



To: Dona Spain, Historical Resources & Cultural Arts Director
Erick Tejera, Zoning Reviewer Lead

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding Grand Avenue Development

Date: August 29, 2019

The use of the wood siding would essentially be legally non-conforming. CAO 2016-051 concluded that historic landmarks restored in the same location on a property, would be considered legally non-conforming as long as the encroachments were not increased from the original. Similarly here, the type of material used initially, and prior to the existence of the zoning code, should be considered legally non-conforming so long as it is only used to replace the same amount of material that originally existed in the same location and is approved by the Historic Preservation Board as part of a Special Certificate of Appropriateness.

This opinion is issued pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 2-702 of the City's Zoning Code.

Paulk, Enga

From: Ramos, Miriam
Sent: Thursday, August 29, 2019 12:54 PM
To: Paulk, Enga
Subject: FW: Grand Avenue Development

Enga, please publish.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

*Board Certified by the Florida Bar in
City, County, and Local Government Law*

City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
(305) 460-5218
(305) 460-5084 direct dial



Public Records: This e-mail is from the City of Coral Gables – City Attorney’s Office and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this email in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. The State of Florida has a broad public records law. Most written communications to or from State and Local Officials regarding State or Local businesses are public record available to the public upon request.

Confidentiality: The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

From: Ramos, Miriam
Sent: Thursday, August 29, 2019 12:54 PM
To: 'Russo Laura' <laura@laurarussolaw.com>; Tejera, Erick <etejera@coralgables.com>
Cc: Spain, Dona <dspain@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Rodriguez, Steven <srdriguez@coralgables.com>; Mike Luis <mike@luiscompanies.com>
Subject: RE: Grand Avenue Development

Laura,

I agree with you. The use of the wood siding would essentially be legally non-conforming. CAO 2016-051 concluded that historic landmarks restored in the same location on a property, would be considered legally non-conforming as long as the encroachments were not increased from the original. Similarly here, the type of material used initially, and prior to the existence of the

zoning code, should be considered legally non-conforming so long as it is only used to replace the same amount of material that originally existed in the same location.

This opinion is issued pursuant to Section 2-252(e)(1) and (8) of the City Code and Section 2-702 of the City's Zoning Code.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

Board Certified by the Florida Bar in

City, County, and Local Government Law

City of Coral Gables

405 Biltmore Way, 2nd Floor

Coral Gables, FL 33134

(305) 460-5218

(305) 460-5084 direct dial



Public Records: This e-mail is from the City of Coral Gables – City Attorney’s Office and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this email in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. The State of Florida has a broad public records law. Most written communications to or from State and Local Officials regarding State or Local businesses are public record available to the public upon request.

Confidentiality: The information contained in this transmission may be legally privileged and confidential, intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

From: Russo Laura <laura@laurarussolaw.com>

Sent: Wednesday, August 28, 2019 3:42 PM

To: Tejera, Erick <etejera@coralgables.com>

Cc: Russo Laura Esq <laura@laurarussolaw.com>; Spain, Dona <dspain@coralgables.com>; Ramos, Miriam <mramos@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Rodriguez, Steven <srodriguez@coralgables.com>; Mike Luis <mike@luiscompanies.com>

Subject: Re: Grand Avenue Development

Good afternoon Erick,

The argument wasn't that the Code didn't allow it, but rather that the building predated the Zoning Code and as a historically designated structure can't be altered from its original state. So, if only wood siding can be used on this building and it was always wood siding, and it existed before any Zoning Code requirement specifying materials, I think that a variance would only be required if a different material were being requested or if a new building were being built.

Perhaps Miriam can weigh in.

Best regards,

Laura

Laura L. Russo, Esq.
2655 LeJeune Road, PH 1F
Coral Gables, Florida 33134
Tel: 305-476-8300
Fax: 305-476-8383
Cell: 305-801-9002
laura@laurarussolaw.com

NOTICE: This e-mail is from a law firm, Laura L. Russo, Esq., LLC, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of Laura L. Russo, Esq., LLC, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to Laura L. Russo, Esq., LLC in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of Laura L. Russo, Esq., LLC, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

On Aug 28, 2019, at 1:50 PM, Tejera, Erick <etejera@coralgables.com> wrote:

Good afternoon,

Does the applicant have something in writing from the meeting on June 4th that would permit the wood structure? Zoning code section 5-606 includes all zoning districts (see below).

Section 5-606. Exterior walls - material and color.

All exterior walls of all buildings shall be constructed of concrete, glass block, poured concrete, stone, hollow tile, coral rock or clay brick provided, however, that in the Commercial and Industrial Districts porcelain enamel panels, metal panels, pebble-faced block, pebble-faced panels, pre-cast panels and architectural concrete may also be used for exterior walls of buildings designed and used for commercial purposes with the express condition that such materials are approved by the Board of Architects, the Building Official and Structural Engineer. All exterior masonry surfaces shall be stuccoed and painted except those of coral rock, stone, glass, clay brick, slump brick, pebble-faced block, pebble-faced panels, pre-cast panels, and architectural concrete. Sunscreens on commercial buildings may be constructed of masonry, metal, glass or plastic where such materials are located in a metal or masonry frame providing that such sunscreens shall be subject to approval by the Board of Architects for architectural design. All exterior coloring shall be approved by the Board of Architects, if different from the Board of Architects approved palette of colors.

From: Spain, Dona <dspain@coralgables.com>

Sent: Wednesday, August 28, 2019 1:09 PM

To: Russo Laura <laura@laurarussolaw.com>; Ramos, Miriam <mramos@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Trias, Ramon <rtrias@coralgables.com>; Tejera, Erick <etejera@coralgables.com>; Rodriguez, Steven <srodriguez@coralgables.com>

Cc: Mike Luis <mike@luiscompanies.com>

Subject: RE: Grand Avenue Development

I need to know soon, because if it's a variance we need to send out notices. If it's not I need to change the staff report. I'm adding Ramon, Erick and Steven to this.

Dona M. Spain
Historical Resources and Cultural Arts Director

City of Coral Gables, Florida
(305) 460-5095

From: Russo Laura <laura@laurarussolaw.com>
Sent: Wednesday, August 28, 2019 12:46 PM
To: Spain, Dona <dspain@coralgables.com>; Ramos, Miriam <mramos@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>
Cc: Russo Laura Esq <laura@laurarussolaw.com>; Mike Luis <mike@luiscompanies.com>
Subject: Re: Grand Avenue Development

Hi Dona,

My client reminded me that at our last meeting at Miriam's office on June 4th we discussed that the variance for wood siding and wood exterior walls would not apply because that section only applies to single family property and this historic property is only allowed to have wood siding - no other material would be allowed. Everyone agreed on this and we left the meeting with only one pending variance question that was resolved later. That variance question related to the language for a flat roof without a parapet for one of the new buildings.

Best regards,

Laura

Laura L. Russo, Esq.
2655 LeJeune Road, PH 1F
Coral Gables, Florida 33134
Tel: 305-476-8300
Fax: 305-476-8383
Cell: 305-801-9002
laura@laurarussolaw.com

NOTICE: This e-mail is from a law firm, Laura L. Russo, Esq., LLC, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of Laura L. Russo, Esq., LLC, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to Laura L. Russo, Esq., LLC in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of Laura L. Russo, Esq., LLC, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

On Aug 23, 2019, at 9:05 AM, Spain, Dona <dspain@coralgables.com> wrote:

Thanks a lot – this helps. I just spoke to Erick in Zoning and they will require variances for the wood frame / wood siding on the historic buildings, so I'm adding them into the staff report. I'll get you the fees (which now includes variances for the middle lot).

Dona M. Spain
Historical Resources and Cultural Arts Director

City of Coral Gables, Florida
(305) 460-5095

From: Russo Laura <laura@laurarussolaw.com>
Sent: Thursday, August 22, 2019 12:47 PM
To: Spain, Dona <dspain@coralgables.com>
Cc: Russo Laura Esq <laura@laurarussolaw.com>; Mike Luis <mike@luiscompanies.com>
Subject: Grand Avenue Development

CAUTION: External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Dona,

Here are responses to your questions:

The two new buildings are the same size - 3,110 square feet.

Parallel parking spaces - adjacent to a building wall and adjacent to a trellis - these spaces were reviewed with Devin and the City Attorney - the spaces are set back more than 18" from the wall or trellis.

Turf block driveway not allowed - Zoning make the following comment: Turf block driveway will not be considered pervious. As per Coral Gables definitions paver blocks are not considered landscape materials. (see definition of landscape material) In addition, definition of landscape open space indicates that parking and other service areas shall not be used in computing the landscaped open space. Project must have a minimum of five hundred feet of pervious area.

The turf block is allowed in the driveway and is being used to make the front setback more green. The Zoning comment is that the turf block area can not be counted toward the landscape open space. The project is not counting it toward the landscape open space and the project design complies with the open space requirement.

Outdoor seating - the outdoor seating was removed from the plans submitted.

Flat roof without a parapet not allowed - Small parapet was added by sinking the main roof down a few inches behind the the flat eyebrows and not seen. This design which does not change the elevation at all was approved by the plan reviewer, Devin and the City Attorney. I can provide the emails approving same.

Wall in front yard no higher than 4 feet - the walls in the front yard have been reduced to 4'0" to comply with this requirement

In the last letter of intent - attached - I only reference the two variances - Parking space requirement reduced at the request of the City to keep front setback area open

and the second variance to allow encroachment into the front setback area with balcony projection. This projection simulates a porch and adds a design feature to take attention away from the parking driveway below. 9' other buildings along this block have a front setback encroachment.

As for the BOA comments - I recall some minor comments made by the BOA and I have asked James Gilman with Roney Mateu's office to inquire where the original comments were made - asked that he look on the original set of BOA plans. The BOA approval stamps for both sets of plans are on the cover page of the plans submitted to Historic - I've also attached them here.

We are schedule to meet with the LBW Homeowner's association next Wednesday evening at 7 at their regular meeting. Mrs. Prime is going to let the HOA neighbors know that we are presenting this project.

Also - when you get a chance, please let me know the filing fees for the Certificates of Appropriateness so I can get the payment to you.

I hope I covered everything - but if not - let me know.

Best regards,

Laura

Laura L. Russo, Esq.
2655 LeJeune Road, PH 1F
Coral Gables, Florida 33134
Tel: 305-476-8300
Fax: 305-476-8383
Cell: 305-801-9002
laura@laurarussolaw.com

NOTICE: This e-mail is from a law firm, Laura L. Russo, Esq., LLC, and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of Laura L. Russo, Esq., LLC, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to Laura L. Russo, Esq., LLC in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of Laura L. Russo, Esq., LLC, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.