

RESOLUTION NO. R-2006-0286

RESOLUTION APPROVING ZONING APPLICATION PDD2005-890
(CONTROL NO. 2005-346)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF MIDLAND COMMONS, INC.
BY BASEHART CONSULTING, INC., AGENT
(MIDLAND COMMONS)

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 petitions relating to zoning; and

WHEREAS, the notice and 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; and

WHEREAS, Zoning Application PDD2005-890 was presented to the Board of County Commissioners at a public hearing conducted on February 23, 2006; and,

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; 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; contingent upon the approval of Small Scale Development Amendment No. SCA 2005-00053;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions 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;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 2.F, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (Action by Board of County Commissioners) 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 PDD2005-890, the application of Midland Commons, Inc. by Basehart Consulting, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Multiple Use Planned Development 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on February 23, 2006, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Tony Masilotti, Chair	-	Aye
Addie L. Greene, Vice Chairperson	-	Aye
Karen T. Marcus	-	Aye
Jeff Koons	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Absent

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2005-00053 (MIDLAND COMMONS OFFICE a.k.a. MIDLAND COMMONS) is effective.

Filed with the Clerk of the Board of County Commissioners on 10th day of March, 2006

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

THE NORTH 260 FEET TRACTS 9 AND 10 OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 3, PAGE 10, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THAT PORTION ON THE EAST BOUNDARY ACQUIRED FOR THE WIDENING OF MILITARY TRAIL.

THE PROPERTY CONTAINS 5.62 ACRES OF LAND, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

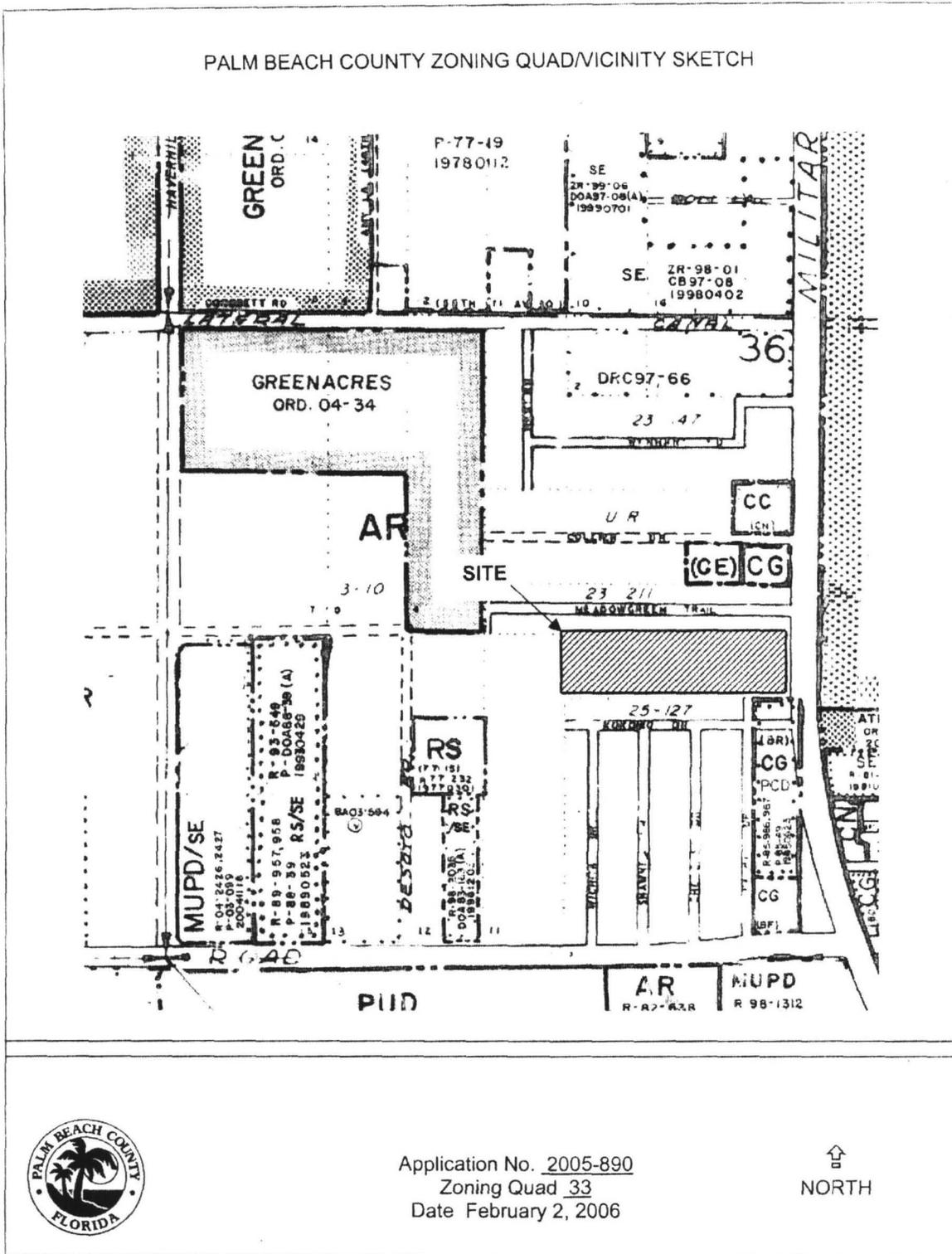


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated December 13, 2005. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the two-story building shall be submitted for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved plans, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW-Zoning)
2. The maximum height of the building shall be thirty-five (35) feet. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW -Zoning)
3. Windows on the north facade of the second story of the building, abutting the residential uses to the north, shall be an opaque equivalent such as glass block. (DRO: ARCH REVIEW-Zoning)

BUILDING AND SITE DESIGN

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within thirty (30) feet of the north and south property lines. Prior to final Development Review Officer (DRO) approval the site plan shall be amended to relocate the dumpsters. (DRO: ZONING-Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the property owner/developer shall be restricted to the following phasing schedule:
No Building Permits for the site may be issued after January 1, 2008. 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 construct:
 - a) left turn lane south approach on Military Trail at the Project entrance;

- b) extend the existing median on Military Trail adjacent to Dartmouth Investment Building to the south, to this projects entrance to provide for a standard median opening. Construction shall be subject to the approval of the County Engineer; and,
 - c) right turn lane north approach on Military Trail at the Project's entrance. (BLDG PERMIT: MONITORING-Eng)
3. All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to utility relocations. (BLDG PERMIT: MONITORING-Eng)
 - a) 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)
 - b) Construction for these improvements shall be completed prior to he issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
 4. Prior to issuance of a building permit, the property owner shall convey 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 road. This right of way shall be a minimum of 170 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate 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. (BLDG PERMIT:MONITORING-Eng)
 5. Prior to DRO approval of the final site plan the property owner shall complete a revised Drainage Study for this property identifying any historical drainage from the adjacent lots entering or exiting this site. The site plan for the site shall then be modified to reflect recommendations contained within the approved Drainage Study. (DRO APPROVAL -ENGINEERING)

HEALTH

1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF-Health)

ZONING -LANDSCAPE - STANDARDS

1. Prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan for the entire project to the Landscape Section for review and approval. The Plan shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: BLDG-Zoning)
2. A minimum of sixty (60) percent of canopy trees to be planted in the landscape buffers shall be native and 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 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)

ZONING-LANDSCAPING ALONG THE NORTH, SOUTH AND WEST PROPERTY LINES
(ABUTTING RESIDENTIAL)

1. In addition to the proposed landscaping and code requirements, landscaping along the north, south and west property lines shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip;
 - b. a six (6) foot high opaque concrete wall. Height of wall shall be measured from the highest grade at the property line of the two adjoining properties (i.e. subject property and adjoining residential property). Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. Shop drawings of this wall shall be reviewed and approved by the Arch Review/Landscape Section prior to the issuance of a building permit;
 - c. one (1) palm or pine for each thirty-five (35) linear feet; and,
 - d. required landscape materials are to be planted on both sides of the wall. (BLDG PERMIT: LANDSCAPE-Zoning)

ZONING - LANDSCAPING - INTERIOR

1. Landscaping for divider medians in any parking area shall consist of the following:
- a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median;
 - b. one (1) palm for each thirty-five (35) linear feet of the median; and,

- c. a continuous hedge between all trees and palms within the median, where applicable. Shrub or hedge materials and groundcover shall be maintained at a maximum height of thirty-six (36) inches. (BLDG PERMIT: LANDSCAPE-Zoning)
2. Special planting treatment shall be provided on both sides of the Military Trail access point. Planting shall consist of the following:
 - a. a minimum of three (3) Royal Palms, Canary Palms, Phoenix Palms, Medjool Palms, or other specimen palm that is acceptable to the Landscape Section along each side of the access point(s); and,
 - b. appropriate shrub or hedge materials on both sides of the access point(s). (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)
3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to issuance of the first Building Permit or recordation of the Plat, whichever shall first occur, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT/PLAT: MONITORING-Eng)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall include a vehicular and pedestrian connection to the south in the location shown on the certified site plan, with a note that shall read proposed vehicular and pedestrian cross access to be paved to the property line." (DRO:PLANNING-Planning)

2. Prior to the issuance of the Certificate of Occupancy or Certificate of Completion, the property owner shall pave the property to the edge of the southern property line at the location shown on the site plan that will read proposed vehicular and pedestrian cross access..." (CO:MONITORING-Planning)
3. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the parcel to the south in a form acceptable to the County Attorney. (DRO:COUNTY-ATTY-Planning)
4. Prior to final approval by the Development Review Officer (DRO), the site plan shall include sidewalks within, and for the length of, the parking islands to the rear of the building, consistent with the certified site plan. (DRO:PLANNING-Planning)
5. The westernmost 500 feet of the site shall be limited to at-grade parking, drainage and landscaping. (ONGOING:PLANNING-Planning)

SIGNS

1. Freestanding signs fronting on Military Trail shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. maximum sign face area per side - sixty (60) square feet;
 - c. maximum number of signs - one (1) for the overall site;
 - d. style - monument style only; and,
 - e. location - within one hundred (100) feet of the east access point of Military Trail. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Hours of business operation shall be limited to 8:00 a.m. to 7:00 p.m. Monday through Saturday. Business operations on Sundays shall not be permitted. (ONGOING: CODE ENF-Zoning)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD-PBCWUD)

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 or revocation 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.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise 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 Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)