

Allan S. Greenberg  
5688 Wind Drift Lane  
Boca Raton, Fl. 33433

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Dear Association President or Representative,

I am the President of the Wind Drift Homeowner Association which is just across the canal from the 16<sup>th</sup> hole of the now defunct Mizner Trail Golf Course. I have owned my own real estate company for over 30 years, have close contact and interactions with 5 Condominium Boards of Directors besides the Wind Drift HOA.

This letter has been sent to you to clear up the facts of the proposed "rezoning" of the golf course. Please read the letter below and inform your owners of its contents.

**LEGAL FACTS ABOUT LAWS REGARDING MIZNER TRAIL NEW REZONING APPLICATION:**

Boca Del Mar is a Planned Urban Development (PUD). A PUD is when a property developer, such as Texaco, presents their plans to develop their land but must get approval from the County which requires certain assurances that the development will conform to a Master Plan. A Master Plan includes zoning densities, conditions, limitations, easements and restrictions, etc., that guarantee the project will be built and remain as approved and not haphazardly built or be in conflict with surrounding communities.

A PUD includes a maximum number of units that can be built within the entire project. Subdivision numbers may be changed prior to approval so long as the total number remains the same. In 1971 the County approved and recorded the master plan and designated the Boca Del Mar property as a PUD. Sometime in 1971 the master plan allocated those residential units on the golf course to other parcels in the development, so that the original owner, Behring Development Company (Behring) received compensating development rights for maintaining the golf course. In 1973, the original developer (Behring) recorded a plat designating the south course as "golf course" with no units assigned to it and no other development or alteration permitted.

The Circuit Court in the Fifteenth Judicial Circuit Final Judgment in *The Mizner Trail Golf Club Ltd. v. Palm Beach County Florida* which was affirmed by the District Court of Appeal of the State of Florida Fourth District denied Mizner or any successor from building any residential units on the golf course property. The decision of the District Court and the affirmation by the Fourth District Court of Appeal vindicates the County and the homeowners in the Boca Del Mar PUD. This decision is applicable to Mizner's current application. Basically, all of Mizner's previous applications did not and cannot meet the required criteria for approval and this new application is no different.

Even though several prior applications for rezoning have been rejected, as well as an unsuccessful lawsuit and appeal, Mizner is taking a third bite of the apple because the County Commissioners have succumbed to political pressure and/or the County's need for more revenue.

In addition to the extra, unapproved units the developer wants to crowd in between private homes and/or condominiums, there are many issues which, if approved, will affect ALL residents of Boca Del Mar. Although you may not reside directly on or near the golf course, owners will be faced with thousands of new automobiles on your already crowded streets, thousands of new children into your already crowded schools, ruination of views and property values of homeowners that paid a premium for golf course views or open space views and years of hundreds of bulldozers, construction trucks, and inconveniences and debris from development. Additionally, by law, 20% of all new housing units in Florida must be set aside for Low Income Housing for people who earn 50% or less than the area neighborhood medium income or 40% of the units must be set aside for Very Low income housing for people who earn less than 60% of the average neighborhood medium income in the area!

Approval of Mizner's current proposal is inconsistent with the master plan and the existing State-approved comprehensive plan and would be inviting a lawsuit against the County and Mizner.

Subsequent to the approval of the Boca Del Mar PUD in 1971, governing laws were changed and the Growth Management Act of 1985 was created requiring all developments conform to a State-Approved Comprehensive Plan and that development orders be consistent with that plan. The statute is framed as a rule, a command to cities and counties that they must comply with their own comprehensive plan after they have been approved by the State. To insure compliance by municipalities, the State has made it easy for owners to file for injunctive relief against misguided commissioner rulings.

We must all stand together to protect our communities. If Mizner is not defeated at the Palm Beach County Commission level, then we must go to court for the proper remedy. The North Course of Boca Del Mar could be next! If the County Commissioners rule for approval of Mizner's application despite all the legal precedents, a whole myriad of properties will likewise file for increases in density throughout the city and county. Already, developers are filing rezoning applications to tear down one story strip malls and replace them with higher density office buildings.

Rulings by Circuit Courts and The District Court of Appeal of the State of Florida Fourth District have made injunctions more available to affected or aggrieved people. They now have more opportunity to protect themselves and their interests. The homeowners who will be damaged should be made aware of these Statutes which provide them with options to protect their homes and investments.

Florida Statute section 163.3215 Allows any aggrieved or adversely affected party to maintain an action for injunctive relief. The court discerns only two elements to the granting of an injunction against the enforcement of a development order: (a) the party is affected or aggrieved by (b) an approved project that is inconsistent with the Comprehensive Plan.

Please give a copy of this letter to as many homeowners as possible or just spread the word that we need your support and we all must be united in our efforts.

Additional correspondence will be coming as events unfold.

Thank you for your cooperation,

Allan S. Greenberg