Ponce de Leon Boulevard (west) and SW 39th Avenue (east), north of San Lorenzo Avenue. A one (1) story commercial building adjoins the property to the north. The "Village of Merrick Park" is located across Ponce de Leon Boulevard and San Lorenzo Avenue. A mid-rise commercial office building which faces onto San Lorenzo Avenue is located across SW 39th Avenue to the east. There are one (1) story commercial buildings and surface parking currently on the site. The property has "Commercial Mid-Rise Intensity" land use and Commercial District (C) zoning designations, which are appropriate designations for the proposed mixed use project.

The project consists of an eight (8) story/93'-7" building containing a total of 55,178 sq. ft., consisting of 11,457 sq. ft. of retail on the ground floor, 24,133 sq. ft. of commercial office space on the 5th and 6th

floors, and eight (8) two story, two bedroom residential units on the 7th and 8th floors. There are 145 parking spaces proposed on three (3) garage levels above the ground floor, including eight (8) mechanical lifts. A total of 144 parking spaces are required, as indicated within the application package.

Approval History:

Resolution No. 2008-38 (adopted on 03.11.08) approved a mixed use project at the northeast corner of Ponce de Leon Boulevard and San Lorenzo Avenue also known as “4311 Ponce,” a property size that is 5,000 square foot smaller than the current proposal but very similar in design concept. The previously approved project consisted of a seven (7) story / 83’-6” high building with a penthouse (to 95’-6” height) containing 46,150 square feet of primarily commercial office space with ground floor retail, four (4) live/work residential units and three (3) levels of parking. There were 182 parking spaces provided (24 spaces more than required by Code), with 83 of those spaces being mechanical lifts. In retrospect, the issue of setback/stepback, a requirement also at the time and applicable to the project, was not identified as part of staff review and the project was approved with that oversight. Due to the economic downturn, a building permit reviewed in 2008 resulted in a number of rejections and plan review activity was suspended by the then developer, causing the review to be canceled. As a result, the 2008 approval expired, pursuant to Sec. 1-111 of the Zoning Code.

Zoning Code Compliance with the Proposed Project:

The proposed project must comply with one (1) of the following in order to meet the requirements of the Zoning Code for setbacks/stepbacks for mixed use projects:

1. Comply with Zoning Code Section 4-201.E.14 by providing the minimum ten (10) foot front setback for the entire building along the front property line (Ponce de Leon Blvd). A minimum front setback of ten (10) feet is required for buildings over forty-five (45) feet in height; or
2. Comply with Zoning Code Section 4-201.E.15 for setback reductions. Applicant may provide zero (0) foot setbacks on all sides if vertical building stepbacks of a minimum of ten (10) feet are provided at a maximum height of forty-five (45) feet on all building facades.

Currently, the project proposes a zero (0) foot front setback and 93’-7” building height at Ponce de Leon Blvd., and does not provide a stepback on all building facades. It is important to note that the abovementioned setback/stepback requirement has been consistently applied to Village Place, Gables Gateway, Merrick Manor and 4535 Gables Ponce II.

Relevant Legal Opinion:

It is the City Attorney’s opinion that the history of review and approvals of this project since 2008 may be considered by the Commissioners as it applies to this specific request, because there has been a claim of reliance upon them that will be raised by the Applicant. To the extent these earlier actions and decisions are inconsistent with the present interpretation as to this matter, they will not apply going forward for other projects, as those projects should rely on the present interpretation. City Attorney Craig Leen will provide his analysis and opinion on this subject at the meeting.

A draft Resolution is provided as Exhibit A that includes recommended conditions of approval if the Commission chooses to approve the Application. Staff’s report and recommendation with attachments is provided as Exhibit B, and the comments and issues discussed by the Board at the meeting are presented in the meeting minutes provided in Exhibit C. The Applicant is in agreement with the recommended conditions of approval provided in the draft Resolution.

LEGISLATIVE ACTION:

Date:	Resolution/Ordinance No.	Comments
N/A		

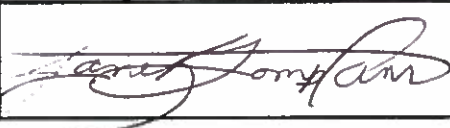

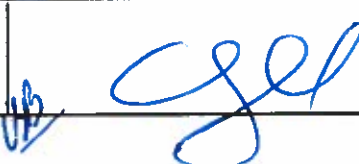
OTHER ADVISORY BOARD/COMMITTEE RECOMMENDATION(S):

Date	Board/Committee	Comments (if any)
10.08.14	Planning and Zoning Board	Item continued to 11.12.14 meeting.
11.12.14	Planning and Zoning Board	Made no recommendation on the proposed mixed use site plan (vote: 3 yes – 2 no) as an affirmative vote of four (4) members of the Board is necessary for the adoption of any motion.

PUBLIC NOTIFICATION(S):

Date	Form of Notification
09.26.14	Courtesy notification to properties within 1,500 ft. of the entire MXOD and within MXOD.
09.26.14	Posted property.
09.26.14 and 10.31.14	Legal advertisement.
10.03.14	Posted agenda at City Hall.
10.03.14	Posted agenda, staff report, legal notice and all attachments on City web page.
12.05.14	Legal advertisement.

APPROVED BY:

Department Director	City Attorney	City Manager
		

EXHIBIT(S):

- A. Draft Resolution – Mixed use site plan review.
- B. 11.12.14 Staff report and recommendation with attachments.
- C. 11.12.14 Excerpts of Planning and Zoning Board Meeting Minutes with written comments received and documents submitted at the public hearing attached.
- D. PowerPoint presentation.