



To: Dona Spain

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in black ink, appearing to be "CL", is written over the name "Craig E. Leen".

RE: Legal Opinion Regarding Preserve Building After Approval For Demolition

Date: March 26, 2014

You inquired about the demolition request you received for 3001 Ponce de Leon Boulevard. You noted that the property is included within a Planned Area Development (PAD), which was approved in ordinance number 2006-23 and amended in ordinance number 2007-27.1, the approved plans of which show that this building would be demolished, and a new building would be constructed in its place. Indeed, Ordinance No. 2007-27.1 expressly addresses the proposed new building at 3001 Ponce de Leon Boulevard in its text. The conditions of approval of the PAD protect the one existing historically designated landmark on site, which was not proposed for demolition and was instead proposed to be preserved. In contrast, the conditions of approval of the PAD do not call for preserving 3001 Ponce de Leon Boulevard. The PAD was conditioned to incorporate these drawings.

Moreover, the PAD was conditioned to approve deviations from other requirements of the Zoning Code substantially as follows, both at approval in 2006 and when amended in 2007:

"To the extent that certain provisions of Article 9 of the Zoning Code, requiring specific minimum standards, are in conflict with other provisions of the City's Codes, Zoning Codes and regulations, as approved or recommended for approval by the Planning and Zoning Board, Board of Adjustment and Board of Architects, those inconsistent provisions of Article 9 are superseded to the extent of such conflict, as follows:

a. The actions, designs, construction and/or other solutions proposed by the applicant, although not literally in accord with the special regulations in the PAD ordinance, satisfy regulations in Article 28 and Article 3, the Coral Gables Mediterranean Architectural Style Design Bonuses and the Mixed Use District Regulations, respectively, and, by virtue of compliance with these regulations, provide public purposes to at least an equivalent degree; and,

b. Pursuant to Section 9-3 a and b, by virtue of compliance with Article 28- the Coral Gables Mediterranean Architectural Style Design Bonus and Article 3 - Mixed Use District regulations, the proposed amendments to the approved "Old Spanish Village" project furthers the purpose and intent of the PAD ordinance and other applicable land development regulations cited above."

See Ordinance Nos. 2006-23 and 2007-27.1, attached, and Section 3-502.8 . in the current Zoning Code Article 3, Division 5 (the PAD regulations which used to be in Article 9.)

Accordingly, after reviewing this matter, and conferring with special counsel, it is my office's opinion that your ability to review whether to preserve this building has been precluded by the prior ordinances of the City Commission, which clearly have approved its demolition. City staff is bound to ordinances of the City Commission, and you are therefore bound to sign the demolition permit pursuant to these ordinances.

Arias, Cristina

From: Leen, Craig
Sent: Wednesday, March 26, 2014 4:16 PM
To: Arias, Cristina; Osle, Zilma
Cc: Thornton, Bridgette; Figueroa, Yaneris
Subject: FW: Response to Opinion Request Re: Old Spanish Village PAD
Attachments: Ord. No. 2006.23.pdf; Old Spanish Village ORD 2007-27.1 09 25 2007.pdf

Importance: High

Please place in opinion folder.

Craig E. Leen
City Attorney

From: Leen, Craig
Sent: Wednesday, March 26, 2014 4:15 PM
To: Spain, Dona
Cc: 'Susan L. Trevarthen'
Subject: Response to Opinion Request Re: Old Spanish Village PAD
Importance: High

Dona,

You inquired about the demolition request you received for 3001 Ponce de Leon Boulevard. You noted that the property is included within a Planned Area Development (PAD), which was approved in ordinance number 2006-23 and amended in ordinance number 2007-27.1, the approved plans of which show that this building would be demolished, and a new building would be constructed in its place. Indeed, Ordinance No. 2007-27.1 expressly addresses the proposed new building at 3001 Ponce de Leon Boulevard in its text. The conditions of approval of the PAD protect the one existing historically designated landmark on site, which was not proposed for demolition and was instead proposed to be preserved. In contrast, the conditions of approval of the PAD do not call for preserving 3001 Ponce de Leon Boulevard. The PAD was conditioned to incorporate these drawings.

Moreover, the PAD was conditioned to approve deviations from other requirements of the Zoning Code substantially as follows, both at approval in 2006 and when amended in 2007:

"To the extent that certain provisions of Article 9 of the Zoning Code, requiring specific minimum standards, are in conflict with other provisions of the City's Codes, Zoning Codes and regulations, as approved or recommended for approval by the Planning and Zoning Board, Board of Adjustment and Board of Architects, those inconsistent provisions of Article 9 are superseded to the extent of such conflict, as follows:

- a. The actions, designs, construction and/or other solutions proposed by the applicant, although not literally in accord with the special regulations in the PAD ordinance, satisfy regulations in Article 28 and Article 3, the Coral Gables Mediterranean Architectural Style Design Bonuses and the Mixed Use District Regulations, respectively, and, by virtue of compliance with these regulations, provide public purposes to at least an equivalent degree; and,
- b. Pursuant to Section 9-3 a and b, by virtue of compliance with Article 28 - the Coral Gables Mediterranean Architectural Style Design Bonus and Article 3 - Mixed Use District regulations, the proposed amendments to the

approved "Old Spanish Village" project furthers the purpose and intent of the PAD ordinance and other applicable land development regulations cited above."

See Ordinance Nos. 2006-23 and 2007-27.1, attached, and Section 3-502.B. in the current Zoning Code Article 3, Division 5 (the PAD regulations which used to be in Article 9.)

Accordingly, after reviewing this matter, and conferring with special counsel, it is my office's opinion that your ability to review whether to preserve this building has been precluded by the prior ordinances of the City Commission, which clearly have approved its demolition. City staff is bound to ordinances of the City Commission, and you are therefore bound to sign the demolition permit pursuant to these ordinances.

Craig E. Leen
City Attorney
City of Coral Gables

Exhibit "A"

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2006-23

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES APPROVING THE PLANNED AREA DEVELOPMENT (PAD) MIXED-USE SITE PLAN PURSUANT TO ZONING CODE SECTION 3-5 AND SECTION 9-3; FOR THE PROPOSED PROJECT REFERRED TO AS "OLD SPANISH VILLAGE", ON TITLE PROPERTY LEGALLY DESCRIBED AS ALL OF BLOCK 20, BLOCK 23 LESS A PORTION OF LOT 11 AND LOT 12, ALL OF BLOCK 24 AND 30, AND LOT 45, BLOCK 31 AND A PORTION OF LOT 13, BLOCK 33, AND ADJACENT PUBLIC RIGHTS-OF-WAYS (ROW), CRAFTS SECTION, TRACTS A, B AND C, CATAMAL CORNER, CORAL GABLES, FLORIDA; AND INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Application No. 01-06-395-P was submitted for PAD mixed-use site plan review for the properties legally described in the heading of this ordinance to permit the construction of a mixed-use project consisting of office, retail, townhouse, and multi-family residential uses known as "Old Spanish Village"; and,

WHEREAS, companion applications have been submitted and filed with the City for change of land use, Zoning Code text amendment, change of zoning, street and alley vacations and dedications, and conditional use special location review necessary to allow for the development of the project referred to as "Old Spanish Village"; and,

WHEREAS, after notice of a public hearing being duly published and a courtesy public notice was mailed to all property owners of record within a one thousand (1,000) foot radius from the said property, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on June 14, 2006, at which hearing all interested persons were afforded the opportunity to be heard; and,

WHEREAS, at the June 14, 2006 Planning and Zoning Board meeting, the Board recommended approval of the proposed PAD mixed use site plan subject to Staff conditions of approval with modifications (vote: 4-1); and,

WHEREAS, pursuant to Section 9-3 of the Zoning Code all proposed PAD Site Plan applications are subject to a public hearing for City Commission review and approval via Ordinance; and,

WHEREAS, after notice of public hearing was duly published, a public hearing was held before the City Commission on July 11, 2006 and the Commission approved the related application requests on First Reading (vote: 4-1), at which hearing all interested persons were afforded the opportunity to be heard;

WHEREAS, after notice of public hearing was duly published, a public hearing was held before the City Commission on August 22, 2006 and the Commission approved the related application requests on Second Reading (vote: 4-1) at which hearing all interested persons were afforded the opportunity to be heard;

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 are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Commission, upon consideration of the recommendation of the Planning and Zoning Board, the project architect, the testimony of the project historian, the maps, elevations, schematics, context studies, and other presentation materials submitted into the record, finds and concludes that:

1. To the extent that certain provisions of Article 9 of the Zoning Code, requiring specific minimum standards, are in conflict with other provisions of the City's Codes, Zoning Codes and regulations, as approved or recommended for approval by the Planning and Zoning Board, Board of Adjustment, and Board of Architects, those inconsistent provisions of Article 9 are superseded to the extent of such conflict, as follows:
 - a. The actions, designs, construction and/or other solutions proposed by the applicant, although not literally in accord with the special regulations in the PAD ordinance, satisfy regulations in Article 28 and Article 3, the Coral Gables Mediterranean Architectural Style Design Bonuses and the Mixed Use District Regulations, respectively, and, by virtue of compliance with these regulations, provide public purposes to at least an equivalent degree; and,
 - b. Pursuant to Section 9-3 a and b, by virtue of compliance with Article 28 -the Coral Gables Mediterranean Architectural Style Design Bonus and Article 3 - Mixed Use District regulations, Old Spanish Village furthers the purpose and intent of the PAD ordinance and the other applicable land development regulations cited above.
2. Old Spanish Village is designed pursuant to and complies with certain provisions of the PAD, Coral Gables Mediterranean Style Design Bonus, and MXD-1 regulations.
3. Old Spanish Village embodies the shared intent of these three sets of regulations to further George Merrick's vision of architectural design excellence by preserving a historic landmark, providing plazas, open spaces and urban passageways and promoting a harmonious mix of uses in a well planned and designed project.
4. Old Spanish Village fully complies with the Coral Gables Mediterranean Style Design Bonus Regulations, including the landscape/open space requirement.

5. The Board of Architects has determined that Old Spanish Village satisfies the criteria set forth in Article 28 and has incorporated the allowable FAR into its design.

SECTION 3. In furtherance of the Comprehensive Land Use Plan, Zoning Code, and other applicable City provisions, the "Old Spanish Village" PAD is approved subject to all of the following conditions:

1. Application/supporting documentation. Construction of the project shall be in conformance with the following:
 - a. Site plan, building elevations and building program contained in application package (Sheets No. 1-100) prepared by Bermello Ajamil & Partners, Inc., dated 06.05.06, and updated on 07.24.06.
 - b. Traffic Study prepared by David Plummer and Associates, Inc., dated November, 2005, with addendums dated 03 .24.06 and 05.23 .06.
 - c. Improvements and/or conditions contained herein, unless otherwise specified herein, shall be completed prior to receipt of final Certificate of Occupancy (CO).
 - d. All representations and exhibits as prepared and provided to the Planning Department as a part of the application submittal package dated 04.03.06, and revised and submitted on 06.05.06.
 - e. All representations proffered by the applicant's representatives provided during public hearing review.
 - f. Changes to the plans required by the City Commission as part of the review of this application at public hearings.
 - g. The project shall be constructed in compliance with the following materials as entered into the record by the Applicant:
 - 1) 07.24.06 Master Plan Proposal for Ponce Circle Developers (Site Plan).
 - 2) 07.11.06 City Commission PowerPoint presentation.
 - 3) 07.11.06 City Commission Video presentation.
 - 4) 08.14.06 Letter from David Plummer and Associates re: traffic calming.
2. Verification of revisions to plans, elevations and all supporting documents.
 - a. Modification to all applicable documents that are necessary as a part of the public hearing review and approval of the application shall be submitted to the Planning Department within 60 days of final approval for verification that all conditions of approval are satisfied.
3. Changes to approved plans.
 - a. The applicant, successors or assigns shall advise of any changes to the plans and drawings referenced above as a part of building permit review process. Changes shall require Building and Zoning Department review and approval to determine the extent of changes and may require reconsideration by the Planning and Zoning Board and City Commission as determined by the Building and Zoning Director, pursuant to Section 9-6 of the Zoning Code (2006.)
 - b. The applicant, successors or assigns shall advise the Department of any applicable changes in writing prior to the issuance of a Temporary Certificate of Occupancy (TCO) for any principal structure for each phase of the project.
 - c. The City will facilitate and help expedite all reviews and approvals necessary through the City Manager's Office.
4. General.

- a. Restrictive Covenant. Within 30 days of approval of the adoption of the ordinances, the property owner, its successors or assigns shall secure City Attorney review and approval of a Restrictive Covenant outlining all conditions of approval required by the City Commission. Failure to submit the draft Restrictive Covenant within the specified time frame shall render all approvals void.
 - b. PAD ownership. Applicant shall present and record with the City proof of ownership of all land within PAD, and shall establish a property owner's association for the ownership and maintenance of all common areas, including open space, recreation areas and private streets and driveways. Proof of ownership and establishment of property owner's association shall be subject to review and approval by the City Attorney.
5. Prior to the issuance of a building permit for any phase of the project, the property owner, its successors or assigns, shall adhere or agree to the following conditions:
- a. The applicant provide detailed plans and sections of proposed buffering around remaining single family residence to address and include any proposed walls, landscaping, nighttime lighting, drainage and noise control, subject to review and approval by the Directors of Public Service and Planning Departments.
 - b. Building signage.
 - 1) No building signage shall be permitted above the second floor on any building elevation that faces onto "R", Residential Single-Family zoned property located to the east and south of the project site.
 - 2) Permitted building signage above the third floor may have night time back lighting, but no other form of signage illumination shall be permitted.
 - 3) No signage shall be permitted to encroach off-site onto public or private property which is not apart of the subject property.
 - 4) No commercial signage shall be permitted on residential townhouse units.
 - 5) All signage shall comply with the examples of permitted signage provided as part of the submitted application package on Application Sheets No. 26, 27 and 28 of 100 entitled "Signage", prepared by Tom Graboski Assoc., Inc. and dated 06-05-06.
 - 6) Illumination necessary to satisfy applicable emergency, building code, and life/safety requirements shall be exempt from the above prohibitions.
 - c. Public Realm Improvements.
 - 1) Infrastructure Improvements. As proffered by the Applicant, Applicant agrees to provide one (1) million dollar contribution to City for infrastructure improvements, in accordance with a schedule subject to approval by City Manager but with full payment prior to final CO on project.
 - 2) Ponce Circle Park improvements. As proffered by the Applicant, Applicant agrees to provide funding for design costs of Ponce Circle Park not to exceed two (2) hundred thousand dollars, in accordance with a schedule subject to approval by City Manager but with full payment prior to final CO on project.
 - 3) Public Realm Improvement Plan. Prepare and submit a Public Realm Improvement Plan that provides the location and description of all public realm improvements proposed within public rights-of-ways within and adjoining the project site, including but not limited to landscaping, trolley stops, mid block pedestrian paseo/passageways, water features, information and directional signage, street lighting, examples and locations of street furniture including benches, waste cans, information kiosks, lighting standards, bicycle racks, newspaper racks, moveable planters and other related items, subject to review and approval by the Directors of Public Works, Public Service and Planning Departments. All proposed public realm improvements and landscaping

within any public right-of-way shall conform with the City's Master Streetscape Plan, subject to review and approval by the Directors of Public Works, Public Service and Planning Departments.

- d. Landscape Plan. Prepare and submit a Landscape Plan that provides the location, type and size at time of planting of all landscaping proposed within the project, subject to review and approval by the Directors of the Public Works, Public Service and Planning Departments. All landscaping provided by applicant located within the project site and public rights-of-ways shall comply with the following:
 - 1) Landscape costs. All costs associated with the installation of landscaping, irrigation, maintenance and other improvements within the rights-of-way, as referenced on the approved landscape plans shall be the responsibility of the applicant.
 - 2) Landscape maintenance. Maintain all landscaping as detailed on the landscaping plan, and replace all dead or non-complying plant materials in accordance with the plant materials identified.
 - 3) Irrigation. All landscaped areas shall be irrigated to provide for 100% coverage of plant materials identified.
 - 4) Utilize structural soil within all planter areas.
- e. Parking and traffic circulation.
 - 1) Metered parking. Payment shall be provided by applicant, its successors or assigns according to established City requirements for the loss of thirty-four (34) existing on-street metered parking spaces resulting from proposed project. The final number of lost metered parking spaces shall be confirmed by the Director of the Parking and Public Works Departments. Applicant may appeal this determination to the City Manager.
 - 2) Sale or leasing. The sale or leasing of parking spaces to any person, business or entity that is not a tenant or resident of this project shall be prohibited, except for parking management services.
 - 3) Parking garage gates. All vehicular and parking garage gates shall be included and shown on site and building plans. All decorative gates along Coconut Grove Drive shall remain permanently open and shall not be closed at any time. No vehicular gates shall be installed that prohibit or restrict required and designated commercial parking spaces.
 - 4) Valet parking. Valet parking on any adjoining public street or alleyway shall be prohibited. Valet/employee parking shall only be from valet parking stations located on private property located within the project site, subject to review and approval by the Directors of Parking, Public Works and Planning Departments.
- f. Construction information/contact. The applicant shall complete the following to advise as to the construction status of the project:
 - 1) Contact person. Provide and advise the surrounding residential and commercial neighborhood properties within 1000 feet a specific liaison/contact person including a contact name, contact telephone number and email, etc. to allow easy communication of potential concerns, construction activity progress, etc.
 - 2) Written notice. Provide a minimum of 72 hour written notice to those residents impacted by any proposed partial street closures as determined by the Building and Zoning Department in preparation of the Construction Staging Plan. Full closure of streets shall be prohibited, except as approved by the City Manager.
 - 3) Email communication. Develop an email subscription/distribution list to allow communication between adjacent neighbors or interested parties to assist in communication of construction activities and project status.

6. Prior to the issuance of a final CO for first completed phase of the project, the owner, its successors or assigns shall complete the following:
 - a. Traffic improvements. Install intersection/roadway improvements as agreed to and graphically represented on the submitted site plans and project phasing plan, Application Sheets No. 9, 16, 19, 24 and 25 of 100, prepared by Bermello Ajamil & Partners, Inc., dated 07.24.06, as outlined in the 08.14.06 letter from David Plummer & Associates re: traffic calming, and as recommended by and subject to review and approval of the Director of the Public Works Department, as follows:
 - 1) Re-alignment of Coconut Grove Drive at Palermo Avenue and the re-alignment of Malaga Avenue.
 - 2) Intersection improvements at the intersection of University Drive and Ponce de Leon Boulevard.
 - b. Streetscape improvements. Provide and install landscaping, irrigation and other associated public realm improvements as graphically represented on the conceptual landscape plan and phasing plan, Application Sheets No. 9, 17, 18, 19, 22 and 24 prepared by Bermello Ajamil & Partners, Inc., and dated 06.05.06, to be reviewed and approved by the Directors of Public Works, Public Service and Planning Departments.
 - c. Additional conditions proffered by Applicant. As proffered by the Applicant at the 07.11.06 City Commission meeting, the Applicant agrees to provide the following:
 - 1) Landscaping and beautification of the area at Santander Street and Coconut Grove that is currently a dead end area covered with asphalt. Remove asphalt, add new sod, plant trees (including new trees on adjacent green space bordering Santander Avenue) and pave a new driveway for the neighbor's entrance at west side of the area, subject to City's approval.
 - 2) Work with City of Coral Gables' Public Works department using reasonable best efforts to provide:
 - i. Speed bumps and stop signs at alley behind Christy's restaurant and in the alley one block south.
 - ii. To construct small median/divider along Malaga Avenue between Ponce de Leon Boulevard and Coconut Grove Drive to prevent cars going north on alley behind Christy's from crossing Malaga.
 - iii. Improve intersection as per City's Streetscape Master Plan at Santander Street and Ponce de Leon Boulevard.
 - 3) Add old-fashioned streetlights on Santander Street, subject to approval by City of Coral Gables and FPL.
 - 4) Examine adding additional green space to City's right of way at University Drive and Malaga Avenue, subject to City review and approval.
 - 5) Remove two (2) units only (one unit per floor) off the southeast corner of the proposed 3001 Ponce de Leon Boulevard building in order to reduce the height to seventy-two feet (72') in that area of the building, resulting in a maximum 171 total multi-family residential units within the 3001 Ponce de Leon Boulevard building.
 - 6) Provide an additional fifty (50) parking spaces dedicated and available for public use within the project, bringing the total parking to be provided to 1,070 parking spaces.
 - 7) Replace all dead, damaged, and missing trees to both sides of the swale on the 100 block of Santander Avenue as determined by and subject to the review and approval of the City.
7. Prior to the issuance of a building permit, the property owner, its successors or assigns, shall apply for and receive the following required City reviews and approvals.
 - a. Right-of-way encroachments. Secure City Commission review and approval of all proposed encroachments into public rights-of-way.

- b. Infrastructure improvements. Prepare and submit an infrastructure improvement plan for the coordination and construction of water, sewer, gas, electrical and other infrastructure facilities upon request by the Director of the Public Works Department for review and approval.
 - c. Construction staging plan. The applicant, its successors or assigns, shall submit a construction parking and traffic management plan for each phase of the project for the Building and Zoning Department review and approval.
8. Prior to the issuance of a building permit, the deficiency in available infrastructure necessary to provide required racquetball courts identified by the Concurrency Impact Statement (CIS) shall be satisfactorily resolved.
 9. Affordable housing component. The Applicant shall develop a detailed proposal subject to City Manager's review and approval to provide 22 units (new or rehabilitated) of affordable housing or payment in lieu thereof within five (5) years from issuance of building permit for Phase I or within five (5) years of January 1, 2008. In the event that the City passes an Affordable Housing ordinance that would require this project to provide less than 22 units, the Applicant may elect to proceed under the ordinance. Any subsidies, rental programs and/or government incentives or bonuses shall belong to the Applicant. Consistent with the foregoing sentence, Applicant shall assume sole responsibility for the costs of compliance with any such subsidy, rental program, or governmental incentive package. Likewise, it shall be the Applicant's sole responsibility to comply with any monitoring or reporting obligations that arise from Applicant's participation in any such programs.
 10. Future legislation and The Applicant Contributions.
 - a. Over the course of the project, the Applicant will make certain contributions to the City that are in the form of money and in-kind improvements to the public realm within the project boundaries.

"The Applicant's Contributions" are defined as the combined sum of the In-kind Contributions and Monetary Contributions as set forth in this paragraph.

 - (i) "In-kind Contributions" consist of the cost of under-grounding utilities and infrastructure improvements within the public realm and contained within the project boundaries over the construction duration of the project.
 - (ii) "Monetary Contributions" consist of the one million two hundred thousand dollar (\$1,200,000.00) contributions set forth in Section 3, paragraph 5c.1) and 2).
 - b. The Applicant acknowledges that the City has discussed future adoption of legislation for impact fees and separately, art-in-public places. Should either or both of these ordinances be adopted, the City agrees to the Applicant's obligations under these ordinances by applying the Applicant's Contributions as follows:
 - (i) Toward any impact fees that may be assessed.
 - (ii) Toward any arts-in-public places fee that may be assessed after credit for cost of historic preservation measures above minimum requirements that would be triggered by Applicant's improvements to historic structure(s) outside of minimum required maintenance; for public art and qualifying landscape improvements;
 - (iii) The remaining balance of the Applicant's Contribution, if any may be applied as determined by City Manager and/or City Commission.

SECTION 4. The applicant shall further be required to comply with all applicable zoning regulations and any changes to the submitted plans in connection with the site plan herein granted shall require a recommendation from the Planning and Zoning Board and approval by the City Commission.

SECTION 5. It is the intention of the City Commission that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other portion of this Ordinance, the Coral Gables Comprehensive Land Use Plan, or the Coral Gables Zoning Code.

SECTION 6. All rights, actions, proceedings and Contracts of the City, including the City Commissioners, the City Manager, or any of its departments, boards or officers undertaken pursuant to the existing code provisions, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.

SECTION 7. All ordinance or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

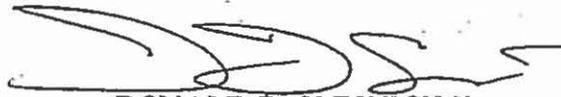
SECTION 8. If any section, part of session, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 9. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of Coral Gables, Florida, as amended, which provisions may be renumbered or relettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intent

SECTION 10. This Ordinance shall become effective upon the date of its adoption herein.

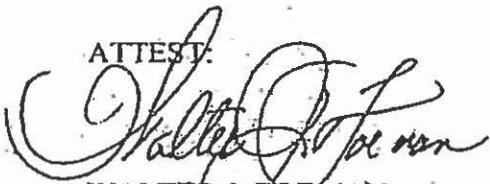
PASSED AND ADOPTED THIS 22nd day of August, A.D., 2006.

APPROVED:



DONALD D. SLESNICK II
MAYOR

ATTEST:

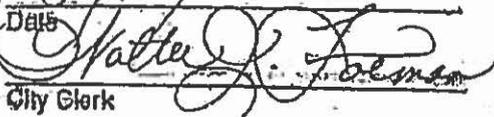


WALTER J. POEMAN
CITY CLERK

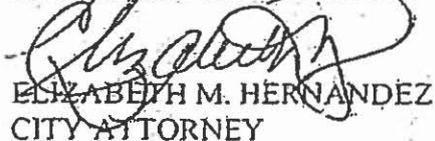
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, HEREBY CERTIFY that the foregoing is a true and correct copy of the original on file in this office.

5/15/07
Date


City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


ELIZABETH M. HERNANDEZ
CITY ATTORNEY

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. 2007-27.1

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES APPROVING AMENDMENTS TO THE SITE PLAN OF THE PREVIOUSLY APPROVED MIXED USE PLANNED AREA DEVELOPMENT (PAD) KNOWN AS "OLD SPANISH VILLAGE", LOCATED ON PROPERTY LEGALLY DESCRIBED AS ALL OF BLOCK 20, BLOCK 23 LESS A PORTION OF LOT 11 AND LOT 12, ALL OF BLOCK 24 AND 30, AND LOT 45, BLOCK 31 AND A PORTION OF LOT 13, BLOCK 33, AND ADJACENT PUBLIC RIGHTS-OF-WAYS (ROW), CRAFTS SECTION, TRACT A, B AND C, CATAMAL CORNER, CORAL GABLES, FLORIDA; AND INCLUDING REQUIRED CONDITIONS; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, AND A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Application No. 01-06-395-P was submitted for PAD mixed-use site plan review for the properties legally described in the heading of this ordinance to permit the construction of a mixed-use project consisting of office, retail, townhouse, and multi-family residential uses known as "Old Spanish Village"; and

WHEREAS, Application No. 01-06-395-P included six (6) separate related applications required for review at public hearings for the "Old Spanish Village" project including change of land use, change of zoning, Zoning Code text amendment, PAD site plan review, street and alley vacations and dedications and conditional use for the award of Mediterranean architectural style bonuses; and

WHEREAS, all six (6) applications were adopted by the City Commission at a public hearing on August 22, 2006, including Ordinance No. 2006-23 approving the proposed PAD mixed-use site plan for the "Old Spanish Village" project; and

WHEREAS, revisions to the previously approved PAD site plan were requested by the applicant and presented in Application No. 06-07-012-P submitted on June 1, 2007; and

WHEREAS, pursuant to the Zoning Code, the proposed revisions to the 2801 Casa Palermo Building and 3001 Ponce Building have been determined to be major amendments to the approved PAD site plan as defined by the Code, and are subject to site plan review at public hearings and approval via Ordinance; and

WHEREAS, after notice of a public hearing being duly published and a courtesy public notice was mailed to all property owners of record within a one thousand (1,000) foot radius from the said property, a public hearing was held before the Planning and Zoning Board of the City of Coral Gables on July 18, 2007, at which hearing all interested persons were afforded the opportunity to be heard; and

WHEREAS, at the July 18, 2007 Planning and Zoning Board meeting, the Board recommended approval of the proposed amendments to the PAD mixed use site plan subject to the originally approved conditions of approval as amended herein (vote: 5-0); and

WHEREAS, after notice of public hearing was duly published, a public hearing was held before the City Commission on August 28, 2007 and the Commission approved the proposed amendments to the previously approved PAD mixed use site plan subject to the originally approved conditions of approval as amended herein on First Reading (vote: 4-0), at which hearing all interested persons were afforded the opportunity to be heard;

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 are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. The City Commission, upon consideration of the recommendation of the Planning and Zoning Board, the testimony of the project architect and professional representatives, the maps, elevations, schematics, context studies, and other presentation materials submitted into the record, finds and concludes that:

1. To the extent that certain provisions of Article 9 of the Zoning Code, requiring specific minimum standards, are in conflict with other provisions of the City's Codes, Zoning Codes and regulations, as approved or recommended for approval by the Planning and Zoning Board, Board of Adjustment, and Board of Architects, those inconsistent provisions of Article 9 are superseded to the extent of such conflict, as follows:
 - a. The actions, designs, construction and/or other solutions proposed by the applicant, although not literally in accord with the special regulations in the PAD ordinance, satisfy regulations in Article 28 and Article 3, the Coral Gables Mediterranean Architectural Style Design Bonuses and the Mixed Use District Regulations, respectively, and, by virtue of compliance with these regulations, provide public purposes to at least an equivalent degree; and,
 - b. Pursuant to Section 9-3 a and b, by virtue of compliance with Article 28 -the Coral Gables Mediterranean Architectural Style Design Bonus and Article 3 - Mixed Use District regulations, the proposed amendments to the approved "Old Spanish Village" project furthers the purpose and intent of the PAD ordinance and the other applicable land development regulations cited above.
2. "Old Spanish Village" is designed pursuant to and complies with certain provisions of the PAD, Coral Gables Mediterranean Style Design Bonus, and MXD-1 regulations.
3. "Old Spanish Village" embodies the shared intent of these three sets of regulations to further George Merrick's vision of architectural design excellence by preserving a historic landmark, providing plazas, open spaces and urban passageways and promoting a harmonious mix of uses in a well planned and designed project.

4. "Old Spanish Village" fully complies with the Coral Gables Mediterranean Style Design Bonus Regulations, including the landscape/open space requirement.
5. The Board of Architects has determined that the proposed amendments to the approved "Old Spanish Village" project satisfies the criteria set forth in Article 28 and has incorporated the allowable FAR into its design.

SECTION 3. In furtherance of the Comprehensive Land Use Plan, Zoning Code, and other applicable City provisions, the proposed amendments to the previously approved "Old Spanish Village" PAD site plan is approved subject to the originally approved and adopted conditions of approval as amended as follows:

1. Application/supporting documentation. Construction of the project shall be in conformance with the following:
 - a. Site plan, landscape plan and detailed improvements, building elevations and building program contained in application package (Sheets No. 1-100) prepared by Bermello Ajamil & Partners, Inc., dated 06.05.06, and updated on 07.24.06, and as amended in Application No. 06-07-012-P, (Sheets No. 1-94), prepared by Bermello Ajamil & Partners, dated 07.12.07.
 - b. Traffic Study prepared by David Plummer and Associates, Inc., dated November, 2005, with addendums dated 03.24.06, 05.23 .06, and revised in June 2007.
 - d. All representations and exhibits as prepared and provided to the Planning Department as a part of the application submittal package dated 04.03.06, and revised and submitted on 06.05.06, and as amended in Application No. 06-07-12-P submittal package prepared by Bermello Ajamil & Partners, dated 07.12.07.
4. General.
 - a. Restrictive Covenant. Within 30 days of approval of the adoption of the ordinances, the property owner, its successors or assigns shall submit to the City Attorney for review and approval of a Restrictive Covenant outlining all conditions of approval required by the City Commission. Failure to submit the draft Restrictive Covenant within the specified time frame shall render the applications referenced herein void.
5. Prior to the issuance of a building permit for any phase of the project, the property owner, its successors or assigns, shall adhere or agree to the following conditions:
 - e. Parking and traffic circulation.
 - 1) Metered parking. Payment shall be provided by applicant, its successors or assigns according to established City requirements for the loss of twenty-seven (27) existing on-street metered parking spaces resulting from proposed project. The final number of lost metered parking spaces shall be confirmed by the Director of the Parking and Public Works Departments. Applicant may appeal this determination to the City Manager.
6. Prior to the issuance of a final CO for first completed phase of the project, the owner, its successors or assigns shall complete the following:
 - a. Traffic improvements. Install intersection/roadway improvements as agreed to and graphically represented on the submitted site plans and project phasing plan, Application Sheets No. 9, 16, 19, 24 and 25 of 100, prepared by Bermello Ajamil & Partners, Inc., dated 07.24.06, as outlined in the 08.14.06 letter from David Plummer & Associates re: traffic calming, and as amended in Application No. 06-07-012-P, (Sheets No. 1-94), prepared by Bermello Ajamil & Partners, dated 07.12.07, and as recommended by and subject to review and approval of the Director of the Public Works Department, as follows:

- 1) Re-alignment of Coconut Grove Drive at Palermo Avenue and the re-alignment of Malaga Avenue.
- 2) Intersection improvements at the intersection of University Drive and Ponce de Leon Boulevard.

Traffic calming: Within six months of City Commission approval, the applicant agrees to provide the following:

- 1) Traffic Impact Study for determining potential traffic calming alternatives for the residential areas bounded by Sevilla Avenue on the north, Douglas Road on the east, Galiano Street on the west and Coconut Grove Drive on the south.
- 2) Design and funding of all traffic calming devices based upon final recommendations of the traffic calming study.

The type and location of traffic calming improvements shall be based on the traffic impacts created by the proposed project as determined by the Traffic Impact Study, and subject to the Public Works Director's review and approval.

- b. Streetscape improvements. Provide and install landscaping, irrigation and other associated public realm improvements as graphically represented on the conceptual landscape plan and phasing plan, Application Sheets No. 9, 17, 18, 19, 22 and 24 prepared by Bermello Ajamil & Partners, Inc., and dated 06.05.06, and as amended in Application No. 06-07-012-P, (Sheets No. 1-94), prepared by Bermello Ajamil & Partners, dated 07.12.07, to be reviewed and approved by the Directors of Public Works and Public Service.
- c. Additional conditions proffered by Applicant. As proffered by the Applicant at the 07.11.06 City Commission meeting, the Applicant agrees to provide the following:
 - 5) Reduce the height of the southeast corner of the proposed 3001 Ponce de Leon Boulevard building to seventy-two feet (72') in that area of the building.
 - 6) Provide an additional fifty (50) parking spaces dedicated and available for public use within the project, bringing the total parking to be provided to 1,409 parking spaces.

SECTION 4. The applicant shall further be required to comply with all applicable zoning regulations and any changes to the submitted plans in connection with the site plan herein granted shall require a recommendation from the Planning and Zoning Board and approval by the City Commission.

SECTION 5. It is the intention of the City Commission that each provision hereof be considered severable, and that the invalidity of any provision of this Ordinance shall not affect the validity of any other portion of this Ordinance, the Coral Gables Comprehensive Land Use Plan, or the Coral Gables Zoning Code.

SECTION 6. All rights, actions, proceedings and Contracts of the City, including the City Commissioners, the City Manager, or any of its departments, boards or officers undertaken pursuant to the existing code provisions, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.

SECTION 7. All ordinance or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 8. If any section, part of session, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

SECTION 9. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of the City of Coral Gables, Florida, as amended, which provisions may be renumbered or relettered and that the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 10. This Ordinance shall become effective upon the date of its adoption herein.

PASSED AND ADOPTED THIS TWENTY-FIFTH DAY OF SEPTEMBER, A.D., 2007.

(Moved: Anderson / Seconded: Kerdyk)
(Yeas: Cabrera, Kerdyk, Withers, Anderson, Slesnick)
(Unanimous: 5-0 Vote)
(Agenda Item: E-1)

APPROVED:



DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY