ORDINANCE No. 2007-12-118

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY TOLEDO INVESTMENT GROUP, LLC, FOR THE REZONING OF PROPERTY GENERALLY LOCATED WEST OF NORTHWEST 25TH AVENUE AND SOUTH OF NORTHWEST 177TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO FROM RU-2 – TWO-FAMILY RESIDENTIAL DISTRICT TO RU-4L – LIMITED APARTMENT HOUSE DISTRICT; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Toledo Investment Group, LLC ("Applicant"), has filed an application with the City of Miami Gardens to approve a rezoning from RU-2 to RU-4L for property generally located west of Northwest 25th Avenue and south of Northwest 177th Street, more particularly described on Exhibit "A" attached hereto ("Property"), and

WHEREAS, public hearings have been held on this matter on April 4, 2007, and on May 2, 2007, and

WHEREAS, the City Council has considered the testimony of the Applicant, if any, and

WHEREAS, the City Council has also considered the testimony of the City's Planning and Zoning staff as well as the Staff Report attached hereto as Exhibit "B" and incorporated herein by reference, and

WHEREAS, the City staff recommends approval of the Application, and

WHEREAS, the City Council has reviewed the Application and approves the same, subject to the recording of a Declaration of Restrictive Covenants, and

WHEREAS, the City staff has determined that rezoning is consistent with the City's Comprehensive Development Master Plan,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council of the City of Miami Gardens hereby approves the Application submitted by Toledo Investment Group, LLC, for the rezoning of property generally located west of Northwest 25th Avenue and south of Northwest 177th Street, more particularly described on Exhibit "A" attached hereto from RU-2 – Two-Family Residential District to RU-4L – Limited Apartment House District.

SECTION 3. APPROVAL OF DECLARATION OF RESTRICTIVE COVENANTS: The City Council of the City of Miami Gardens, Florida, hereby approves the Declaration of Restrictive Covenants attached hereto as Exhibit "C."

SECTION 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 4TH DAY OF APRIL, 2007.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 2nd DAY OF MAY, 2007..

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Bratton
SECONDED BY: Councilman Campbell

VOTE: 5-1

Mayor Shirley Gibson	___(Yes)	___(No)	Out of town
Vice Mayor Oscar Braynon, II	x (Yes)	___(No)	
Councilman Melvin L. Bratton	x (Yes)	___(No)	
Councilman Aaron Campbell	x (Yes)	___(No)	
Councilman André Williams	x (Yes)	___(No)	
Councilwoman Sharon Pritchett	___(Yes)	x (No)	
Councilwoman Barbara Watson	x (Yes)	___(No)	

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City of Miami Gardens

1515-200 NW 167th Street
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson
Councilman André Williams

Agenda Cover Page

Date: May 2, 2007

Fiscal Impact: No X Yes ☐	Public hearing X	Quasi-Judicial ☐
(If yes, explain in Staff Summary)	Ordinance X	Resolution ☐
Funding Source:	1st Reading ☐	2nd Reading X
Contract/P.O. Requirement: Yes ☐ No☐	Advertising requirement:	Yes X No ☐

Sponsor Name/Department: City Manager via Planning and Zoning

ORDINANCE No. 2007-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE APPLICATION SUBMITTED BY TOLEDO INVESTMENT GROUP, LLC, FOR THE REZONING OF PROPERTY GENERALLY LOCATED WEST OF NORTHWEST 25TH AVENUE AND SOUTH OF NORTHWEST 177TH STREET, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO FROM RU-2 – TWO-FAMILY RESIDENTIAL DISTRICT TO RU-4L – LIMITED APARTMENT HOUSE DISTRICT; PROVIDING FOR A DECLARATION OF RESTRICTIVE COVENANT; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

STAFF SUMMARY
PH-2007-000005 Public Hearing for Toledo Investment Group, LLC
Regarding a Rezoning (Second Reading)

On April 4, 2007 the City Council approved at the first reading this application regarding a rezoning of the subject property from RU-2, Two –Family Residential District to RU-4L, Limited Apartment District. The City Council approved the Declaration of Restrictions accepted by the applicant with one additional item numbered # 11 related to roof specifications as follows:

11. Roofs. All construction shall be completed using barrel tile roofs.

Recommend approving rezoning from RU-2 to RU-4L on second reading with proffered covenants containing stipulations and conditions as revised.

Attachments: Staff recommendation dated 4-4-07 with Revised Declaration of Restrictions.

8B) 2ND READING
ORDINANCE
TOLEDO INVESTMENT GROUP, LLC

City of Miami Gardens

1515 NW 167th Street, Bldg. 5, Suite 200
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson
Councilman André Williams

MEMORANDUM

To: **The Honorable Mayor and City Council**
Thru: **Dr. Danny O. Crew, City Manager**
From: **Jay Marder, AICP, Development Services Director**
Date: **April 4, 2007**
Re: **PH-2007-000005 Public Hearing for Toledo Investment Group, LLC regarding a Rezoning**

Summary

Applicant:	Toledo Investment Group, LLC
Agent:	Ada Senas
Location:	West of N. W. 25th Avenue and South of N.W. 177th Street
Land Area:	46,530 square feet or 1.02 acres.
Future Land Use:	Neighborhood
Existing Zoning:	RU-2, Two-Family Residential District
Requested Action:	District Boundary Change from RU-2, Two-Family Residential District to RU-4L, Limited Apartment House District

Recommendation

Based on findings contained herein, the requested rezoning is consistent with the CDMP and maintains the basic intent and purpose of the Code. Recommend rezoning from RU-2, Two-Family Residential District to RU-4L, Limited Apartment House District and acceptance of the proffered Declaration of Restrictions requiring:

1. That a site plan be submitted to and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, location of structure(s), the type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details;

2. That, in the approval of the plan, the same be substantially in accordance with that submitted for the public hearing and consisting of the following sheets: Proposed Site & Landscaping Plan, Sheet SP/LS-1; Seven-Unit Building First Floor, Second Floor, & Elevation Plans, Sheet A-1; Eight-Unit Building First Floor, Second Floor, & Elevations

Plans Elevations, Sheet A-2; as prepared by G & A Architect, P.A. All sheets dated and stamped 2/7/2006; and

3. That a landscape plan be submitted to the City of Miami Gardens for its review and approval; said plan should include the type and size of planting material prior to the issuance of a building permit and to be planted prior to the issuance of a Certificate of Use and Occupancy;

4. That, before the removal or relocation of the on-site specimen-sized trees, the Applicant secure a Miami-Dade County Tree Removal Permit, which meets the requirements of Sections 24-49.2 and 24-49.4 of the Code;

5. That all stormwater runoff be retained on site utilizing properly designed infiltration or seepage type systems;

6. That brick pavers along all ingress/egress drives be provided in order to facilitate pedestrian circulation;

7. That the site be connected to public water supply system, which is readily available to the site; and

8. That alternative means of sewage disposal be only an interim measure and connection to the public sanitary sewer system be required upon availability of adequate collection/transmission and treatment capacity.

9. That the applicant dedicate segments of N.W. 25th Avenue and N.W. 177th Street and improves same with pavement, drainage, sidewalk, street light and related improvements per City requirements.

10. That as per plans submitted, adequate landscaped buffer to be provided to protect the single-family residences to the east of the project site.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning	Existing Use	Future Land Use
Site	RU-2, Two-Family District	Vacant	Neighborhood
North	RU-1, Single-Family District	Church	Neighborhood
South	RU-4A, Apartments/Hotel	Condos (Oak Gardens)	Neighborhood
East	RU-1, Single-Family District	Single-Family Homes	Neighborhood
West	TCZD, Town Center Zoning District	Retail Strip Center	Commerce

The subject property is an unimproved rectangular lot of approximately one (1) acre in size. It is located at the southwest corner of N.W. 25th Avenue and theoretical N.W. 177th Street. The 4.2-acre property to the north is zoned RU-1 and is being developed as a church. The property to the

south is zoned RU-4L and has been improved with a 60-unit multi-family residential development. The properties to the east, across from N.W. 25th Avenue, have all been developed with single-family residences. Adjoining the site on the west is a relatively small retail strip center that can be accessed either from N.W. 27th Avenue or N.W. 177th Street. (See Aerial, attached).

Consistency with Comprehensive Development Master Plan

The subject parcel is designated Neighborhood on the adopted 2006-2016 Land Use Plan (LUP) Map of the Future Land Use Element (FLUE) of the Comprehensive Development Master Plan (CDMP) of the City of Miami Gardens. This category allows uses ranging from low- to high density residential developments, as well as limited commercial and office, and mixed-use planned projects subject to the performance criteria set forth in the CDMP.

Residential densities in the CDMP are measured in terms of gross acreage. The proposed townhome development has a density of just under fifteen (15) dwelling units per gross acre and therefore must meet performance standards of Low-Medium Density Residential development as defined in Policy 2.1.2 of the Future Land Use Element, set forth below, with comments in *italics*:

- Low-Medium Density Residential uses shall generally be limited to the Neighborhood land use designation: *The site is located within the Neighborhood Land Use Designation.*
- Low-Medium Density Residential densities shall range from 7 to 15 dwelling units per gross acre. This density will allow housing types such as zero lot line homes, townhouses and low-rise apartments with surrounding open space. *The site proposes town homes with up to 15 dwelling units per acre.*
- Low-Medium Density Residential shall be limited to two (2) stories. *The proposed development is two stories.*
- Low-Medium Density Residential should be located adjacent to public streets classified as Collectors or higher within the Commerce land use category, or Arterials if within the Neighborhood land use designation. *The proposed development is located on public streets and adjacent to public streets classified as arterials (NW 27th Avenue).*
- Adequate separation and buffer treatment shall be provided to protect adjacent single-family residential uses. *The site will be separated from adjacent single family homes by a street right of way (distance), building setbacks and landscape treatment.*

In conclusion, the proposed zoning and accompanying development are consistent with the Comprehensive Development Master Plan.

Analysis and Criteria

The Applicant, Toledo Investment Group, LLC, seeks to rezone the above-described property from RU-2, Two-family Residential District to RU-4L, Limited Apartment House District. The property is presently unimproved and, upon the approval of this request, will be developed with a multifamily residential development consisting of fifteen (15) townhomes and amounting to a

gross density of as many dwelling units per acre (du/a). While the applicant is not required to submit a site plan for a rezoning application, the plan provided and attached meets code requirements; no variances are being requested.

Criteria for Rezoning: Section 33-311(A)(8) of the Zoning Code provides authority to the City Council to hear and grant or deny applications for zoning district boundary changes. In evaluating an application for a district boundary change or rezoning, the Council shall take into consideration, among other factors, the extent to which:

- The development permitted by the application, if granted, (1) conforms to the CDMP, (2) is consistent with applicable area or neighborhood studies or plans, and (3) would serve a public benefit warranting the granting of the application at the time it is considered;
- The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, and other necessary public facilities which have been constructed or planned and budgeted for construction;
- The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways;
- The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the City of Miami Gardens, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate impacts may have a substantial impact on the natural and human environments; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.

The rezoning of this property will allow the Applicant to build fifteen (15) townhomes, which would have been otherwise impossible in the existing RU-2 zone. This proposed residential development accounts for a density of approximately 15 du/a, which is far below the maximum allowable density of 23 du/ac of the requested RU-4L zoning district. In accordance with Section 33-311(A)(8) of the Code, this rezoning therefore conforms to the goals, objectives and policies of the CDMP.

This rezoning request is not detrimental and is otherwise compatible to the neighboring low-density residential developments to the east. In fact, this development provides a fitting transition between the latter developments and the more intense commercial uses along the N.W. 27th Avenue corridor. The Applicant's request will not be contrary to the public interest. In fact, the Applicant proposes to dedicate two (2) 25-foot easements along N.W. 25th Avenue and N.W. 177th Street respectively. The Applicant also agrees to improve these right-of-way dedications with twenty (20) feet of pavement, drainage and sidewalks. As per plans submitted, adequate landscaped buffer will be provided to protect the single-family residences to the east. Moreover, no detrimental impact on natural resources and no undue burden on water, sewer, solid waste

disposal, recreation, education, or other necessary public facilities, including mass transit, roads, streets and highways, will result from this rezoning and the proposed residential development. In fact, this application was filed on or around February 2006, but could not be scheduled because the DERM's objection concerning the potential impact on the specimen-sized trees located on the site. (See DERM Letter dated March 21, 2006, attached). On October 6, 2006, after months of negotiations, DERM decided to approve this application contingent upon compliance with the Tree Removal Permit requirements of the County and inclusion of said requirements in the ordinance approving this application.

Based upon these findings, the Applicant's request (1) is in keeping with the spirit of the policies of the CDMP; (2) maintains the basic intent and purpose of the Zoning Code and (3) does not impact negatively the stability and character of the area. Pursuant to Section 33-311(A)(8), recommendation is made to the City Council to adopt the accompanying ordinance granting the requested zone change from RU-2 to RU-4L and to accept the Applicant's proffered declaration of restrictive covenants, which, among other things, tie the development to the plans submitted for the hearing and requires a tree removal permit from the County before the relocation or removal of the on-site specimen-sized trees.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.

Public Water: Central water is available to this site, and connection shall be required.

Wastewater Disposal: The closest sanitary sewer is located 220 feet from the subject property. Therefore, connection to the public sanitary sewer system is required, unless adequate capacity in this system is not available, in which case a temporary alternative means of sewage disposal may be provided.

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type systems. Drainage must be provided for the 5-year storm event with full on-site retention of a 25-year/3-day storm. Pollution control devices shall be required at all drainage inlet structures. Site grading and development shall comply with the requirements of Chapter 11C of the Code of Miami-Dade County. Additionally, a Surface Water Management General Permit from DERM shall be required for the construction and operation of the required surface water management.

Traffic Circulation:

- **Site Impact-** Access to the site and the proposed residential development is provided on N.W. 177th Street. According to the Traffic Impact Study submitted, this development will generate thirteen (13) PM Peak Hour Vehicle Trips, with nine (9) entering the development and four (4) exiting it. This study further indicates that the proposed development will not cause any of the adjacent roadways to operate below acceptable

levels of service (LOS and that these roadways will all retain a reasonable level of reserve capacity. (See Traffic Impact Study, attached).

- **Local Street Network.** A small existing portion of N.W. 177th Street will provide access to and from the proposed development from N.W. 27th Avenue, just west of the subject property. On the north side of the site, a 25-foot right-of-way easement has already been dedicated to Miami-Dade County by the church (as part of their development conditions) and will be constructed as part of the church which is under construction. The Applicant proposes to convey a similar easement on the north side of the subject property for the construction of south side of N.W. 177th Street. Another 25-foot easement is proposed to be dedicated along the east side of the property for the construction of the southbound lane of N.W. 25th Avenue. The undeveloped westerly portion of NW 25th Avenue that is located north of the site will be constructed by the church as part of that development project's development approval. In summary, once this proposed project is complete and the church is complete, the neighborhood will have a completed local road network.

- **Transportation Concurrency Management Areas** - The CDMP establishes 4 (four) Transportation Concurrency Management Areas (TCMA) within the City of Miami Gardens. Per the CDMP's Transportation Element Objective 1.9, the TCMA maintains requires maintenance of an area wide Level of Service for transportation. The project is located in TCMA #2 which includes both sides of NW 27th Avenue Area. The Level of Service (LOS) for all TCMA's, including TCMA#2, is LOS E. With just over 13 peak hour trips, this project will have a *de minimus* effect on the area wide LOS. Essentially, the 13 peak hour trips from this project will be subtracted from the inventory of trips available for TCMA #2. In addition to reviewing impact on the City's overall transportation system, each development review application will continue to go through the appropriate City process and conduct a traffic impact analysis, as noted above.

Education: According to the Miami-Dade County Public Schools, the proposed development will generate four (4) additional students, which will impact Parkview Elementary School, Parkway Middle School and Miami Norland Senior High School. These schools are currently operating at 108%, 80% and 107% of FISH utilization, respectively. The proposed residential development will not impact any of these schools beyond the 115% of FISH capacity threshold and, will not, therefore, trigger the Interlocal Agreement. A dialogue between the School District and the Applicant was not necessary and the attached School District Review Analysis is provided for informational purposes only.

Public Notification/Comments

In accordance with Subsections (c)(1), (2) and (3), Subsections (d)(40 of Section 33-310 of the Code, notification of the applicant's requests was mailed to property owners within one (1) mile of the subject site to provide them an opportunity to comment on the application if they so choose. No comments were received from any of the property owners within that radius.

This recommendation to approve the Applicant's rezoning request and to accept the proffered declaration of restrictions does not constitute a final development order; one or more concurrency determinations will subsequently be required.

Attachments:

- Public hearing Checklist
- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Affidavit
- Mailed Notice Radius Map
- DERM Letter dated March 21, 2006
- DERM Letter dated October 6, 2006
- Submitted Plans
- Traffic Impact Study
- School District Review Analysis
- Miami Gardens Proposed Ordinance
- Proffered Declaration of Restrictions