

RESOLUTION NO. R-2007-1619

RESOLUTION APPROVING ZONING APPLICATION Z2006-1901
(CONTROL NO. 2005-589)
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
APPLICATION OF MILITARY TRAIL DEVELOPMENT GROUP, LLC
BY MILLER LAND PLANNING, AGENT
(GLENWOOD TOWNHOMES)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application Z2006-1901 was presented to the Board of County Commissioners at a public hearing conducted on September 24, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the stated purpose, intent and requirements of the Palm Beach County Unified Land Development Code. The rezoning request is also consistent with the requirements of all other applicable local land development regulations;
3. This official zoning map amendment (rezoning) is compatible and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. The applicant has demonstrated that there are sufficient changed conditions or circumstances that require an amendment;
5. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
6. This official zoning map amendment (rezoning) will result in a logical, orderly and timely development pattern; and,
7. This official zoning map amendment is consistent with applicable Neighborhood Plans.

8. This official zoning map amendment (rezoning) complies with Article 2.F (CONCURRENCY - Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application Z2006-1901 the application of Military Trail Development Group, LLC, by Miller Land Planning, agent, for an Official Zoning Map Amendment from the Agricultural Residential Zoning District to the Single-family Residential Zoning District with a CONDITIONAL OVERLAY ZONE on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on September 24, 2007, subject to the conditions of the CONDITIONAL OVERLAY ZONE described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

The motion was seconded by Commissioner McCarty and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	- Absent
John F. Koons, Vice Chair	- Absent
Karen T. Marcus	- Aye
Robert J. Kanjian	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 24, 2007.

Filed with the Clerk of the Board of County Commissioners on 24th of September

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:

SHARON R. BOCK,
CLERK & COMPTROLLER


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

TRACT 15, IN THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ALSO BEING DESCRIBED AS THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPTING:

2 ACRES MORE OR LESS, CONSISTING OF A STRIP 132 FEET BY 660 FEET FROM NORTHERN BOUNDARY OF TRACT 15 OF THE SOUTHEAST 1/4, BEING THE SOUTHWEST 1/4 OF SOUTHWEST 1/4 OF SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS RUNNING EAST FROM THE CENTER OF MILITARY TRAIL 660 FEET; THENCE SOUTH 132 FEET; THENCE WEST 660 FEET; THENCE NORTH 132 FEET ALONG MILITARY TRAIL TO CLOSE, AS SET FORTH IN DEED BOOK 1018, PAGE 145, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

FURTHER LESS AND EXCEPTING:

THE SOUTH 25 FEET OF SAID TRACT 15 ABUTTING AND LYING NORTH OF THE PLATTED 15 FOOT ROAD RIGHT OF WAY; SAID PLATTED ROAD RIGHT OF WAY AS SHOWN ON THE PLAT OF AMENDED PLAT OF SEC. 12, TWP. 45 S., R. 42 E., MARY A. LYMAN ET AL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 74, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

FURTHER LESS AND EXCEPTING:

THAT PORTION LYING WITHIN 33 FEET OF THE CENTER LINE OF OLD MILITARY TRAIL, SAID CENTER LINE BEING THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 12.

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the use approved by the Board of County Commissioners. The approved site plan is dated August 21, 2007. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
 - a. No Building Permits for the site may be issued after January 1, 2010. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. The Property owner shall reconstruct Old Military Trail from Military Trail south to Knollwood Road to local street standards including sidewalks, appropriate drainage and two 10 ten foot travel lanes.
 - a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
3. Prior to issuance of the first building permit the property owner shall provide a roadway construction easement to Palm Beach County This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: ENG-Eng)

HEALTH

1. Prior to the issuance of a building permit, the property owner shall be in receipt of a Site Rehabilitation Completion Order or a No Further Action determination from the Florida Department of Environmental Protection. (BLDG PERMIT: MONITORING-Health)
2. Prior to the issuance of a building permit, the property owner shall submit results of a pre-demolition asbestos containing materials (ACM) of the building(s) on the site to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING-Health)

3. Wastewater is available to the property. Therefore no onsite sewage treatment and disposal system (OSTDS) shall be permitted on this site. All existing OSTDS shall be abandoned in accordance with Chapter 64E-6, FAC, and Palm Beach County ECR-I. (ONGOING: HEALTH-Health)
4. Water is available to the property. Therefore, no well shall on the site to provide potable water. All existing potable water supply systems shall be abandoned in accordance with Chapter 64E-8 and Palm Beach County ECR-II. (ONGOING: HEALTH-Health)

LANDSCAPE - STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of fifty (50) percent of all new trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
3. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
5. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
6. All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning)

ZONING - LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF OLD MILITARY TRAIL)

7. In addition to the code requirements, landscaping along the west property line shall be upgraded to include:
 - a. a minimum one and one half (1.5) to two (2) foot high undulating berm with an average height of two and one half (2.5) feet and,

- b. one (1) palm for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING -LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING SINGLE-FAMILY RESIDENTIAL)

8. In addition to code requirements, landscaping along the east property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide buffer; ,
 - b. a minimum two (2) foot high continuous berm;
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - d. a minimum four (4) foot high hedge at installation, and to be planted on the plateau of the berm to provide an overall height of six (6) foot high screen. (BLDG PERMIT: LANDSCAPE - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to Platting or the issuance of any Lake Worth Drainage District permits, the owner shall convey either by an exclusive easement or warranty deed, the North 10 feet of the South 50 feet, less lands owned by the District. Being more particularly described as, the area between the east line of Tract 15, and a line shown as the east line of the 66 foot road right-of-way, which is based on the South line of Section 12/45/42, PER PLAT OF MARY A LYMAN" ET AL, PB 9, PG 74. This is for the required right-of-way for the L-20 Canal. (Based on canal cross-sections) (PLAT: ENG-LWDD)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING:SCHOOL BOARD – School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING – School Board)

SITE DESIGN

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan and regulating plans shall be amended to show stamped concrete or paver bricks within the eyebrows and cul-de-sac shown on the site plan dated August 21, 2007. (DRO: ZONING - Zoning)

WORKFORCE HOUSING

1. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive

covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:

- a. Guarantees the attainability of a minimum of 8 units for a period of twenty-five years (recurring). All 8 units are to be distributed equally among the four categories (low, moderate 1, moderate 2, and middle) with the unit sales/rental prices determined by Palm Beach County's Housing and Community Development Department; and
 - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY- Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in, Master Plans, related Site Plans, and plat that shall indicate that a minimum of 8 units have been designated as workforce housing units. Every deed of sale for each of the workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of 25 years (recurring). Any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. (DRO: PLANNING - Planning)
 3. On an annual basis, beginning August 23, 2008, the property owner, and/or the master homeowners association for the development shall submit an annual report to the Planning Division and HCD documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DATE/ONGOING: MONITORING - Planning/HCD)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions

of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)