

RESOLUTION NO. R-2021- 0861

RESOLUTION APPROVING ZONING APPLICATION Z/W-2020-01272
(CONTROL NO. 1971-10014)
an Official Zoning Map Amendment
APPLICATION OF Luca Land, LLC, Southport Financial Services, Inc.
BY Schmidt Nichols, AGENT
(Southport Grove)

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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067 as amended, have been satisfied;

WHEREAS, Zoning Application Z/W-2020-01272 was presented to the Board of County Commissioners at a public hearing conducted on June 24, 2021;

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 (Application Processes and 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 Processes) for an Official Zoning Map Amendment;

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.B.6.C (Board Action) 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 Z/W-2020-01272, the Application of Luca Land, LLC, Southport Financial Services, Inc., by Schmidt Nichols, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Neighborhood Commercial (CN) and Multifamily Residential (RM) Zoning Districts to the Urban Infill (UI) Zoning District with a Conditional Overlay Zone (COZ), 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 June 24, 2021, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Dave Kerner, Mayor	- Aye
Commissioner Robert S. Weinroth, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Maria Sachs	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 24, 2021.

Filed with the Clerk of the Board of County Commissioners on June 24th, 2021.

This resolution shall not become effective unless or until the effective date of Small Scale Land use Amendment No. SCA 2021-004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

THE EAST 385 FEET OF THE WEST 420 FEET OF THE SOUTH 224.06 FEET OF THE NORTH 672.18 FEET OF THE WEST 3/4 OF THE NORTH 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS THE NORTHERLY 10 FEET FOR ROAD RIGHT WAY.

ALSO LESS AND EXCEPT THAT PORTION AS CONVEYED TO PALM BEACH COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA BY THE RIGHT-OF-WAY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 5880, PAGE 947, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING IN ALL 78,556.271 SQUARE FEET AND/OR 1.803 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

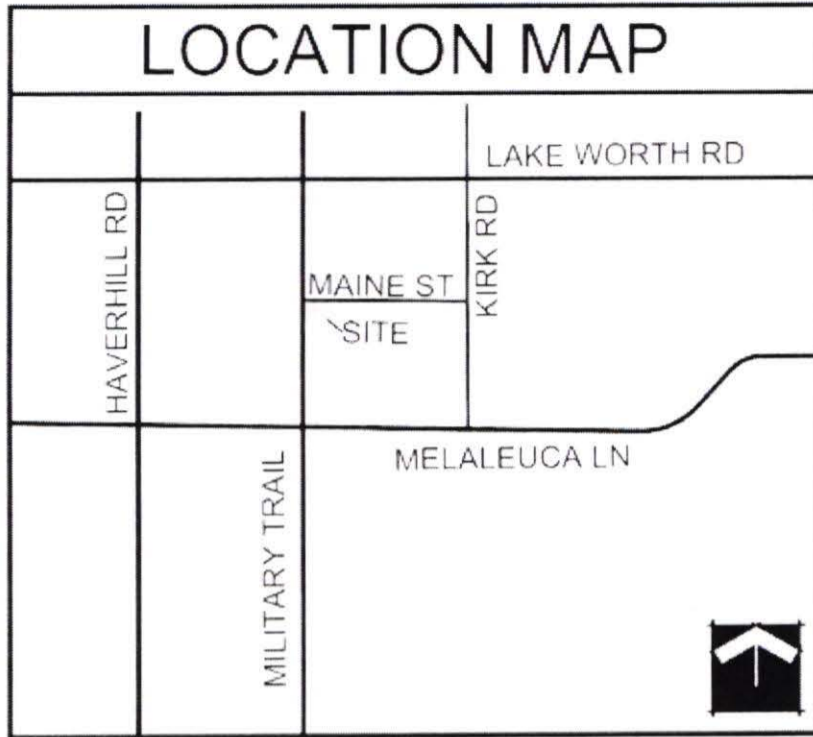


EXHIBIT C

CONDITIONS OF APPROVAL

Official Zoning Map Amendment (with a Conditional Overlay Zone)

ENGINEERING

1. 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 or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

2. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Maine Street, 20 feet in width, on an alignment approved by the County Engineer plus 25 foot corner clip at the southeast corner of Maine Street and Military Trail.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved 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. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

3. Prior to issuance of the first Certificate of Occupancy, the property owner shall replace the existing drop curb connection of Maine Street to Military Trail to a radius connection, including review of possible relocation of drainage inlet if possible and addition of directional median opening in Military Trail right of way at the intersection of Maine Street, all as approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering)

4. The Property Owner shall fund the design, construction plans, construction, and shall construct, Maine Street from Military Trail to the project entrance to local residential standards and include parallel parking on the south side of Maine Street, with a cross-section approved by the County Engineer. The sidewalk may be approved to be constructed outside of the right-of-way. 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, permitting, drainage, and utility relocations.

a. Prior to the approval of the Site Plan by the Development Review Officer, the Maine Street cross-section with parallel parking on the south side of the street shall be approved by the County Engineer. (DRO: ENGINEERING - Engineering)

- b. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the Building Permit. (BLDGPMPT: ENGINEERING - Engineering)
- c. Construction shall be completed prior to the issuance of the Certificate of Occupancy. (BLDGPMPT/CO: ENGINEERING - Engineering)

5. If sufficient right-of-way exists, or is dedicated to Palm Beach County by the property owner located north of and abutting Maine Street, so as to accommodate parallel parking on the north side of Maine Street, as determined by the County Engineer, the Property Owner shall include in the design, construction plans, and construction set forth in Engineering Condition 4, above, parallel parking on the north side of Maine, with the cross-section to be approved by the County Engineer.

- a. Prior to the approval of the Site Plan by the Development Review Officer, the parallel parking on the north side of Maine Street shall be approved by the County Engineer. (DRO: ENGINEERING - Engineering)
- b. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the Building Permit. (BLDGPMPT: ENGINEERING - Engineering)
- c. Construction shall be completed prior to the issuance of the Certificate of Occupancy. (BLDGPMPT/CO: ENGINEERING - Engineering)
- d. In the event sufficient right-of-way to accommodate parallel parking on the north side of Maine Street is not determined to exist, or established prior to plat recordation, Engineering Condition 5 shall be deemed complete and the parking spaces on the north side of Maine Street will not be required. (ONGOING: ENGINEERING - Engineering)

SITE DESIGN

- 1. All buildings or structures shall be limited to a maximum of 60 feet in height, as defined in Art. 1.C.4.C.1, Building Height. (BLDGPMPT/ONGOING: BUILDING DIVISION - Zoning)

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.