

**RESOLUTION NO. 11-884**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, APPROVING THE AMENDMENT OF DECLARATION OF RESTRICTIONS FOR PROPERTY GENERALLY LOCATED AT THE NORTHWEST CORNER OF PROPOSED NORTHWEST 87 AVENUE AND NORTHWEST 154 STREET AND IDENTIFIED BY MIAMI-DADE COUNTY TAX FOLIO NO. 32-2016-000-0020 (“DUNNWOODY LAKE”); PROVIDING CONDITIONS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** On October 9, 2002 the Town of Miami Lakes (the “Town”) adopted Ordinance 02-26 which approved a Declaration of Restrictions, proffered by the applicant, for property generally located at the Northwest corner of proposed Northwest 87 Avenue and Northwest 154 Street within the boundaries of the Town and identified by Miami-Dade County Tax Folio No. 32-2016-000-0020 (“Dunnwoody Lake”) (the “Property”); and

**WHEREAS,** the Declaration of Restrictions were thereafter duly executed and recorded by the property owners, Lowell S. and Betty L. Dunn, in Official Records Book 20812 at Page 4767 through 4778 of the Public Records of Miami-Dade; and

**WHEREAS,** the Declaration of Restrictions may be amended by subject to approval by the Town Council after public hearing; and

**WHEREAS,** the Declaration of Restrictions needs to be amended to reflect terms addressed in the Development Agreement for the Property approved by the Town Council on this same date; and

**WHEREAS,** the public hearing on the amendments was noticed for Monday, March 28, 2011, at 6:00 P.M. at Miami Lakes Town Hall, 15150 Northwest 79 Court, Miami Lakes, Florida

33016, and all interested parties have had the opportunity to address their comments to the Town Council.

**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. Amendment of Declaration of Restrictions.** The Town Council hereby approves the amendment of the Declaration of Restrictions as follows<sup>1</sup>:

\* \* \*

- (9) In order to help meet the future educational needs generated by this Application, the Owners, their successors or assigns, shall voluntarily contribute funds to the Town equal to Three Hundred Thousand Dollars (\$300,000) (the "Contribution"). However, this Contribution is intended to be used for educational purposes specifically serving the children of the Town. The total Contribution shall be made in one (1) payment in the amount of \$300,000 prior to issuance of the first residential building permit for any portion of the Property ~~or after the effective date of an executed interlocal agreement between the Town and the Miami Dade County School Board, whichever is later. Once the interlocal agreement is in effect, the Contribution shall be transferred to the School Board pursuant to the interlocal agreement.~~ The Owners, their successors or assigns, acknowledge and agree that the Contribution to the Town shall not entitle the Owners or their successors or assigns to a credit against the amount of the educational facilities impact fee that will be assessed against the future development of the Property under Chapter 33K of the Miami-Dade County Code or against any payments due or in lieu of any improvements required to comply with school concurrency. ~~The Owners, their successors or assigns, intend to construct a total of 509 units and the amount of the contribution is based on this amount. To the extent that less than 509 units are approved by the Town Council of the Town, the amount of the Contribution shall be reduced on a pro-rata basis.~~

\* \* \*

---

<sup>1</sup> Additions to the existing text are shown in underline. Deletions to the existing text are shown in ~~strikethrough~~.

(16) Owners, their successors or assigns, agree that prior to the submission of an application for the first building permit, it will submit to the Town for approval a detailed plan illustrating all tot lots and parks as shown on the plans detailed in paragraph one (1). The Property shall contain at least 2.79 acres of tot lots and small parks to meet the small park concurrency requirement. ~~3.85 + acres of parks or Owners, their successors or assigns shall provide to the Town the fair market value cash contribution on a pro rata basis for any deficiency for park land as amended by the Town's Comprehensive Plan.~~ The Owners, their successors or assigns agree that such park acreage or cash contribution in lieu of park acreage shall not entitle the Owners, their successors or assigns to a credit against the amount of park impact fees that will be assessed against the future development of the Property under the park impact fee ordinance.

~~(17) Sale of Property to Fire Department.~~

~~(a) In order to further address the impact of the development of the Property on the Miami Dade County Fire Rescue Department (the "Fire Department"), and to help meet the future Fire Department needs generated by this application and other development in the Town, the Owners, their successors or assigns, hereby agree to offer to the Fire Department for the construction of a fire rescue station that certain site consisting of approximately 200' x 200' located due west of the commercial property as depicted on the plans referenced in paragraph one (1) and fronting on N.W. 154 Street. A copy of the proposed area is attached as Exhibit "B" to this Agreement ("Fire Department Site").~~

~~(b) The Fire Department shall have, until April 9, 2003, an irrevocable option to purchase the Fire Department Site. The Fire Department must exercise this option in writing, to the Owners, their successors or assigns, within this period, or the option automatically expires at which time the Owners, their successors or assigns, are under no obligation whatsoever to sell the Fire Department Site to the Fire Department and the Fire Department Site will be developed with residential units substantially in accordance with the site plans referenced in paragraph one (1). However, if the Fire Department exercises its option, the Fire Department shall have until October 9, 2003 to close on the Fire Station Site.~~

~~— If the Fire Department exercises its option referenced in this paragraph 17, the Owners must provide a legal description of the Fire Department Site. The Fire Department shall, at its own expense, secure an appraisal for the Property to determine the fair market value of the Property. In the event the Owners, their successors or assigns dispute the appraisal amount, Owner shall be~~

~~entitled to obtain an additional appraisal at its own expense. If the two appraisals differ by less than 5%, the Fire Department appraisal shall govern. In the event the appraisals differ by greater than 5%, the Fire Department and Owners shall agree on a third appraisal. The Fire Department and Owners, their successors or assigns shall be bound by either the original Fire Department appraisal or the third appraisal, whichever is greater.~~

- ~~(c) Should the Fire Department elect to purchase the Fire Department Site, it shall be responsible for their costs associated with rezoning the Fire Department Site with the Town of Miami Lakes, and for all costs associated with replatting the Fire Department Site to create a separate platted parcel. The Owners, their successors or assigns agree to fully cooperate and execute all documents necessary to effectuate the change in the approved site plan.~~
- ~~(d) In the event the Fire Department elects to exercise its option, final transfer of the Property shall occur by a warranty deed free of all encumbrances and liens.~~
- ~~(e) The Owners, its successors or assigns agree that the sale of the Fire Department Site to the Fire Department shall not entitle the Owners, their successors or assigns to a credit against the amount of the fire impact fees that will be assessed against the future development of the Property under Chapter 333 of the Code of Miami Dade County.~~
- ~~(f) Owners, their successors or assigns shall provide all utilities including water lines, sewer lines, electric service, and telephone service at the perimeter of the Fire Department Site in a sufficient operational state to meet all applicable building and zoning codes and support full development of a fire station. The Owners, their successors or assigns shall provide, at their expense, paved road access along N.W. 154<sup>th</sup> Street to the fire station site.~~
- ~~(g) Nothing contained in this paragraph 17 of this Agreement shall be interpreted to preclude Owners, their successors or assigns from proceeding with the development of the remainder of the Property during the above described option period, except for the Fire Department Site.~~

\* \* \*

**Section 3. Conditions.** The Property Owner shall submit the Amended Declaration of Restrictions to meet with the approval of the Town Attorney. The proffered

Declaration of Restrictions shall be executed and recorded at the Property Owner's expense within 30 days of this approval.

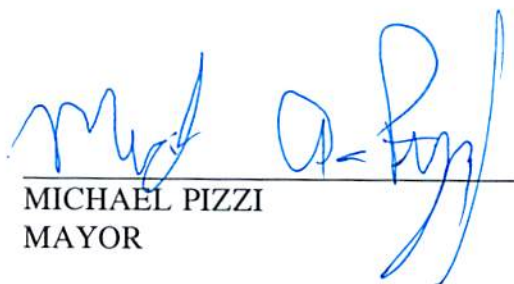
**Section 4. Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 28<sup>th</sup> day of March, 2011.


Motion to adopt by Mayor Michael Pizzi, second by Councilmember Mary Collins.

FINAL VOTE AT ADOPTION

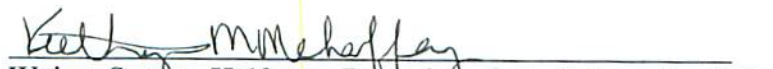
Mayor Michael Pizzi	yes
Vice Mayor Nick Perdomo	yes
Councilmember Mary Collins	yes
Councilmember Tim Daubert	yes
Councilmember Nelson Hernandez	yes
Councilmember Ceasar Mestre	yes
Councilmember Richard Pulido	no

  
MICHAEL PIZZI  
MAYOR

ATTEST:

  
Marjorie Tejada  
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Miami Lakes only:

  
Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, P.L.  
TOWN ATTORNEY