

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. O-2004-16

AN ORDINANCE OF THE CITY OF CORAL ESTABLISHING A 120-DAY MORATORIUM, PURSUANT TO THE PROVISIONS OF ARTICLE 10 OF THE ZONING CODE, ON THE ISSUANCE OF BUILDING PERMITS FOR NEW BUILDINGS WITH A PROPOSED HEIGHT, OR TO INCREASE THE HEIGHT OF EXISTING BUILDINGS, IN EXCESS OF THREE AND ONE HALF (3 ½) STORIES OR FORTY-FIVE (45) FEET IN HEIGHT FOR THAT AREA BOUNDED ON THE NORTH BY BILTMORE WAY, ON THE EAST BY LEJEUNE ROAD, ON THE SOUTH BY BIRD ROAD AND ON THE WEST BY GRANADA BOULEVARD; PROVIDING PROCEDURES FOR WAIVERS, VESTED RIGHTS AND JUDICIAL REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICTS; PROVIDING FOR A TERM; AND PROVIDING FOR AND EFFECTIVE DATE.

WHEREAS, the City of Coral Gables single family residential areas in many instances abut multifamily or commercial zones which could, potentially, if developed allow for buildings with might exceed three and one half (3 ½) stories or forty five (45) feet in height; and while the Zoning Code provides certain measures for relief to prevent large commercial or multi-family developments which directly abut or face single family residential districts, there is a concern that certain zoning districts may be detrimental to the area should they continue to remain applicable; and,

WHEREAS, the City Commission wishes to preserve the quality of the residential areas of the City; and

WHEREAS, in response to increased concerns over the application of the existing provisions of the City's Zoning Code; the City Commission has determined that there is a need to study the area from a development standpoint and pursue alternatives

for reducing the potential impact to surrounding single family areas which could include one or more of the following planning and zoning principles to mitigate potential impacts: establishment of development appropriate architectural and conservation districts, incentive zoning overlay districts, transfer of development rights or other innovative planning tools; and,

WHEREAS, the City Commission hereby directs the Manager to prepare a zoning analysis of the area which is bounded on the North by Biltmore Way, on the east by Lejeune Road, on the south by Bird Road and on the west by Granada Boulevard ("Study Area") and further to initiate outreach to the citizens of Coral Gables as well as the affected property owners and to receive input from the public, consider and evaluate said input and report to the City Commission; and,

WHEREAS, the City Commission anticipates such a zoning analysis within 60 days for presentation to the City Commission on April 27, 2004, and further anticipates a study of the area to determine which, if any, zoning incentives need to be adopted and imposed in order to preserve the quality of the residential areas and in particular of the Study Area, within 120 days of the effective date of the ordinance; and,

WHEREAS, the City shall further participate in public workshops and shall prepare a report and recommendation to the Planning and Zoning Board, which shall, in turn, hold a public hearing to consider and evaluate the findings and recommendations of the City, and the Planning and Zoning Board shall provide recommendations to the City Commission, including proposed amendments to the Zoning Code for consideration by the City Commission; and,

WHEREAS, the City Commission (1) finds that the existing provisions of the Zoning Code which allow the issuance of building permits for buildings exceeding three and one half (3 ½) stories or forty five (45) feet in height and in particular site specific regulations Article 4, and Zoning Code Articles 3-4 (m) and 3-6 (r) will have a detrimental impact to the properties in Residential Zoning Districts, and (2) further finds that it is in the public interest to make a comprehensive determination on the applicability of the present Zoning provisions and amend those regulations as appropriate; and,

WHEREAS, the City Commission has determined that delaying the application of the existing zoning provisions will provide time for the study and adoption of amendments to the Zoning Code; and,

WHEREAS, after due notice and hearing, the City Commission held a public hearing at which public input and testimony was received and after careful consideration hereby determines that it is in the best interests of the general welfare of the City of Coral Gables and its citizens to impose a temporary moratorium on the issuance of certain permits for new buildings, or to increase the height of existing buildings, in the Study Area, which are in excess of forty-five (45) feet in height or over three and one half (3 1/2) stories in height for the specified study area, as hereinafter set forth;

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

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. During the time that this Ordinance is in effect as specified in Section 7 below, there shall be a moratorium on the issuance of permits for new

buildings, or increase the height of existing buildings, in excess of forty-five (45) feet or Three and one-half (3 1/2) stories in height, which are to be located in the area bounded on the North by Biltmore Way, on the east by Lejeune Road, on the South by Bird Road and on the west by Granada Boulevard ("Study Area"). The provisions of this ordinance shall not apply to a development which has filed an application with the Board of Architects on or before March 10, 2004.

SECTION 3. This moratorium shall apply solely to applications for building permits to erect new buildings or increase the height of existing buildings as described herein within the said Study Area.

SECTION 4. The City Commission, after a public hearing, may grant a waiver to the suspension provided above and authorize the Building and Zoning Department and Board of Architects, based on substantial competent evidence, that the specific request and application will not detrimentally affect the preparation and implementation of incentive zoning measures or conservation districts and will be compatible with surrounding land uses, and will not impair the public health, safety or welfare. The public hearing shall be advertised at least seven days prior to hearing in a local newspaper of general circulation. The grant of a waiver shall be by resolution. The applicant shall be responsible for the application fee and any other standard fees and requirements for a public hearing.

SECTION 5.

(A) Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to develop or utilize their property in any other

way commensurate with zoning and other regulations, including any required renewal of permits for existing legally erected structures.

(B) Any property owner claiming vested rights or denial of all use under this section must file an application with the City Commission for a determination within 30 days after the effective date of this Ordinance. The application shall be accompanied by an application fee of \$1,500.00 and contain a sworn statement as to the basis upon which the vested rights or denial of all use are asserted, together with documentation required by the City and other documentary evidence supporting the claim. The City Commission shall hold a public hearing on the application and, based upon the competent substantial evidence submitted, shall make a determination as to whether the property owner has established vested rights or a lack of all economic use for the parcel.

SECTION 6. Judicial Review. Judicial review of final decisions of the City Commission under Sections 4 and 5 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of quasi-judicial decisions of municipalities.

SECTION 7. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance, as applied, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court unless they have first exhausted the applicable administrative remedies provided in this Ordinance.

SECTION 8. Conflicts. All Sections or parts of Sections of the City's Codes and Regulations, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

SECTION 9. Term. The moratorium imposed by this Ordinance is temporary and, unless repealed earlier by the City Commission, shall automatically dissolve one hundred and twenty (120) days from the effective date of this Ordinance, whichever first occurs. This moratorium, may be reasonably extended, if necessary, by Ordinance of the City Commission.

SECTION 10. 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 11. 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 the word ordinance be changed to "section", "article", or other appropriate word to accomplish such intention.

SECTION 12 This ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS TWENTY THIRD DAY OF MARCH, A.D.,
2004.

(Moved: Cabrera/Seconded: Anderson)
(Yeas: Withers, Anderson, Cabrera, Kerdyk, Slesnick)
(Agenda Item E-4)



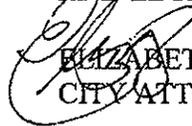
DONALD D. SLESNICK II
MAYOR

ATTEST:



WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



ELIZABETH M. HERNANDEZ
CITY ATTORNEY