

RESOLUTION NO. 02-76

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, GRANTING WITH CONDITIONS THE MORATORIUM WAIVER REQUEST SUBMITTED BY LOWELL AND BETTY DUNN FOR PROPERTY CONSISTING OF APPROXIMATELY 156.2 ACRES LOCATED ON THE NORTHWEST CORNER OF NORTHWEST 154TH STREET WEST OF NORTHWEST 87TH AVENUE AND EAST OF INTERSTATE 75; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on the 11th day of June, 2002, the Town Council conducted a public hearing (the "Public Hearing") regarding the request submitted by Lowell and Betty Dunn (the "Applicant") for a waiver to Ordinance No. 02-15 (the "Moratorium Ordinance") of the Town of Miami Lakes, Florida (the "Waiver Request"); and

WHEREAS, the purpose of the Waiver Request is to allow the Applicant to apply for a rezoning (the "Proposed Use") on the real property described in the application (the "Property").

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this resolution by this reference.

Section 2. Findings of Fact. The Town Council, having considered the testimony and evidence presented by all parties, including the Applicant, does hereby find and determine:

1. On the 11th day of June 2002, the Waiver Request was heard by the Town Council.
2. The Application concerns property which is further described on Attachment A and attached hereto.

3. The Application has been processed in accordance with Section 4 of the Moratorium Ordinance.

4. The Waiver Request was properly before the Town Council for consideration.

5. The Applicant presented evidence to the Town Council at the public hearing.

6. The Town staff presented to the Town Council its recommendations at the Public Hearing.

7. Granting the Waiver Request subject to the conditions described below will not detrimentally affect the outcome and implementation of the comprehensive planning process.

8. The Applicant demonstrated that the granting of the Waiver Request maintains the basic intent and purpose of the Moratorium Ordinance.

Section 3. Conditions Imposed. Granting of the Waiver Request is subject to the following conditions:

1. Within five (5) days of the date of the filing of this Resolution with the Town Clerk, the Applicant shall submit an application for the Rezoning to the Town Manager with the necessary application fee.

2. The application shall be substantially in accord with the proposal depicted on the site plan entitled "Dunwoody Lake" dated May 30, 2002, prepared by Robanya and Associates, a copy of which site plan is attached as Attachment B, and as described in the Declaration of Restrictions attached as Attachment C.

3 Applicant shall pay to the Town all costs of reviewing the rezoning application for the Proposed Use.

4 Applicant volunteers to defer application for Madden's Hammock rezoning until July 23, 2002.

Section 4. Conclusions of Law.

1. That granting the Waiver Request, subject to conditions, will do substantial justice to the purpose of the adoption of the Moratorium Ordinance.

2. The Town Council has considered the following factors in granting the Waiver Request:

a. the proposed rezoning will not detrimentally affect the outcome and implementation of the comprehensive planning process being undertaken by the Town Council;

b. the proposed rezoning may be compatible with the surrounding land uses and zoning districts and will enhance the community character of the immediate vicinity of the property; and

c. there is a compelling public purpose to warrant review of the application such that the requested waiver should be granted prior to the expiration of the moratorium period.

3. In rendering its decision as reflected in this Resolution, the Town Council has:

a. accorded procedural due process;

b. observed the essential requirements of the law; and

c. supported its decision by substantial competent evidence of record.

4. The Waiver Request is hereby **GRANTED**, subject to the conditions set forth in

Section 3 above.

Section 5. Waiver of timeframes. To the extent that the timeframes specified in Section 33-304(b) of the Town Code (as the same applies to the Town pursuant to the Town Charter) may be applicable to the Town, the Town Council for purposes of granting this Waiver Request waives the dates for acceptance of the rezoning application.

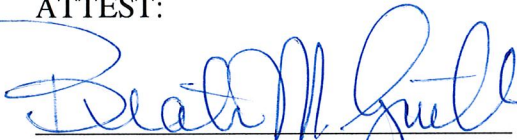
Section 6. Effective Date. This Resolution shall be effective immediately upon its filing with the Town Clerk.

PASSED AND ADOPTED this 11th day of **June**, 2002.



WAYNE SLATON, MAYOR

ATTEST:



BEATRIS M. ARGUELLES, CMC
TOWN CLERK

APPROVED AS TO LEGAL SUFFICIENCY:



WEISS, SEROTA, HELFMAN, PASTORIZA & GUEDES, P.A.
TOWN ATTORNEY

Council voted _____ as follows:	
Mayor Wayne Slaton	_____
Vice Mayor Roberto Alonso	_____
Councilmember Mary Collins	_____
Councilmember Robert Meador	_____
Councilmember Michael Pizzi	_____
Councilmember Nancy Simon	_____
Councilmember Peter Thomson	_____

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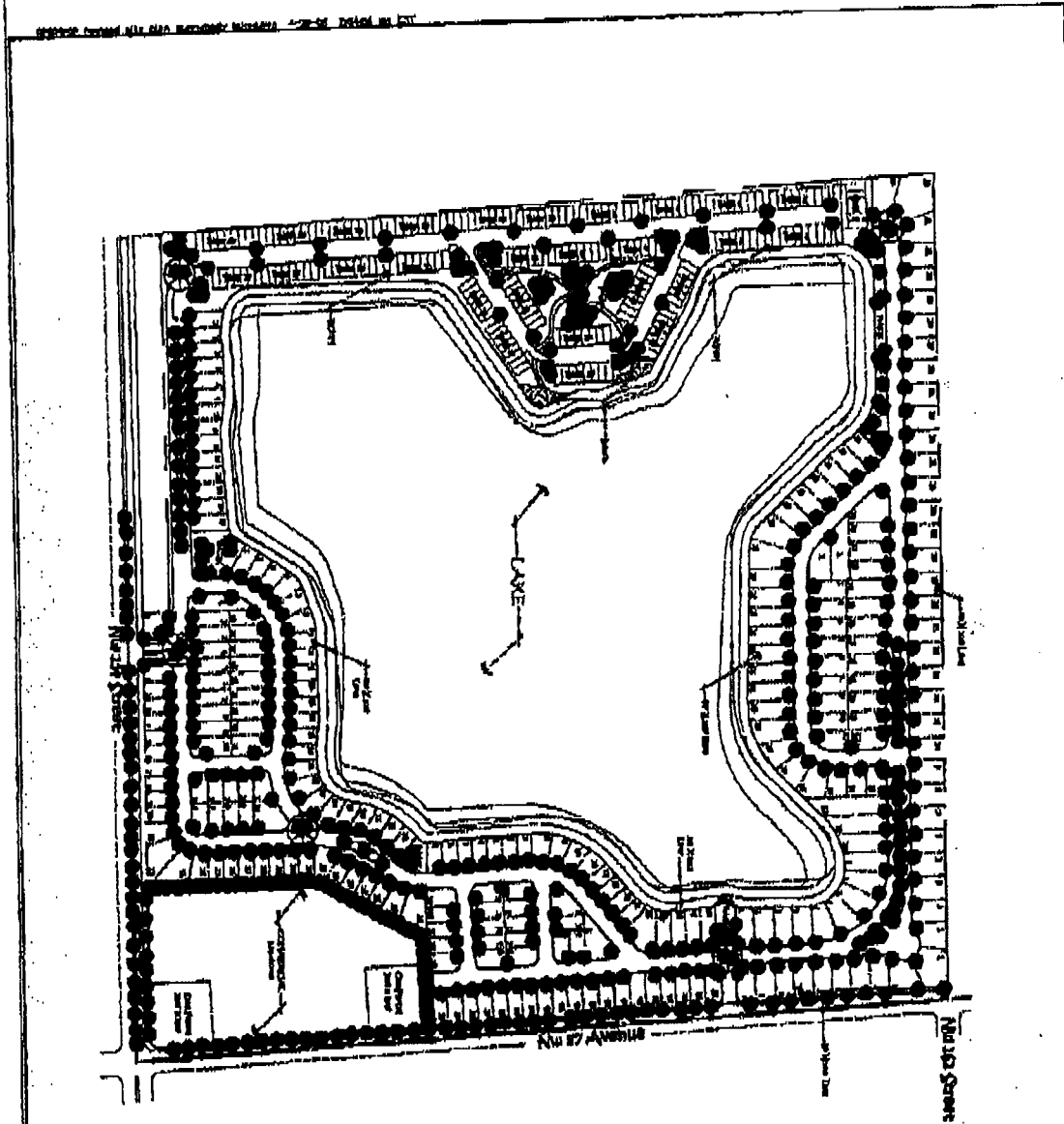
ATTACHMENT "A"

A PORTION OF LAND BEING AND LYING IN SECTION 16, TOWNSHIP 52 SOUTH, RANGE 42 EAST IN DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE SOUTHEAST ONE-QUARTER OF SECTION 16, TOWNSHIP 52 SOUTH, RANGE 40 EAST

LESS

BEGINNING AT THE SOUTHEAST CORNER OF THE ABOVE MENTIONED SECTION 16, THENCE N89d34'49"E ALONG THE SOUTH LINE OF SECTION 16 FOR A DISTANCE OF 1197.72 FEET THENCE N00d25'14"W FOR A DISTANCE OF 140.00 FEET, THENCE S89d34'48"W FOR A DISTANCE OF 1203.24 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 16, THENCE S02d37'29"E FOR A DISTANCE OF 140.05 FEET TO THE POINT OF BEGINNING

ATTACHMENT "B"



2007 Adams St. Dunnwoody Lake 100

Lot	Area	Use
101	10,000	Office
102	10,000	Office
103	10,000	Office
104	10,000	Office
105	10,000	Office
106	10,000	Office
107	10,000	Office
108	10,000	Office
109	10,000	Office
110	10,000	Office

LEGAL DESCRIPTION

Lot 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500.

<p>ROBAYNA AND ASSOCIATES, INC. 10000 N.W. 15th Avenue, Suite 200 Fort Lauderdale, FL 33309 Phone: (954) 344-1111 Fax: (954) 344-1112 Website: www.robayna.com</p>	<p>SITE PLAN</p>	<p>DUNNWOODY LAKE</p>	<p>LOWELL DUNN CO.</p>
	<p>DATE: 06/12/02</p>	<p>SCALE: AS SHOWN</p>	<p>PROJECT NO: 02-0001</p>
	<p>DRAWN BY: J. SMITH</p>	<p>CHECKED BY: M. JONES</p>	<p>APPROVED BY: R. SMITH</p>

ATTACHMENT "C"

This instrument prepared by:
 Brian S. Adler, Esquire
 Bilzin Sumberg Dunn Bacon Price & Axcirod LLP
 2500 First Union Financial Center
 200 South Biscayne Boulevard
 Miami, Florida 33131-2336

(Space Above For Recorder's Use Only)

DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Owners hold the fee simple title to the land in the Town of Miami Lakes, Miami-Dade County, Florida, described in Exhibit "A" attached hereto and hereinafter called the "Property."

WHEREAS, Owners have filed a zoning application with the Town of Miami Lakes (sometimes referred to as the "Town") through the Miami-Dade County Department of Planning and Zoning referred to as Public Hearing Application No. _____;

IN ORDER TO ASSURE the Town of Miami Lakes that the representations made to them by Owners during consideration of Public Hearing No. _____ will be abided by Owners, their successors or assigns freely, voluntarily and without duress, the Owners make the following Declaration of Restrictions covering and running with the Property:

- (1) That the Property shall be developed substantially in accordance with the spirit and intent of the plans entitled "Dunnwoody Lake" as prepared by Rohayna and Associates, Inc., dated May 30, 2002, consisting of site plan sheet 1.
- (2) That the residential development of the Property shall be limited to no more than 509 units.
- (3) That notwithstanding the requested RU-3M zoning classification, the Property shall be limited to single family homes along the northern, eastern and southern perimeters of the Property as shown on the site plan described in Paragraph (1) herein.
- (4) **Town Inspection.** As further part of this Declaration, it is hereby understood and agreed that any official inspector of the Town of Miami Lakes, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and inspecting the use of the premises to determine whether or not the

Declaration of Restrictions
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requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

(5) **Covenant Running with the Land.** This Declaration on the part of the Owners shall constitute a covenant running with the land and may be recorded, at Owners' expense, in the public records of Miami-Dade County, Florida and shall remain in full force and effect and be binding upon the undersigned Owners, and their heirs, successors and assigns until such time as the same is modified or released. These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the real property and for the public welfare.

(6) **Term.** This Declaration is to run with the land and shall be binding on all parties and all persons claiming under it for a period of thirty (30) years from the date this Declaration is recorded after which time it shall be extended automatically for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owner(s) of the Property has been recorded agreeing to change the covenant in whole, or in part, provided that the Declaration has first been modified or released by the Town of Miami Lakes.

(7) **Modification, Amendment, Release.** This Declaration may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument, including joinders of all mortgagees, if any, executed by the then owner(s) of all of the Property provided that the same is also approved by the Town Council, whichever by law has jurisdiction over such matters, after public hearing.

Should this Declaration be so modified, amended or released, the Town Manager or the executive officer of the successor of such Town Manager, or in the absence of such Director or executive officer, by his assistant in charge of the office in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

(8) **Enforcement.** Enforcement shall be by action against any parties or person violating, or attempting to violate, any covenants. The prevailing party in any action or suit, pertaining to or arising out of this Declaration shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may

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adjudge to be reasonable for the services of his or her attorney. This enforcement provision shall be in addition to any other remedies available at law or in equity or both.

- (9) **Authorization for Town of Miami Lakes to Withhold Permits and Inspections.** In the event payments or improvements or donations are not made in accordance with the terms of this Declaration, in addition to any other remedies available, the Town of Miami Lakes is hereby authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as this Declaration is complied with.
- (10) **Election of Remedies.** All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.
- (11) **Presumption of Compliance.** Where construction has occurred on the Property or any portion thereof, pursuant to a lawful permit issued by the Town, and inspections made and approval of occupancy given by the Town, then such construction, inspection and approval shall create a rebuttable presumption that the buildings or structures thus constructed comply with the intent and spirit of this Declaration.
- (12) **Severability.** Invalidation of any one of these covenants, by judgment of Court, in no way shall affect any of the other provisions which shall remain in full force and effect.
- (13) **Recording.** This Declaration shall become final and shall be filed of record in the public records of Miami-Dade County, Florida at the cost of the Owners following the adoption by the Town Council of a final resolution approving the application.

Declaration of Restrictions
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Signed, witnessed, executed and acknowledged this _____ day of _____, 2002.

Witnesses:

Lowell Dunn

Print Name: _____

Print Name: _____

Betty Dunn

Print Name: _____

Print Name: _____

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STATE OF FLORIDA }
COUNTY OF MIAMI-DADE } ss:

The foregoing instrument was acknowledged before me this ____ day of _____, 2002 by LOWELL DUNN who is personally known to me or produced a valid driver's license as identification.

Notary Public
Sign Name: _____
Print Name: _____

My Commission Expires:

Serial No. (None, if blank): _____
[NOTARIAL SEAL]

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE } ss:

The foregoing instrument was acknowledged before me this ____ day of _____, 2002 by BETTY DUNN who is personally known to me or produced a valid driver's license as identification.

Notary Public
Sign Name: _____
Print Name: _____

My Commission Expires:

Serial No. (None, if blank): _____
[NOTARIAL SEAL]