

CITY OF CORAL GABLES, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES OFFICIAL ZONING CODE: AMENDING ARTICLE 5, “DEVELOPMENT STANDARDS”, SECTION 5-1408, “COMMON DRIVEWAYS AND REMOTE OFF-STREET PARKING”, BY PROVIDING REGULATIONS, RESTRICTIONS AND PROCEDURES FOR THE USE OF REMOTE PARKING IN AND NEAR THE CENTRAL BUSINESS DISTRICT (“CBD”); AMENDING THE REFERENCE TO REMOTE PARKING IN ARTICLE 5, “DEVELOPMENT STANDARDS”, SECTION 5-1409, “AMOUNT OF REQUIRED PARKING” TO MATCH THE CHANGES TO SECTION 5-1408; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, City Staff is requesting a Zoning Code text amendment to provide detailed regulations, standards and procedures for the use of remote parking; and

WHEREAS, remote parking is presently permitted when the parking is located within 500 feet of the primary use in the CBD with few restrictions and little guidance; and

WHEREAS, remote parking provides additional redevelopment opportunities and tools that advance the public welfare if regulated and secured in a manner which ensures the preservation and continued maintenance of parking over time; and

WHEREAS, after notice being duly published, a public hearing was held before the Planning and Zoning Board on March 11, 2014 and April 9, 2014, at which hearing all interested persons were afforded the opportunity to be heard; and,

WHEREAS, at the April 9, 2014 Planning and Zoning Board meeting, the Board recommended (approval/denial) (vote: __-__) of the text amendment; and,

WHEREAS, after notice duly published, a public hearing for First Reading was held before the City Commission on _____, 2014 at which hearing all interested parties were afforded the opportunity to be heard; and

WHEREAS, the City Commission was presented with a text amendment to the Zoning Code, and after due consideration and discussion, (approved/denied) the amendment on First Reading (vote: __-__).

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

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 Official Zoning Code of the City of Coral Gables is hereby amended as follows (changes in ~~strike through~~ / underline format):

Section 5-1408. Common driveways and remote off-street parking.

A. *Common driveways.* Adjacent properties are permitted to share a common driveway, provided:

1. The property owner(s) submit an appropriate restrictive covenant or access easement in recordable form acceptable to the City Attorney; and
2. The restrictive covenant or access easement provides for the continued existence of the shared driveway until such time as the City Manager releases the obligation of the restrictive covenant or access easement.

~~B. *Remote off street parking.* Remote off street parking is permitted, provided:~~

- ~~1. The perimeter of the remote off street parking facilities is located within five hundred (500) feet of the perimeter of the building site;~~
- ~~2. The remote parking facilities are not located in a single family zoning district;~~
- ~~3. The property owner(s) submit an appropriate restrictive covenant or parking easement in recordable form acceptable to the City Attorney; and~~
- ~~4. The restrictive covenant or parking easement provides for the continued use of the remote parking until such time as the City Manager releases the obligation of the restrictive covenant or parking easement.~~

B. *Remote off-street parking within 1,000 feet.* As an alternative to, or in conjunction with providing required parking onsite or through payment in-lieu of providing required parking pursuant to City Code Section 74-201(d), an applicant may apply to use remote off-street parking to meet the off-street parking requirements of the Zoning Code for an expansion or change in use of an existing project. The ability to use remote parking constitutes exceptional relief, which may be granted in the discretion of the City and only in compliance with the terms of this subsection. The Development Services Director shall approve an application to provide remote off-street parking that is located in the City within one thousand (1,000) feet of the site of the applicant’s proposed project, upon finding that all of the requirements of this subsection have been satisfied.

1. *Definition.* For purposes of this subsection, the “applicant” is defined as the owner(s) of the land on which the uses(s) seeking to utilize remote parking is located.

2. *Applicability.*

a. *Location.* Applications for remote parking shall only be accepted in association with a proposal to expand, or change the use of, an existing project located in the CBD or within one thousand (1,000) feet of the CBD. The remote parking spaces must be located in the City, and may be located outside of the CBD.

b. Infeasibility of providing required parking. Applications may be approved only if the physical layout of the proposal, as determined in the reasonable discretion of the Director of Development Services, cannot reasonably be altered to provide the Zoning Code-required parking onsite as part of the proposed expansion or change of use.

c. Applicability not a basis for later enforcement. Notwithstanding anything to the contrary herein, the initial determination of applicability under this subsection B.2. is final, and the City may not later determine that an approved remote parking arrangement is out of compliance based on applicability requirements of this subsection B.2.

3. Maximum distance and measurement.

a. Retail and restaurant uses. For applications to use remote parking for retail or restaurant uses, the remote parking spaces must be located within five hundred (500) feet of the project site containing the retail or restaurant use.

b. All other uses. The remote parking spaces must be located within one thousand (1,000) feet of the applicant's project site.

c. Measurement. The distance shall be measured using airline measurement from the property line of the project site to the property line of the off-street parking facility(ies) containing the remote parking spaces.

4. Zoning of remote parking facility. The remote parking facility(ies) must not be located in a single-family zoning district.

5. Maximum remote parking.

a. Projects after March 11, 1964. Remote parking spaces may comprise up to fifty (50%) percent of the required parking spaces, as provided in Section 5-1409.E.3. of the Zoning Code, for projects constructed after March 11, 1964.

b. Projects prior to March 11, 1964. For projects constructed on or prior to March 11, 1964, the applicant may request to use remote parking spaces for up to one hundred (100%) percent of the Code-required off-street parking.

6. Application. The applicant shall file an application in the form specified by the City, including all of the following at a minimum:

a. a survey showing the exact location, traffic flow and current physical layout of the proposed remote parking spaces;

b. documentation demonstrating and certifying that the remote parking spaces are:

i. are owned by the applicant, and

ii. in excess of those parking spaces required to serve any onsite development. The number of required parking spaces shall be measured based on the square footage and parking demand of each approved onsite use, assuming 100% occupancy;

c. copies of the approved plans for the remote parking spaces, as they may have been amended to date;

d. sworn affidavits from the applicant establishing that no leases, approved plans, or other commitments exist or will be entered into for the life of the remote parking approval that would interfere with the proposed use of the remote parking spaces for remote parking; and

e. the application fee in the amount of \$2,000, as may be amended by resolution.

7. Unity of title; covenants. The application shall also be accompanied by an appropriate unity of title (or if the spaces are not owned by fee simple title, then a covenant in lieu of unity of title and declaration of restrictions) for the remote parking spaces, in recordable form acceptable to the City Attorney and Director of Development Services, including at least all of the following:

a. that the applicant assures the continued ownership of the remote parking spaces until such time as the City Manager or designee releases the obligation;

b. that, if the applicant plans to relocate the remote parking spaces to another location that meets the requirements of this subsection, it shall submit an application to amend the remote parking approval promptly. Such amendment shall be subject to the same application requirements, procedure and fee as a new application, and shall be implemented in a manner that assures the continuous availability of the remote parking;

c. that the applicant shall report any unplanned changes in the facts related to the application or approved remote parking arrangement to the Director of Development Services within 2 business days of the occurrence of the change, and shall submit a remedial plan consistent with the requirements of subsection 8. below, together with the review fee, within 10 business days of the occurrence of the change. The Development Services Director shall have the sole discretion to approve the remedial plan and set the timing of implementation, and may extend the above deadlines if good cause is shown;

d. that the applicant authorizes the City to enter the premises of the facility(ies) housing the remote parking spaces at will to inspect the continuing adequacy of the parking arrangements;

e. that the applicant shall annually submit renewed documentation and affidavits under subsections B.6.b. and B.6.d. above, at the time of renewal of the certificate(s) of use for the applicant's property(ies);

f. that the applicant recognizes and accepts that remote parking is a revocable privilege, not a right, and any failure to meet the requirements of this subsection (or the requirements of the related agreements, covenants or conditions) that is not cured as provided herein will immediately subject the applicant to the original and full parking requirements of the Zoning Code; and

g. that the applicant, in exchange for this privilege, acknowledges that he or she may appeal any determinations made by the Development Services Director under this subsection through the process set forth in Article 3, Division 6 of the Zoning Code, but otherwise waives any right to appeal or challenge any final action of the City and its officials under this subsection.

8. Remedial plan. The submittal of a remedial plan, whether required pursuant to subsection B.7. above or subsection B.9. below, shall be accompanied by a review fee which shall be the same as the application fee. The remedial plan shall provide that the parking requirements for the remaining uses and square footages are fully met, utilizing any combination of alternatives permitted by the City Code and Zoning Code in effect at the time, as the Development Services Director finds appropriate. The remedial plan may include any or all of the following options, and shall be implemented according to the timing and schedule established in the individual remedial plan:

a. provide a payment in lieu of required parking in accordance with Section 74-201(d) of the Code of Ordinances, or

b. modify the use of the applicant's property(ies) so that the remote parking spaces are no longer required to be provided to meet the Code parking standards (for example, by reducing the square footage of uses, or changing one or more uses to a use(s) with a lower parking requirement), or

c. secure alternate remote parking spaces or provide additional onsite parking meeting all of the requirements of this subsection, including execution of any required agreements and affidavits.

9. Renewal. The applicant shall, prior to the annual renewal of the certificate(s) of use for the applicant's property(ies), submit renewed documentation and affidavits under subsections B.6.b. and B.6.d. above which shall be reviewed by the Development Services Director. The certificate(s) of use shall not be issued unless all the requirements of this subsection B. continue to be met for the remote parking arrangement.

10. Noncompliance. If the Development Services Director discovers at any time, including during a renewal review, that the requirements of this subsection are not met in any way or that the remote parking is not maintained continually as described in the application and provided in the recorded covenant, he or she shall notify the applicant and require the applicant either to (i) demonstrate that the violation has been cured or did not exist, or (ii) provide a remedial plan meeting the requirements of subsection B.8. above, together with the review fee. The applicant's response shall be reviewed and approved in the sole discretion of the Development Services Director. The Development Services Director shall set the deadline for the applicant to develop and submit the remedial plan and may extend it if good cause is shown.

Also, if the Development Services Director determines that the applicant has failed to meet any of the following four requirements, the Director shall deem the applicant's remote parking approval void, and the applicant shall not again seek to use remote parking until six months have elapsed from the date that the approval is deemed void:

a. the requirement to notify the City of changes pursuant to 7.c. above within the required time frame;

b. the requirement to submit a remedial plan by any deadline set or extended by the Development Services Director;

c. the requirement to implement the remedial plan according to the implementation schedule approved or extended by the Development Services Director; or

d. the requirement to comply in any other regard with all of the requirements of this subsection, including failure to comply with the recorded covenants as required herein.

11. City Commission waiver.

a. Standard for waivers. The City Commission may approve a waiver pursuant to this subsection 11. upon finding that the waiver will not (A) harm the public interest or (B) create parking problems in the area surrounding the applicant's project site.

b. Requirements that may be waived. If the Director of Development Services reviews and rejects a remote parking application on the basis of any of the following requirements, then an applicant may request that the City Commission review its application for remote parking and, following a public hearing, approve a waiver of one or more of these requirements:

i. the 1,000 foot maximum distance between the remote parking spaces and the applicant's project;

ii. the 500 foot maximum distance between the remote parking spaces and an applicant's project containing retail or restaurant uses;

iii. the 50% cap on the use of remote parking spaces for projects constructed after March 11, 1964;

iv. the requirement that the applicant must own the remote parking spaces, if the following findings are also made:

A. The applicant submits a lease for the remote parking spaces with a term of 5 years, or a lease as long as the lease of the use being served by the remote parking, whichever is shorter, and

B. Documentation of the remote parking lease arrangement is acceptable to the City Attorney and Development Services Director, and is recorded in the public records of Miami-Dade County against both the applicant's project site and the property housing the remote parking spaces, and

C. The lease for the remote parking spaces can be terminated on no less than 180 days advance notice, which shall be provided to both the Development Services Director and the parties; and

v. if ownership of the remote spaces is waived, the waiver requirement that the lease term be the lesser of five years or the length of the lease of the use being served by the remote parking can also be waived by the City Commission, as long as the lease for the remote parking spaces has a term of at least one year.

c. Effect of waiver. All of the remaining requirements of section 5-1408.B., that have not been waived by the City Commission, must be satisfied.

5-1409. Amount of required parking.

* * *

E. Calculation of compliance with parking requirement.

* * *

3. *Remote parking spaces.* ~~In the CBD District, r~~ Remote parking spaces may only comprise up to fifty (50%) percent of the required parking spaces for projects constructed after March 11, 1964, and shall otherwise be in compliance with Section 5-1408.B. for residential uses.

* * *

SECTION 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

SECTION 4. 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 5. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and that the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

SECTION 6. If the Official Zoning Code of the City of Coral Gables Table of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

SECTION 7. This ordinance shall become effective _____, 2014.

PASSED AND ADOPTED THIS _____ DAY OF _____, A.D. 2014.

APPROVED:

JIM CASON
MAYOR

ATTEST:

WALTER FOEMAN
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CRAIG E. LEEN
CITY ATTORNEY

DRAFT