

RESOLUTION NO. R-2018- 0005

RESOLUTION APPROVING ZONING APPLICATION PDD/R/TDR-2017-00345
(CONTROL NO. 2012-00433)

a Requested Use

APPLICATION OF Blanca Moreda, Mignano Maria Trust, Mignano Maria Rev Trust
BY Jon E Schmidt & Associates, AGENT
(Boynton Atrium CLF)

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 pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application PDD/R/TDR-2017-00345 was presented to the Board of County Commissioners at a public hearing conducted on January 4, 2018;

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 ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Requested Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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 PDD/R/TDR-2017-00345, the Application of Blanca Moreda, Mignano Maria Trust, Mignano Maria Rev Trust, by Jon E Schmidt & Associates, Agent, for a Requested Use to allow a Type III Congregate Living Facility (CLF) and Transfer of Development Rights (TDR), on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on January 4, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

Commissioner Melissa McKinlay, Mayor	- Aye
Commissioner Mack Bernard, Vice Mayor	- Absent
Commissioner Hal R. Valeche	- Aye
Commissioner Paulette Burdick	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 4, 2018.

Filed with the Clerk of the Board of County Commissioners on January 16th, 2018

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

Legal Description

Parcel 1: THE SOUTH 180 FEET OF THE WEST ½ OF THE NW¼ OF THE SW ¼ OF THE SW ¼ OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS THE WEST 60 FEET FOR ROAD RIGHT-OF-WAY.

Parcel 2: THE WEST ½ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE WEST 60 FEET FOR ROAD RIGHT-OF-WAY.

EXCEPT

THE SOUTH 180 FEET OF THE WEST ½ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA AND THE NORTH 70 FEET OF THE WEST ½ OF THE NORTHWEST ¼ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS THE WEST 60 FEET FOR ROAD RIGHT-OF-WAY.

Parcel 3: THE NORTH SEVENTY FEET (70') OF THE WEST HALF (W ½) OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST; AND

THE SOUTH TEN FEET (10') OF THE WEST HALF (W ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS ROAD RIGHT-OF-WAY.

SAID LANDS ALL SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 4.323 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

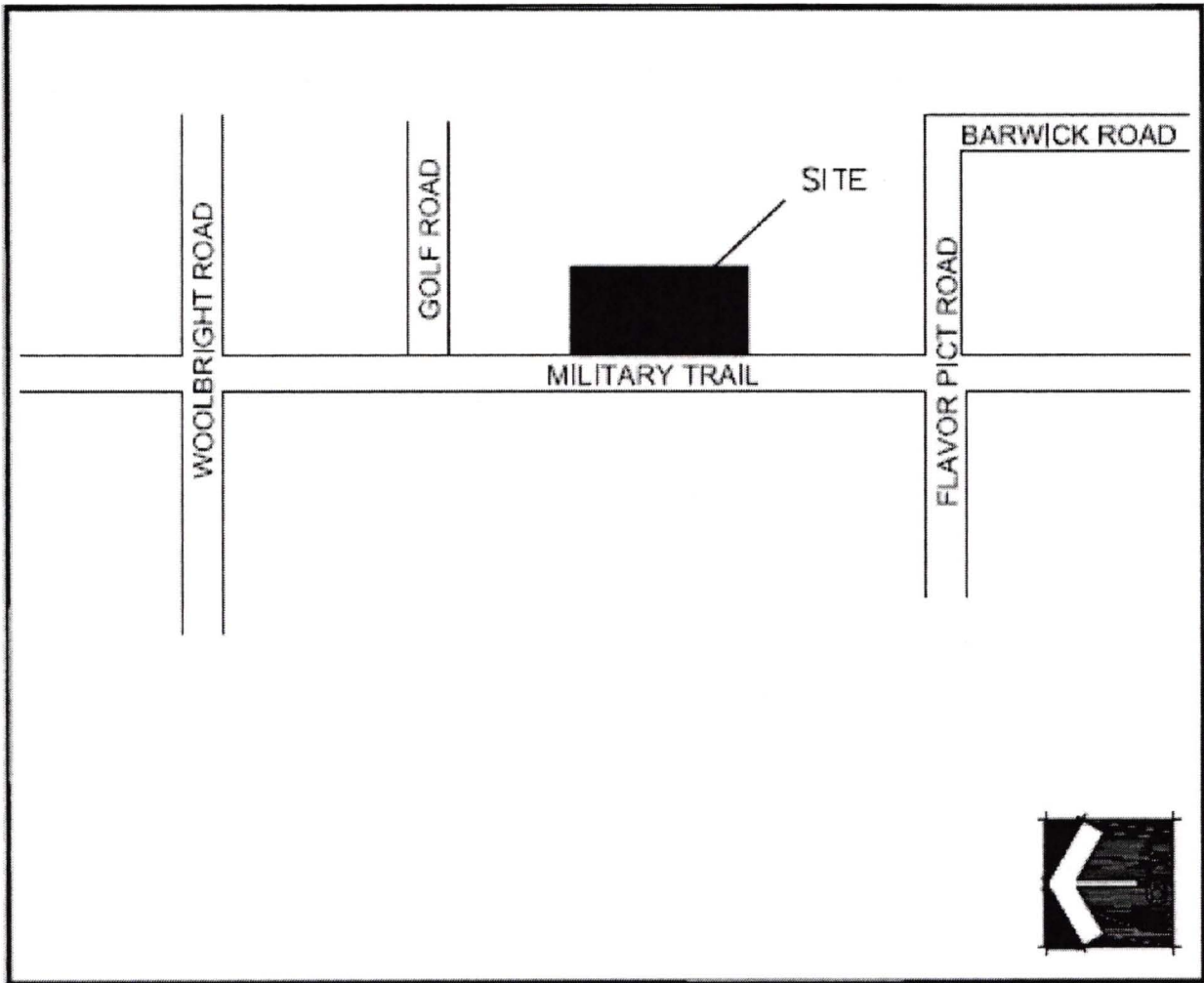


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use

ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 14, 2017 and Regulating Plan is dated June 26, 2017 respectively. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Prior to the issuance of a building permit, the two (2) twenty-five (25) foot Reservation Easements (D.B.61, PG166) located along and straddling the north property line, as depicted on the Survey submitted on August 28, 2017, shall be abandoned (BLDGPMPT: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type III Congregated Living Facility shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations as Illustrated on Exhibit # 7 (ONGOING: ZONING - Zoning)

2. The maximum height for all structures shall not exceed thirty (30) feet, with exception of the entrance feature/porte-cochere that faces Military Trail. The maximum height for the entrance feature/porte-cochere that faces Military Trail, shall not exceed thirty-three (33) feet. All heights shall be measured from finished grade to highest point of the structure, including air conditioning, mechanical equipment and satellite dishes (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 December 31, 2020. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMPT: MONITORING - Engineering)

3. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, the access easement shown in conflict with the proposed structures. (BLDGPMPT: MONITORING - Engineering)

4. The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

- a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)
- c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)
- d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering)

5. The Property Owner shall fund the construction plans and the construction to lengthen the existing left turn lane north approach on Military Trail at the Project entrance road. This turn lane shall be lengthened to a minimum 280 feet in length plus 50 foot paved taper. 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. Permits required for improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

6. Prior to final approval of the Site Plan by the DRO, the Property Owner shall obtain and record proper drainage easements to allow for drainage from the project site to connect to the point of legal positive outfall. (DRO: ENGINEERING - Engineering)

7. Prior to the recordation of the plat for the CLF, the Property Owner shall plat a water management tract of sufficient size in the adjacent property as described in drainage statement of the approval for the CLF. (PLAT: ENGINEERING - Engineering)

LANDSCAPE - GENERAL

1. Prior to Final Approval by the Development Review Officer (DRO) the Property Owner shall submit Landscape Plan(s) to the Landscape Section for review and approval. The Plan(s) and/or supporting documents shall demonstrate the Preserve and Proposed vegetation will meet or exceed the Unified Land Development Code requirements. Additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER-NORTH AND EAST PROPERTY LINES

2. Landscaping and buffering shall be upgraded to include:
- a. a minimum width of fifteen (15) feet. No width reduction or easement encroachment (other than a drainage easement that traverses) into the width of the buffer;
 - b. a continuous berm with a minimum height of two (2) feet meeting the 3:1 slope, and shall be entirely contained inside the width of the buffer;

- c. a six (6) foot high vinyl coated chain link fence;
- d. required Landscape barrier shall be in the form of a hedge and the total quantity of the hedge shall be planted evenly on the both sides of the chain link fence or on one side of the fence to provide an opaque screening. Hedge materials shall include Podocarpus; Simpson Stopper or a variety acceptable to the Landscape Section;
- e. one (1) oak tree for each twenty (20) lineal feet of property line. Height of oak shall have a minimum height of twenty (20) feet at installation;
- f. one (1) palm tree for each thirty (30) lineal feet of property line, installed in clusters of three to four (3-4). Greywood or clear trunk shall be in a range of eight to twelve feet in height; and,
- g. required medium and small shrubs to be planted on both sides of the fence (BLDGPMPT/DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE

3. Landscaping and buffering shall be upgraded to include:
- a. a minimum width of fifteen (15) feet. No width reduction or easement encroachment (other than a drainage easement that traverses) into the width of the buffer;
 - b. a continuous berm with a minimum height of two (2) feet meeting the 3:1 slope, and shall be entirely contained inside the width of the buffer;
 - c. a six (6) foot high vinyl coated chain link fence;
 - d. required Landscape barrier shall be in the form of a hedge and the total quantity of the hedge shall be planted evenly on the both sides of the chain link fence or on one side of the fence to provide an opaque screening. Hedge materials shall include Podocarpus; Simpson Stopper or a variety acceptable to the Landscape Section;
 - e. one (1) oak tree for each twenty (20) lineal feet of property line. Height of oak shall have a minimum height of twenty (20) feet at installation; and,
 - f. required medium and small shrubs to be planted on both sides of the fence. (BLDGPMPT/DRO: ZONING - Zoning)

LANDSCAPE - PRESERVATION OF VEGETATION

4. Prior to Final Plan approval by the Development Review Officer, the Property Owner shall submit a Tree Survey overlay the Proposed Site Plan with a Tree Disposition Chart for review and approval. All Vegetation that are subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4). The Plan(s) shall show:
- a) the temporary and permanent locations for the relocated Vegetation and identify what type of tree barricades will be utilized;
 - b) the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;
 - c) the above requirements (a and b) shall be updated in the Tree Disposition Chart; and,
 - d) a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation. (DRO: ZONING - Zoning)

5. Prior to the issuance of any Building Permit(s) the Property Owner shall:
- a. submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions;
 - b. include the approved DRO plan(s) with the approved Disposition Chart;
 - c. complete the installation of all vegetation protection barricades and tagging; and,
 - d. schedule inspections to receive a 'Pass' status with Zoning Landscape Inspectors prior to any land clearing activity (BLDGPMPT: ZONING - Zoning)

PLANNING

1. The applicant shall set aside a total of 20% (5 beds) of the beds derived from the requested TDR bonus units approved for the project to be attainable. Four of these units shall be available at a rate of 25% below the rental rate of the facility, and shall be available to residents who qualify based on the County's AMI levels. Each of the applicable beds shall be spread equitably across the AMI levels. One of the units shall be available at a rate attainable to persons receiving Supplemental Security Income

(SSI) or Social Security Disability Insurance (SSDI). The owner/operator of the facility shall make best/good faith efforts to market the SSI/SSDI bed to agencies that work with individuals with developmental disabilities as defined in Section 393.063 Florida Statutes (ONGOING: PLANNING - Planning)

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: ZONING - 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: ZONING - Zoning)

DISCLOSURE

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