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November 10, 2014

Mr. Ramon Trias
Director
Planning and Zoning Division
City of Coral Gables
127 Biltmore Way, Suite 201
Coral Gables, Florida 33134

Re: Conditional Use for Separation/Establishment of Two Building Sites and Release of Unity of Title for 20 Casuarina Concourse, Coral Gables

Dear Mr. Trias:

This law firm represents the owner of the property ("Applicant") located at 20 Casuarina Concourse in the City of Coral Gables ("City"), legally described as Lots 30 and 31, Block A of Gables Estates No. 2, according to the plat thereof, as recorded in Plat Book 60 at Page 37 of Public Records of Miami-Dade County, Florida ("Property"). See Plat. The purpose of this letter is to respectfully request conditional use approval to permit the re-establishment of two separate building sites and the release of the Declaration of Restrictive Covenant recorded at Official Record Book 26001 at Page 1248 of the Public Records of Miami-Dade County. See Declaration of Restrictions.

Property. The Property was the site of the "Wackenhut Castle", a German-style 5-story castle, and consists of approximately 2.59 acres of vacant land located on Casuarina Concourse, adjacent to the cul-de-sac and private waterway, in the Gables Estates Club. While the Property was originally master-planned and subdivided as two platted lots, the Property was developed with one 18,364 square foot residence with recreational amenities. See Building Site Determination. In 2007, the then-property owner demolished the residence and proffered the Declaration of Restrictive Covenant consistent with Section 3-206(E)(3) of the City's Zoning Code. When the Property was built in the 1960's, a Declaration of Restrictions tying the Property as a single building site was not required by the City's Zoning Code or effectuated by the original owner. Today, the Property is vacant and unimproved, but well-maintained and sodded. No trees exist on the Property.

Project. Applicant seeks to develop the Property as originally intended, with one single-family residence in full compliance with the City's Single Family Residential (SFR) zoning district and the Gables Estates Club Charter and Bylaws on each of the two platted lots, Lot 30 and Lot 31, that together make up the Property. In consideration of this application, we have enclosed conceptual plans for each of the two proposed building sites. Lot 30 will consist of 1.2 acres of land and Lot 31 will consist of 1.6 acres of land.

The resulting lots are comparable and consistent with the surrounding homesteads. The Applicant has received approval from the Gables Estates Club Architectural Review Board, and Rene Guerra, President of the Gables Estates Club, Inc., has also submitted a letter to the City, dated October 14, 2013, supporting Applicant's request for the separation and establishment of two building sites and the release of the Declaration of Restrictive Covenant. See Gables Estates Letter of Support. The Gables Estates Club has opined that approval of this application will have beneficial effects and will serve important public interests, while not having adverse effects on the environment, overburdening public services, or changing the desired character of the Gables Estates community.

Site Separation. Consideration of the Applicant's request for site separation requires an initial showing that the Property and its intended use satisfy four (4) of the six (6) criteria set forth in Section 3-206(F) of the City's Zoning Code. The criteria for satisfaction are as follows.

1. *That exceptional or unusual circumstances exist, that are site specific such as unusual site configuration or partially platted lots, or are code specific such as properties having two (2) or more zoning and/or land use designations, multiple facings or through-block sites, which would warrant the separation or establishment of a building site(s).*

The Property and Applicant's request for separation building sites are unique because the requested separation is ultimately a request to restore the Property to its original condition as two (2) respective building sites, as the Property was originally master-planned in Gables Estates Club and subdivided as two platted lots. This request for site separation would restore the Property to its original intended subdivision plan, prior to the construction of the Wackenhut Castle, and allow for the development of one single-family residence on each of the two platted lots, Lot 30 and Lot 31. Approval of this request would also bring the Property into conformity with the majority of the properties within Gables Estates, as there are only six properties in the Gables Estates community which encompass two or more lots. See Gables Estates Map. Separating the Property into two (2) parcels will also make the Property more environmentally efficient in regard to land resources, water use, maintenance, and upkeep.

2. *That the building site(s) created would be equal to or larger than the majority of the existing building site frontages of the same zoning designation within a minimum of one thousand (1,000) foot radius of the perimeter of the subject property or extending no farther than the immediate vicinity, whichever is less. "Immediate vicinity" shall be defined as an area in which a parcel of land is located, that is physically, functionally or geographically identifiable as a distinct realm, place or neighborhood, or an area within a radius of not more than one-half (1/2) mile from the subject property, whichever is smaller.*

Within the 1,000 foot radius of the perimeter of the Property there are twenty-eight (28) properties that have a frontage equal to or smaller than the proposed building sites (176 feet and 200 feet respectively). There are only twelve (12) properties that have frontages greater than the proposed building site (201 feet or greater). Lot 30 has a proposed building frontage of approximately 200 feet and Lot 31 has a proposed building frontage of 176 feet. See Survey Composite. Therefore, the proposed frontage of these building sites would be equal to or larger than the majority (69%) of the existing building site frontages of the same zoning designation within a 1,000 foot radius. While Lot 31 has a building frontage equal to or larger than the majority of the existing residential building site frontages within a 1,000 foot radius, it is also located on a cul-de sac which significantly impacts site frontage. This is a unique circumstance which is applicable to other properties located on cul-de-sacs within a 1,000 foot radius of the Property, including: 2 Casuarina Concourse, 2 Leucadendra Drive, 41 Arvida Parkway, and 33 Arvida Parkway. Additionally, Lot 31 has a total lot area of 60,245 square feet (1.39 acres), which is larger than Lot 30, which has a total lot area of 55,502.3 square feet (1.2 acres). Lot 31 also has a larger total lot area than most of the properties within the immediate neighborhood.

In connection with the water frontage widths of the respective properties within a 1,000 foot radius of the perimeter of the Property, there are 26 properties that have a water frontage width smaller than the proposed building sites (313 feet and 201 feet respectively). There are only twelve (12) properties that have water frontage widths equal to or larger than the proposed building site (201 feet or greater). Lot 30 has a proposed water frontage width of 201 feet and Lot 31 has a proposed water frontage width of 313 feet. See Building Site Water Frontage Analysis. Therefore, the proposed water frontage widths of these building sites would be larger than the majority (65%) of the existing water frontage widths of the properties of the same zoning designation within a 1,000 foot radius.

3. *That the building site(s) separated or established would not result in any existing structures becoming non-conforming as it relates to setbacks, lot area, lot width and depth, ground coverage and other applicable provisions of the Zoning Code, CP and City Code. The voluntary demolition of a building which eliminates any of the conditions identified in this criterion shall not constitute or result in compliance with this criterion.*

Although the Building Site Determination and Property microfilm records delineate and illustrate that the Property was developed with one 18,364 square foot residence encroaching on the lot liens, the Wackenhut Castle is an exceptional circumstance. See Property Microfilm Records. The 5-story residence was developed with a German-style castle theme, and was an eyesore that negatively impacted the privacy and visual appeal of the Gables Estates community.

The abovementioned provision provides that “[t]he voluntary demolition of a building which eliminates any of the conditions identified in this criterion shall not constitute or result in compliance with this criterion.” In 2007, the then-property owner demolished the 18,634 square foot residence encroaching on lot lines that were developed on the Property. As part of this demolition process the then-owner was required to proffer a Declaration of Restrictions. The demolition was necessary as the Wackenhut Castle was detrimental to the aesthetic character of the surrounding community, due to lack of maintenance and lack of privacy from curious spectators. Unlike other homes in the immediate vicinity, the Wackenhut Castle was not deemed architecturally significant nor was it designated historic by the City.

The Applicant purchased the home in 2010 as a vacant and unimproved site, and was not responsible for any voluntary demolition of the building. Unlike the building site separations recently approved by the Coral Gables City Commission for 6801 Granada Boulevard and 1248 Coral Way, where there were existing historic structures on the respective properties, the Property remains vacant and unimproved. The Applicant has paid Gables Estates Club membership fees for each of the respective lots. None of the conditions or alterations were created by the Applicant, and as such, in light of the circumstances and the original subdivision plan of the Property, the Applicant should be exempt from the requirements of this provision.

Applicant seeks to develop the Property as originally intended, with one single-family residence in full compliance with the City’s Single Family Residential

(SFR) zoning district and the Gables Estates Club Charter and Bylaws on each of the two platted lots, Lot 30 and Lot 31, that together make up the Property. Approval of this request would also bring the Property into conformity with the majority of the properties within Gables Estates, as there are only six properties in the Gables Estates community which encompass two or more lots. Additionally, the two (2) proposed building sites would not result in any existing structures becoming nonconforming as it relates to setbacks, lot area, lot width and depth, ground coverage and other applicable provisions of the City's Zoning Code, Comprehensive Land Use Plan, and City Code.

4. *That no restrictive covenants, encroachments, easements, or the like exist which would prevent the separation of the site. The voluntary demolition of a building which eliminates any of the conditions identified in this criterion shall not constitute or result in compliance with this criterion.*

The Wackenhut Castle was developed in the 1960's, before this City Zoning Code provision came into effect requiring that no restrictive covenants, encroachments, easements, or the like exist on which would prevent the separation of the site. A Declaration of Restrictions was not required, as per the City Zoning Code, nor did the original Property owners effectuate a restrictive covenant when the Property was originally developed. As such, the Property was not tied as a single building site. Additionally, the Property was originally master-planned in Gables Estates Club and subdivided as two platted lots.

In 2007, the then-property owner demolished the 18,634 square foot Wackenhut Castle residence that was developed on the Property. The demolition was necessary as the home was detrimental to the aesthetic character of the surrounding community, due to lack of maintenance and lack of privacy from peering spectators. As part of this demolition process the then-owner was required to proffer a Declaration of Restrictions. The restrictive covenant does not contain provisions related to modification and is silent as to the required procedure for release and whether such an option requires a public hearing. This creates an onerous requirement tying the property as one building site, without offering proper instruction for modification or release. This is an unintended consequence that was likely not considered when the Declaration of Restrictions was originally executed. The restrictive covenant is invalid as it is an incomplete document with an unreasonable binding effect. When the previous owner agreed to the Declaration of Restrictions, there was not full or proper notice as to the extent of the restrictive covenant's binding and limiting effect on the Property.

The Applicant purchased the home in 2010 as a vacant and unimproved site, without existing encroachments, and was not responsible for any voluntary demolition of the building. As such, the Applicant should be exempt from fulfilling the criteria of this requirement due to the broad recitals and vague effective language of the Declaration of Restrictions. Additionally, the Applicant seeks to develop the Property as originally master-planned and subdivided long before this City Zoning Code provision went into effect.

5. *That the proposed building site(s) maintains and preserves open space, promotes neighborhood compatibility, preserves historic character, maintains property values and enhances visual attractiveness of the area.*

The proposed site separation will restore the Property to its original state as two (2) separate building sites, to allow for the development of one single-family residence on each of the two platted lots, Lot 30 and Lot 31. The proposed building sites will improve the appearance of the neighborhood by making the Property consistent with the building sites in the area and the neighboring properties. Both proposed single-family residences will maintain and preserve open space, will be of the appropriate style and size as the neighboring homes, and will only serve to enhance the property values and the visual attractiveness of the area.

6. *That the building site(s) created was purchased as a separate building(s) by the current owner prior to September 17, 1977.*

Although the Property was purchased by the Applicant in 2010, the previous owner developed a single-family residence in the 1960s, before the enactment of this condition in 1989, requiring that the building site be purchased as separate buildings by the current owner prior to September 17, 1977. See Section 13-2.1 City Zoning Code 1989. This provision is inapplicable to the Property, which was developed before the criterion was set forth in 1989. Furthermore, the requirement was satisfied in spirit by the original owner who purchased the Property when it was originally master-planned and subdivided as two platted lots. As such, Applicant should be exempt from this condition. Approval of this request will allow the Applicant to develop the Property as originally intended.

Conclusion. Approval of this application will have beneficial effects and serve important public interests, while not having adverse effects on the environment, overburdening public services, or changing the desired character of the Gables Estates community. Accordingly, we respectfully request approval of this application pursuant to Article 3, Division 4 of the City Code.

Mr. Ramon Trias
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We urge the Planning and Zoning Division and Planning and Zoning Board to recommend in favor of the application, and respectfully request the City Commission's approval of the application. Should you have any questions or concerns, please do not hesitate to phone my direct line at (305) 377-6227.

Very truly yours,



Melissa Tapanes Llahues

Enclosures