

THE CITY OF CORAL GABLES**ORDINANCE NO. _____**

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 _____, 2015 Planning and Zoning Board meeting, the Board recommended _____ (vote: ____) 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 _____, 2015 at which hearing all interested parties were afforded the opportunity to be heard, and the City Commission, after due consideration and discussion, _____ the Vacation on First Reading (vote: ____); and,

WHEREAS, after notice was duly published, a public hearing for Second Reading on the Vacation was held before the City Commission on _____, 2015 at which hearing all interested parties were afforded the opportunity to be heard, and the City Commission, after due consideration and discussion, _____ the Vacation on Second Reading (vote: ____).

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. The City Commission hereby finds:

1. That 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. That 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; and
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:

1. That the Applicant, owner of record, by proper instrument, shall grant a public access easement to the City of Coral Gables and any and all applicable utility companies for alternate access to be used for access to the remaining portion of the alley and for utility purposes including storm and sanitary sewers and for use as a passageway for City Vehicles and the general public. Said easement being legally described in Exhibit “B” attached hereto and incorporated herein. Said easement shall be recorded in the Public Records of Miami-Dade County immediately after the recording of this Ordinance.
2. That the easement described in this Section 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. The permits and inspections for such construction shall be handled in the same manner as the paving for streets and alleys.
3. That the City of Coral Gables shall have the right to exercise the same control over the easement described in this Section 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 the building, zoning and other applicable regulations.
4. That the easement described in this Section 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 the City shall have the authority to monitor and enforce same.
5. That a vertical clearance of fifteen feet (15’) minimum extending the full length and width of the easement shall be provided above the easement area described in this Section.
6. That 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 described in this Section, shall be borne by the applicant whose actions necessitate such expense.

7. The Applicant may be permitted to re-configure the substitute alleyway configuration as described in this Section and adjust the legal description, subject to the review and approval by the City Attorney, Fire Chief and Directors of Planning and Zoning, Public Works and Public Service; provided, that the foregoing determine said reconfiguration to be in the promotion of and not adverse to the public health, safety, and welfare. Such easement amendment instrument shall be in a form acceptable to the City Attorney and shall be recorded and executed in favor of the City of Coral Gables prior to the issuance of any building permit.
8. That the reversionary rights to the portion of the alley vacated shall revert to the owners abutting on each side of the vacated alley.
9. *Additional conditions under development by staff to be finalized by Commission.* _____

SECTION 4. In the event that the Applicant has not constructed the project within _____ 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 _____ DAY OF _____, A.D.
2015.

APPROVED:

JIM CASON
MAYOR

ATTEST:

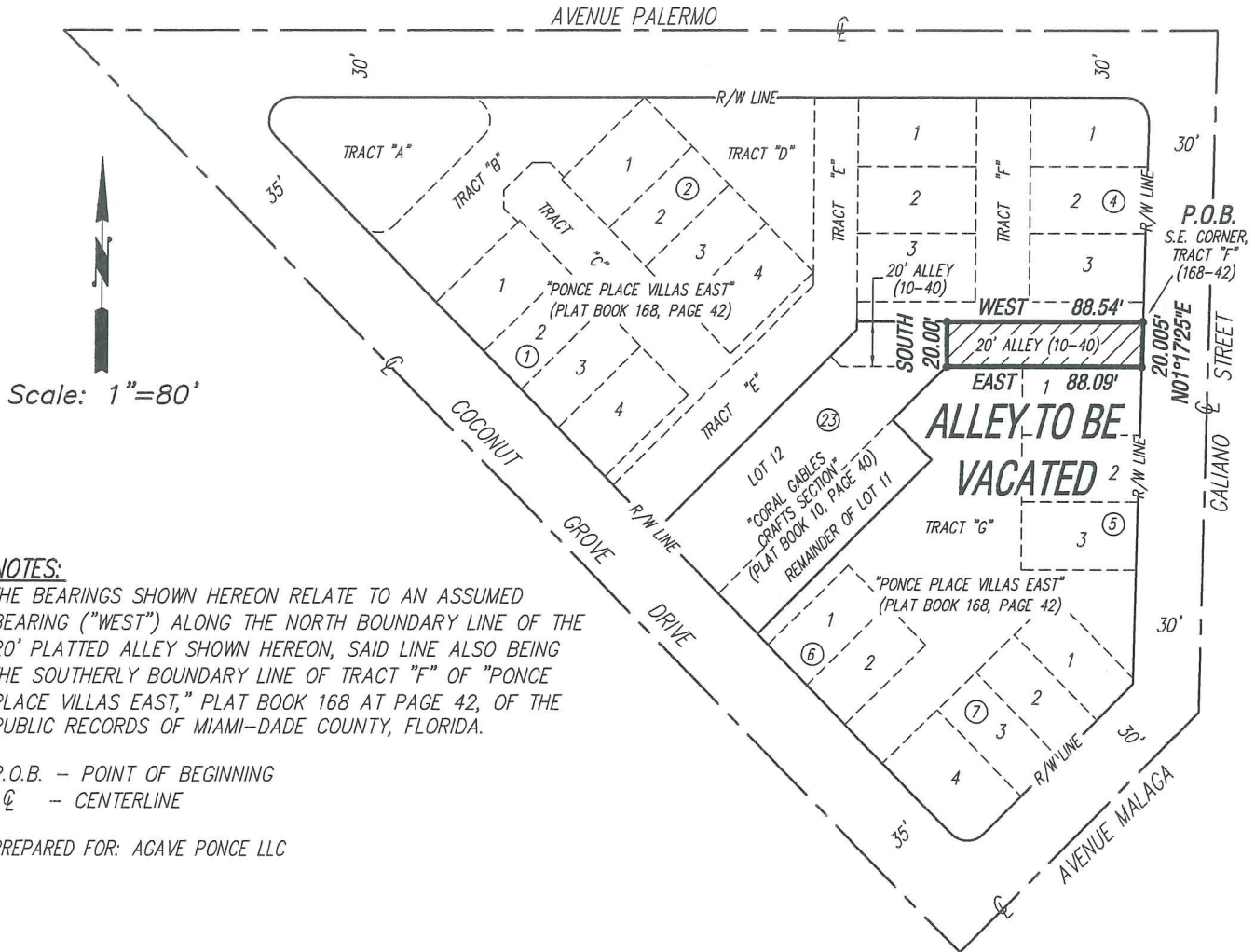
WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

- ALLEY TO BE VACATED -

**NOTES:**

THE BEARINGS SHOWN HEREON RELATE TO AN ASSUMED BEARING ("WEST") ALONG THE NORTH BOUNDARY LINE OF THE 20' PLATTED ALLEY SHOWN HEREON, SAID LINE ALSO BEING THE SOUTHERLY BOUNDARY LINE OF TRACT "F" OF "PONCE PLACE VILLAS EAST," PLAT BOOK 168 AT PAGE 42, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

P.O.B. - POINT OF BEGINNING

℄ - CENTERLINE

PREPARED FOR: AGAVE PONCE LLC

LEGAL DESCRIPTION:

AN EASTERLY PORTION OF THAT CERTAIN 20.00 FOOT WIDE ALLEY LOCATED WITHIN BLOCK 23, "CORAL GABLES CRAFTS SECTION," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10 AT PAGE 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGIN AT THE SOUTHEAST CORNER OF TRACT "F," "PONCE PLACE VILLAS EAST," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 168 AT PAGE 42, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN DUE WEST, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID TRACT "F," SAID LINE ALSO BEING THE NORTHERLY BOUNDARY LINE OF THE AFOREMENTIONED 20.00 FOOT WIDE ALLEY WITHIN BLOCK 23, FOR A DISTANCE OF 88.54 FEET TO A POINT; THENCE RUN DUE SOUTH, AT RIGHT ANGLES TO THE LAST AND NEXT DESCRIBED COURSES, FOR A DISTANCE OF 20.00 FEET TO A POINT; THENCE RUN DUE EAST, ALONG THE NORTHERLY BOUNDARY LINE OF TRACT "G" AND LOT 1, BLOCK 5, AS SHOWN ON THE AFOREMENTIONED PLAT OF "PONCE PLACE VILLAS EAST," SAID LINE ALSO BEING THE SOUTHERLY BOUNDARY LINE OF THE AFOREMENTIONED 20.00 FOOT WIDE ALLEY WITHIN BLOCK 23, FOR A DISTANCE OF 88.09 FEET TO A POINT; THENCE RUN NORTH 01 DEGREES 17 MINUTES 25 SECONDS EAST, ALONG A LINE COINCIDENT WITH THE WESTERLY RIGHT-OF-WAY LINE OF GALIANO STREET, FOR A DISTANCE OF 20.005 FEET TO THE SOUTHEASTERLY CORNER OF TRACT "F," "PONCE PLACE VILLAS EAST," AND THE POINT OF BEGINNING. SAID "ALLEY TO BE VACATED" LYING AND BEING IN THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 54 SOUTH, RANGE 41 EAST, CITY OF CORAL GABLES, MIAMI-DADE COUNTY, FLORIDA.

SAID "ALLEY TO BE VACATED" CONTAINS 1,766± NET SQUARE FEET.

Schwebke-Shiskin & Associates, Inc.
LAND SURVEYORS • ENGINEERS • LAND PLANNERS

(LB-87)

3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025 DADE: (305) 652-7010 BROWARD: (954) 435-7010 FAX: (305) 652-8284

THIS IS NOT A "LAND SURVEY."

ORDER NO.: 203455

DATE: 11-20-2014

SHEET 1 OF 1 SHEET(S)

F.B.: N.A.

PREPARED UNDER MY SUPERVISION:

MARK STEVEN JOHNSON SECRETARY/TREAS.
FLORIDA PROF. LAND SURVEYOR NO. 4775