

RESOLUTION NO. R-2013- 1523

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2013-00493  
(CONTROL NO. 2013-00085)  
an Official Zoning Map Amendment  
APPLICATION OF MG3 ALF Military LLC, Hernan Leonoff  
BY Miller Land Planning, AGENT  
(Trails Charter School)

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;

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

WHEREAS, Zoning Application Z/CA-2013-00493 was presented to the Board of County Commissioners at a public hearing conducted on October 24, 2013;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request;

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

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.1.B.; and

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 Z/CA-2013-00493, the application of MG3 ALF Military LLC, Hernan Leonoff, by Miller Land Planning, agent, for an Official Zoning Map Amendment to allow a rezoning from the Agriculture Residential (AR) Zoning District to the Residential Multi-Family (RM) Zoning District 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 in EXHIBIT B, attached hereto and made a part hereof, was approved on October 24, 2013 subject to the Conditions of Approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Steven L. Abrams, Mayor	- Aye
Commissioner Priscilla A. Taylor, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Paulette Burdick	- Nay
Commissioner Shelley Vana	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Nay

The Chairperson thereupon declared that the resolution was duly passed and adopted on October 24, 2013.

Filed with the Clerk of the Board of County Commissioners on November 1, 2013.

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

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK FLORIDA

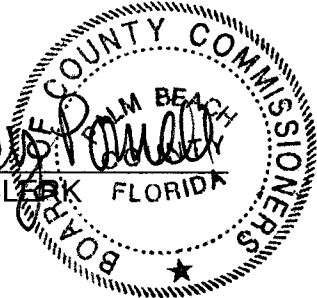


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE NORTH 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. LESS AND EXCEPT THEREFROM THE WEST 50 FEET FOR STATE ROAD 809 RIGHT OF WAY.

PARCEL 2:

THE SOUTH 1/2 OF THE WEST 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. LESS AND EXCEPT THEREFROM THE WEST 53 FEET FOR STATE ROAD 809 RIGHT OF WAY.

PARCEL 3:

THE EAST 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION NO. 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH UNDIVIDED 1/4 INTEREST IN THE NORTH 30 FEET OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTH 40 FEET OF THE PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST LYING EAST OF EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (A/K/A S.R. 809).

SUBJECT TO AN EASEMENT FOR ROAD AND UTILITY PURPOSES OVER THE EAST 20 FEET THEREOF.

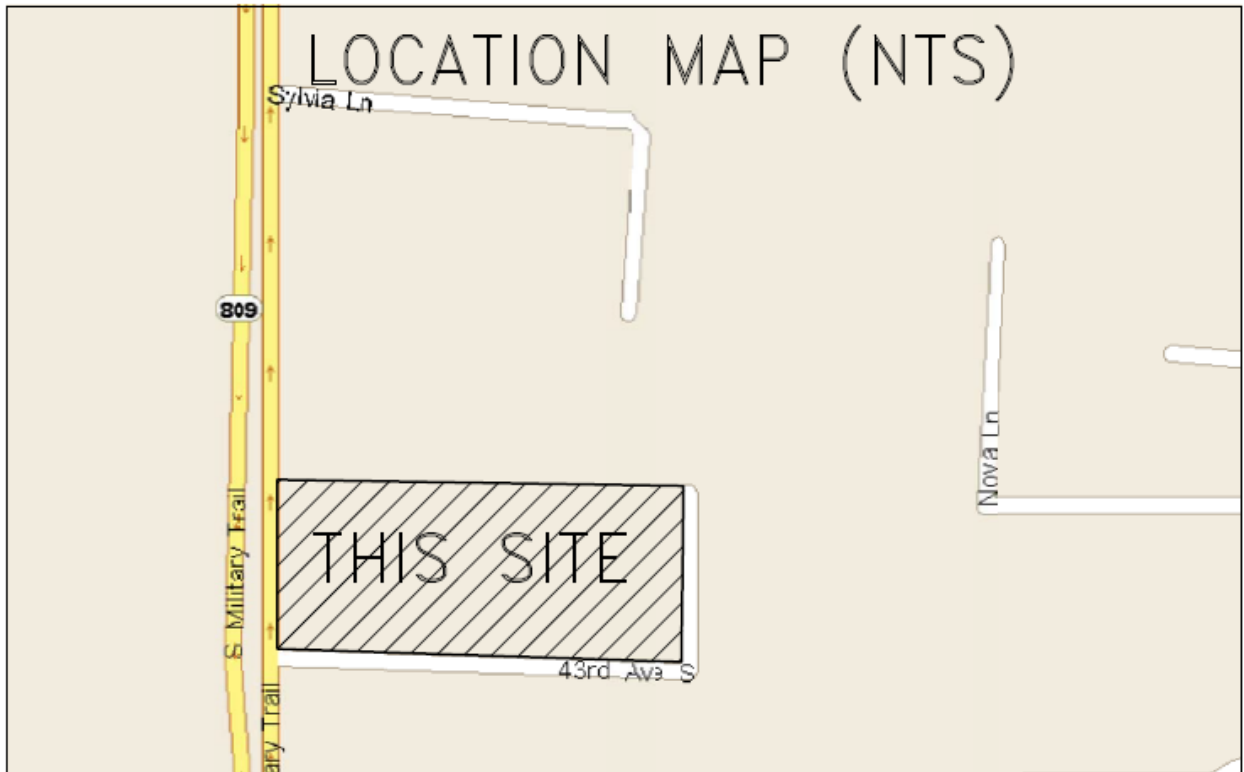
LESS AND EXCEPT THE FOLLOWING:

A PORTION OF THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 1; THENCE NORTH 0°11'39" WEST ALONG THE NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 1372.70 FEET; THENCE NORTH 89°48'21" EAST AS MEASURED AT RIGHT ANGLES TO SAID NORTH-SOUTH ONE-QUARTER SECTION LINE, A DISTANCE OF 50.00 FEET TO A POINT ON THE EXISTING EASTERLY RIGHT-OF-WAY OF MILITARY TRAIL, AS SHOWN ON STATE OF FLORIDA, STATE ROAD DEPARTMENT, RIGHT-OF-WAY MAP, ROAD NO. 809, SECTION 9375-113, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 89°45'50" EAST, A DISTANCE OF 3.00 FEET; THENCE SOUTH 0°11'39" EAST PARALLEL WITH AND 3.00 FEET EAST OF THE EASTERLY RIGHT-OF-WAY LINE OF SAID MILITARY TRAIL, A DISTANCE OF 40.00 FEET; THENCE SOUTH 89°45'50" WEST, A DISTANCE OF 3.00 FEET TO THE EXISTING EASTERLY RIGHT-OF-WAY OF SAID MILITARY TRAIL; THENCE NORTH 0°11'39" WEST ALONG THE EXISTING EASTERLY RIGHT-OF-WAY OF SAID MILITARY TRAIL A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C-1

### CONDITIONS OF APPROVAL

#### ENGINEERING

1. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

2. The Property Owner shall install a traffic signal at the intersection of Military Trail and the project's entrance:

a. Prior to issuance of the first building permit, the Property Owner shall obtain permits for this signal, as approved by the County Engineer. Signalization shall be a mast arm structure installation. The cost of signalization shall be paid by the Property Owner and shall also include all design costs and any required utility relocation and right of way or easement acquisition. (BLDG PERMIT: MONITORING - Eng)

b. Prior to issuance of the first Certificate of Occupancy, the Property Owner shall fund, install and have operational this traffic signal. (CO: MONITORING-Eng)

3. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Military Trail at the project's entrance drive. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include a Corner Clip at the private driveway for 67th Place South, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way 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/ONGOING: MONITORING-Eng)

4. The Property Owner shall construct a right turn lane, south approach on Military Trail at the project's access point.

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:

A. Prior to the issuance of the first building permit, permits required from Palm Beach County for this construction shall be obtained. (BLDG PERMIT: MONITORING-Eng)

B. Prior to the issuance of the first Certificate of Occupancy, construction shall be completed. (CO: MONITORING-Eng)

5. The Property Owner shall relocate the existing median opening and lengthen the south approach left turn lane in Military Trail at the project's access point to accommodate the proposed traffic signal, as required and approved by the County Engineer. This

construction shall be concurrent with the signal installation. 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.

A. Prior to the issuance of the first Building Permit, permits required from Palm Beach County shall be obtained. (BLDG PERMIT: MONITORING-Eng)

B. Prior to the issuance of the first Certificate of Occupancy, construction required in Condition 5.A shall be completed. (CO: MONITORING-Eng)

6. Prior to allowing secondary access onto 67th Place South or 43rd Avenue South, the Property Owner shall:

A. Obtain approval from all easement beneficiaries and access owners. (ONGOING: ENGINEERING-Eng)

B. Reserve additional area to allow for a minimum of 80 feet for 67th Place South and 43rd Avenue South, including corner clips where appropriate, or as otherwise approved by the County Engineer. (ONGOING: ENGINEERING-Eng)

C. Construct 67th Place South and 43rd Avenue South to non-plan collector road standards from Military Trail to the proposed driveway entry(ies). This construction shall include, but not be limited to, 2 - 12 foot wide travel lanes, 2 - 2 foot paved shoulders, sidewalks, and drainage conveyance and retention/detention system, or as otherwise approved by the County Engineer. (ONGOING: ENGINEERING-Eng)

#### COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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; the 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 Unified Land Development Code 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 of Approval; 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 the 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 Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

#### DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.