

**CITY OF CORAL GABLES, FLORIDA**

**ORDINANCE NO. 2012-10 (AS AMENDED)**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES REQUESTING ABANDONMENT AND VACATION OF A PUBLIC ALLEYWAY 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," PROVIDING FOR THE ABANDONMENT AND VACATION OF A SOUTH PORTION OF THE TWENTY (20') FOOT ALLEY BISECTING BLOCK 1, AND THE DEDICATION OF A PUBLIC EASEMENT ON A PORTION OF LOTS 13, 14, 29-33, BLOCK 1, INDUSTRIAL SECTION, CORAL GABLES, FLORIDA; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE. (LEGAL DESCRIPTION ON FILE AT THE CITY)

**WHEREAS**, in association with this Application for Abandonment and Vacation, an Application was submitted requesting Mixed Use Site Plan review pursuant to Zoning Code Section 4-201 for the mixed use project on Lots 13-34 and portion of alley, Block 1, Industrial Section (4111 LeJeune Road), Coral Gables, Florida; and

**WHEREAS**, vacation of a public alleyway and dedication of a public easement is required to permit the construction of the proposed seven (7) and ten (10) story mixed use project containing ground floor commercial retail and office space and one-hundred-and-eighty (180) multi-family residential units ("the Merrick Manor Project"); and

**WHEREAS**, the City of Coral Gables, a Florida municipal corporation ("City") will be entering into a Land Exchange Agreement with Astor Trolley, LLC, a Florida limited liability company and 4111 LeJeune, LLC, a Florida limited liability company ("the Developer"); 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; 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 November 30, 2011, and of the Planning and Zoning meeting of July 11, 2012 where the MCI Laguna, LLC and 4111 LeJeune LLC's application was reviewed; and

**WHEREAS**, comments were solicited from affected utility companies and no objections were received from any of the utility companies; and

**WHEREAS**, after notice of public hearing duly published and notifications of all property owners of record within one thousand five hundred (1500) feet of the North Industrial (MXD)

District, public hearings were held before the Planning and Zoning Board of the City of Coral Gables on July 11, 2012, at which hearings all interested persons were afforded the opportunity to be heard; and

**WHEREAS**, at the Planning and Zoning Board's July 11, 2012 meeting, the Board recommended approval (vote: 4-0); and

**WHEREAS**, public hearings have been completed as indicated herein by the Coral Gables City Commission in consideration of a request for the Abandonment and Vacation of Non-fee interests as required by the Zoning Code City Code, and including careful consideration of written and oral comments by members of the public; and

**WHEREAS**, the City Commission held a public hearing on July 24, 2012 at which hearing all interested persons were afforded an opportunity to be heard and this application for the abandonment and vacation of non-fee interests as referenced herein was approved with conditions on First Reading (vote: 5-0); and

**WHEREAS**, pursuant to the City Code an additional public hearing notice was provided via Certified Mail to all property owners within 1000 feet of the subject property advising of the August 28, 2012 public hearing; and

**WHEREAS**, the City Commission, upon consideration of the Application, evaluated and analyzed the "Standards for Review" included in Section 3-1203 of the Zoning Code and the review criteria enumerated in Section 62-264(b) of the City Code; and

**WHEREAS**, upon review of these Standards and Criteria, the City Commission has determined that this project in its totality, including the Applicant's proffered mitigation to provide an alternative public access easement, provides a material public benefit which exceeds the use of the alleyway portion proposed to be vacated and abandoned; and

**WHEREAS**, the City Commission has determined in its review of this Application that the Applicant's proffered mitigation, is specific to the Applicant's development proposal and does not establish a precedent for future applications for abandonment and vacation of City streets, alleys, easement or other non-fee interests;

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

**SECTION 1.** The foregoing "**WHEREAS**" clauses are hereby ratified and confirmed as being true and correct and hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** The City Commission hereby finds that the granting of the aforementioned Application would provide greater public benefit than the continued public use of the subject alleyway and that sufficient alternative public access to the alleyway to remain has been provided by means of a proffered substitute access easement.

**SECTION 3.** The Application for Abandonment and Vacation of a Public Alleyway and dedication of a public easement required to permit the construction of the mixed use project referred to as "the Merrick Manor Project," providing for the vacation of a south portion of the twenty (20') foot alley bisecting Block 1, and the dedication of a public easement on Lots 13 and 14, Block 1,

Industrial Section, Coral Gables, Florida shall be authorized to be granted upon the Developer and City closing pursuant to the Land Exchange Agreement.

**SECTION 4.** That a portion of the alley, 20 feet in width, bisecting Block 1 lying between lots 22 thru 30 and lots 13 thru 21, of Block 1, "Revised Plat of Coral Gables Industrial Section", according to the Plat thereof as recorded in Plat Book 28, Page 22, of the Public Records of Miami-Dade County, Florida in the City of Coral Gables, Florida, shall be and it 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 Owner of record, by proper instrument, shall grant easements to the City of Coral Gables and any and all applicable utility companies for alternate access to be used 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 as follows:

A parcel of land for an easement, being a portion of a 20 foot wide Alley right-of-way, and Lots 13, 14, 29, 30, 31, 32 and 33, Block 1, "**REVISED PLAT CORAL GABLES INDUSTRIAL SECTION**" according to the Plat thereof as recorded in Plat Book 28, Page 22, of the Public Records of Miami-Dade County, Florida, said parcel being more particularly described as follows:

BEGIN #1 at the Northwest corner of said Lot 13, (L1) thence S00°33'18"E for: 14.36 feet to the Point of Curvature of a circular curve to the right; (C1) thence Southeasterly along the arc of said curve, having a radius of 8.00 feet and a central angle of 89°30'14" for an arc length of 12.50 feet to a Point of Tangency; (L2) thence N89°56'28"E for 92.13 feet; (L3) thence S00°33'18"E, along the West Right-Of-Way line of Laguna Street as shown on said Plat recorded in Plat Book 28, Page 22, for a distance of 22.00 feet; (L4) thence S89°56'28"W for 94.15 feet to the Point of Curvature of a circular curve to the right; (C2) thence Northwesterly along the arc of said curve, having a radius of 30.00 feet and a central angle of 89°30'14" for an arc length of 46.86 feet to a Point of Tangency; (L5) thence N00°33'18"W for 14.71 feet; (L6) thence S89°40'10"E for 23.84 feet to the POINT OF BEGINNING #1 .

This portion of the easement is subject to an upper limit of the horizontal plane of the finished lower surface of the proposed building ceiling at Elevation +15.00 feet.

TOGETHER WITH;

BEGIN #2 at the Northeast corner of said Lot 30, (L7) thence N89°40'10"E for 3.84 feet; (L8) thence N00°33'18"W for 50.41 feet; (L9) thence N18°36'04"E for 11.69 feet; (L10) thence S00°33'18"E along the East line of said Lots 33, 32, and 31 for 61.51 feet to the POINT OF BEGINNING #2.

All of the above described parcel, lying and being in Section 20, Township 54 South, Range 41 East, and containing 0.0757 acre more or less.

2. That the easement described hereinabove in Section 4 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 hereinabove in Section 4 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 hereinabove in Section 4 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 easements described hereinabove in Section 4.
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 hereinabove described, shall be borne by the applicant whose actions necessitate such expense.
7. That the use of the vacated property shall be limited to the same uses as to which the adjacent properties are zoned.
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. As proffered by the Applicant, pursuant to Final City Commission approval for the Alley Vacation and Abandonment on August 28, 2012, the Applicant, successors and/or assigns shall satisfy all of the following:
  - a. Temporary signage for Caffè Violetto Restaurant (4019 LeJeune Road/Lots 37 & 38, Block 1, Industrial Section). Provide and install three (3) temporary signs for the Caffè Violetto Restaurant indicating the "Restaurant" is open during construction of the Project. The signs shall be installed prior to any construction activity on the subject property and shall be installed within the rights-of-way at the following locations:
    - i. LeJeune Road and Altara Avenue.
    - ii. Altara Avenue and Laguna Street.
    - iii. Laguna Street in proximity to the Lots 5 -6, Block 1, Industrial Section (northern alley easement entrance/exit).

The signs may remain in place until such time the Project building receives its Final Certificate of Occupancy from the City. All costs for installation, other agency review/coordination and maintenance thereof shall be the responsibility of the Applicant. Sign placement, type, text, color and height shall be subject to City Planner and Parking Director review and approval.
  - b. Construction staging. No construction staging activities associated with the construction of the Project shall be permitted on Block 1 north of the project boundaries to Bird Road. This includes Lots 1 – 12 and Lots 39 – 42, Block 1, Industrial Section and Laguna Street right-of-way contiguous to Lots 1 – 12, Block 1, Industrial Section. This shall include but is not limited to the following construction activities of the Project: construction equipment/material storage; construction worker/employee parking; construction vehicle access; construction vendor access, etc. The intent is to ensure that there is no interruption in the ability of Caffè Violetto Restaurant patrons, employees, and suppliers to utilize the entrance to Caffè Violetto which is accessed from the existing alley in a manner and quality similar to the existing condition.
10. Pursuant to Final City Commission approval for the Alley Vacation and Abandonment on August 28, 2012, the City shall assist Caffè Violetto Restaurant (4019 LeJeune Road/Lots 37 - 38, Block 1, Industrial Section) with the following:

- a. Valet parking and associated valet parking sign. At the option of the Owners of Caffè Vialetto, the City shall assist the restaurant in identifying a valet station with a sign within the alley and/or on Laguna Street during the business hours during the duration of the Project construction.
  - b. Proposed relocation of public right of way located on Lot 5 and Lot 6 of Block 1 of the Coral Gables Industrial Section. In the event that the existing public right-of-way located on Lot 5 and Lot 6, Block 1, Industrial Section is conveyed pursuant to a Land Exchange Agreement between the City and the property owner of Lots 1 through 4 and Lots 39 through 42, Block 1, Industrial Section, the City shall coordinate an alley access plan with the Applicant, and the owner of Lots 1 through 4 and Lots 39 through 42, Block 1, Industrial Section, or their successors, which will ensure that there is no interruption in the ability of Caffè Vialetto Restaurant patrons, employees, and suppliers to utilize the entrance to Caffè Vialetto which is accessed from the existing alley in a manner and quality similar to the existing condition.
11. Restrictive covenant. Within thirty (30) days of City Commission approval of the Application, the Applicant, property owner(s), its successors or assigns shall submit a restrictive covenant for City Attorney review and approval outlining all conditions of approval as approved by the City Commission. Failure to submit the draft restrictive covenant within the specified time frame shall render the approval void unless said time frame for submittal of the draft restrictive covenant is extended by the City Attorney after good cause as to why the time frame should be extended.

**SECTION 5.** In the event that the Developer has not constructed the Merrick Manor Project within two (2) years of issuance of a Building Permit, ownership of the Alley will revert to the City, unless such time period is extended in the discretion of the City Manager.

**SECTION 6.** All ordinance or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

**SECTION 7.** 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 8.** This Ordinance shall become effective immediately.

PASSED AND ADOPTED THIS TWENTY-EIGHTH DAY OF AUGUST, A.D.,  
2012.

(Moved: Kerdyk / Seconded: Quesada)  
(Yeas: Cabrera, Kerdyk, Quesada, Anderson, Cason)  
(Unanimous; 5-0 Vote)  
(Agenda Item: E-4)

APPROVED:

  
JIM CASON  
MAYOR

ATTEST:



WALTER J. FOEMAN  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



CRAIG E. LEEN  
CITY ATTORNEY