

RESOLUTION NO. R-2003- 0954

RESOLUTION APPROVING ZONING PETITION TDR2003-001  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
PETITION OF LENNAR COMMUNITIES, INC.  
BY ANNA S. COTTREL, AGENT  
(LAKE OSBORNE RESIDENTIAL PUD)

**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 the Unified Land Development Code; and

**WHEREAS**, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-10, as amended), have been satisfied; and

**WHEREAS**, Zoning Petition TDR2003-001 was presented as a development order to the Board of County Commissioners at a public hearing conducted on June 26, 2003; 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. Pursuant to Section 6.10.H. of the ULDC, the Planning Division has established a County TDR Bank with TDR Units accumulated through the purchase of property under the Environmentally Sensitive Lands Program; and
2. Revenue from the TDR Bank are earmarked for the acquisition and management of environmentally sensitive lands and wetlands; and
3. Pursuant to Section 6.10.H.4.b. of the ULDC, the Planning Division and the Land Use Advisory Board (LUAB) have recommended that the sale price for a County TDR units for FY01-02 be \$13,308.00 per unit; and;
4. Pursuant to Section 6.10.I. of the ULDC, the 2003-001 qualifies as a TDR Receiving Area; and
5. Pursuant to Section 6.10.K.3.e. of the ULDC, there are five standards which must be complied with in order to use the TDR Program and each of the five standards has been complied with; and

**WHEREAS**, Section 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adapted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, **FLORIDA**, that Zoning Petition TDR2003-001 the petition of Lennar Communities, Inc. by Anna S. Cottrel, agent, for a Transfer of Development Rights for 3 units and to designate this petition as the receiving area 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, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 26, 2003, subject to the conditions of approval described in EXHIBIT C-2, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on June 26, 2003.

Filed with the Clerk of the Board of County Commissioners on 22 day of July, 2003.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK

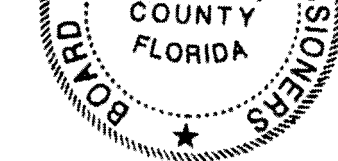


EXHIBIT A  
LEGAL DESCRIPTION

(PARCEL NO. 1)

BEGINNING AT THE MEANDER CORNER ON THE SOUTH LINE OF SECTION 32, TOWNSHIP 44 SOUTH, RANGE 43 EAST, AND ON THE WEST SHORE OF LAKE OSBORNE; THENCE SOUTH  $88^{\circ}04'$  EAST ALONG THE SOUTH LINE OF SAID SECTION 32, 374.42 FEET; THENCE SOUTH  $61^{\circ}04'$  EAST, 320.85 FEET TO A POINT IN THE NORTH LINE OF SECTION 5, TOWNSHIP 45 SOUTH, RANGE 43 EAST AT A DISTANCE OF 500 FEET, SOUTH  $89^{\circ}59'$  EAST OF THE MEANDER CORNER ON THE WEST SHORE OF SAID LAKE OSBORNE AND IN THE NORTH LINE OF SAID SECTION 5; THENCE SOUTH  $5^{\circ}13'30''$  WEST, 401.66 FEET TO A POINT IN A LINE PARALLEL TO, AND 400 FEET SOUTHERLY MEASURED AT RIGHT ANGLES, FROM THE NORTH LINE OF SAID SECTION 5; THENCE NORTH  $89^{\circ}59'$  WEST ALONG SAID PARALLEL LINE, 482.87 FEET TO A POINT IN THE MEANDER LINE OF THE WEST SHORE OF LAKE OSBORNE; THENCE NORTH  $2^{\circ}47'$  EAST ALONG SAID MEANDER LINE, 400.47 FEET TO THE MEANDER CORNER IN THE NORTH LINE OF SAID SECTION 5; THENCE NORTH  $42'45''$  WEST ALONG THE MEANDER LINE OF THE WEST SHORE OF LAKE OSBORNE ACROSS SAID HAITUS, 228.36 FEET (3.46 CHAINS) TO THE POINT OF BEGINNING. LESS THEREFROM THE NORTH 38 FEET FOR CANAL RIGHT-OF-WAY.

CONTAINING 5.71 ACRES,

(PARCEL NO. 2)

BEGINNING AT THE MEANDER CORNER ON THE SOUTH LINE OF SECTION 32, TOWNSHIP 44 SOUTH, RANGE 43 EAST, AND ON THE WEST SHORE OF LAKE OSBORNE, SAID SECTION HAVING A BEARING OF SOUTH  $88^{\circ}04'$  EAST; THENCE SOUTH  $42'45''$  EAST, A DISTANCE OF 228.36 FEET TO THE MEANDER CORNER IN THE NORTH LINE OF SECTION 5, TOWNSHIP 45 SOUTH, RANGE 43 EAST; THENCE SOUTH  $2^{\circ}47'$  WEST, A DISTANCE OF 300 FEET MORE OR LESS TO THE SHORES OF SAID LAKE OSBORNE AS SHOWN AS LAGOON ON THE PLAT OF LANAIR PARK, RECORDED IN PLAT BOOK 21, PAGE 58, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE MEANDER WESTERLY ALONG THE SHORE OF LAKE OSBORNE (LAGOON), A DISTANCE OF 510 FEET, MORE OR LESS, TO A POINT; THENCE NORTH  $1^{\circ}56'$  EAST, A DISTANCE OF 390 FEET, MORE OR LESS, TO A POINT IN THE SOUTH LINE OF SAID SECTION 32; THENCE SOUTH  $88^{\circ}04'$  EAST ALONG THE SOUTH LINE OF SAID SECTION 32, A DISTANCE OF 345.37 FEET TO THE POINT OF BEGINNING. LESS THEREFROM THE NORTH 38 FEET FOR CANAL RIGHT-OF-WAY.

CONTAINING 3.91 ACRES, MORE OR LESS.

(AREA CALCULATED TO EXISTING EDGE OF WATER AS IT WAS LOCATED ON 11/29/2002.)

SAID PARCELS OF LAND BEING LOCATED IN THE HIATUS BETWEEN TOWNSHIPS 44 AND 45 SOUTH, RANGE 43 EAST, AND IN SECTION 5, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA.

BOTH OF SAID TRACTS BEING ACCORDING TO THE PLAT AND SURVEY OF SAME MADE BY K.C. MOCK & ASSOCIATES, REGISTERED ENGINEERS AND SURVEYORS, ON JULY 26, 1956.

(PARCEL NO. 3)

THE SOUTH 13 FEET OF THE PART OF HIATUS TRACT 38, BETWEEN TOWNSHIPS 44 AND 45 IN RANGE 43, BOUNDED AS FOLLOWS: ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD; ON THE SOUTH BY A LINE PARALLEL TO AND 38 FEET SOUTH OF (MADE AT RIGHT ANGLES) THE SOUTH LINE OF SECTION 32, TOWNSHIP # SOUTH, RANGE 43 EAST, ON THE EAST BY THE ORIGINAL GOVERNMENT MEANDER LINE OF THE WEST SHORE OF LAKE OSBORNE SUBDIVISION AND RECORDED IN PLAT BOOK 9, PAGES 42 AND 43, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; AND ON THE WEST BY THE NORTHERLY EXTENSION OF THE EAST LINE OF THE WEST 54.35 FEET OF LOT 6, OF SAID LAKE OSBORNE SUBDIVISION.

LEGAL DESCRIPTION  
(PARCEL NO. 4)

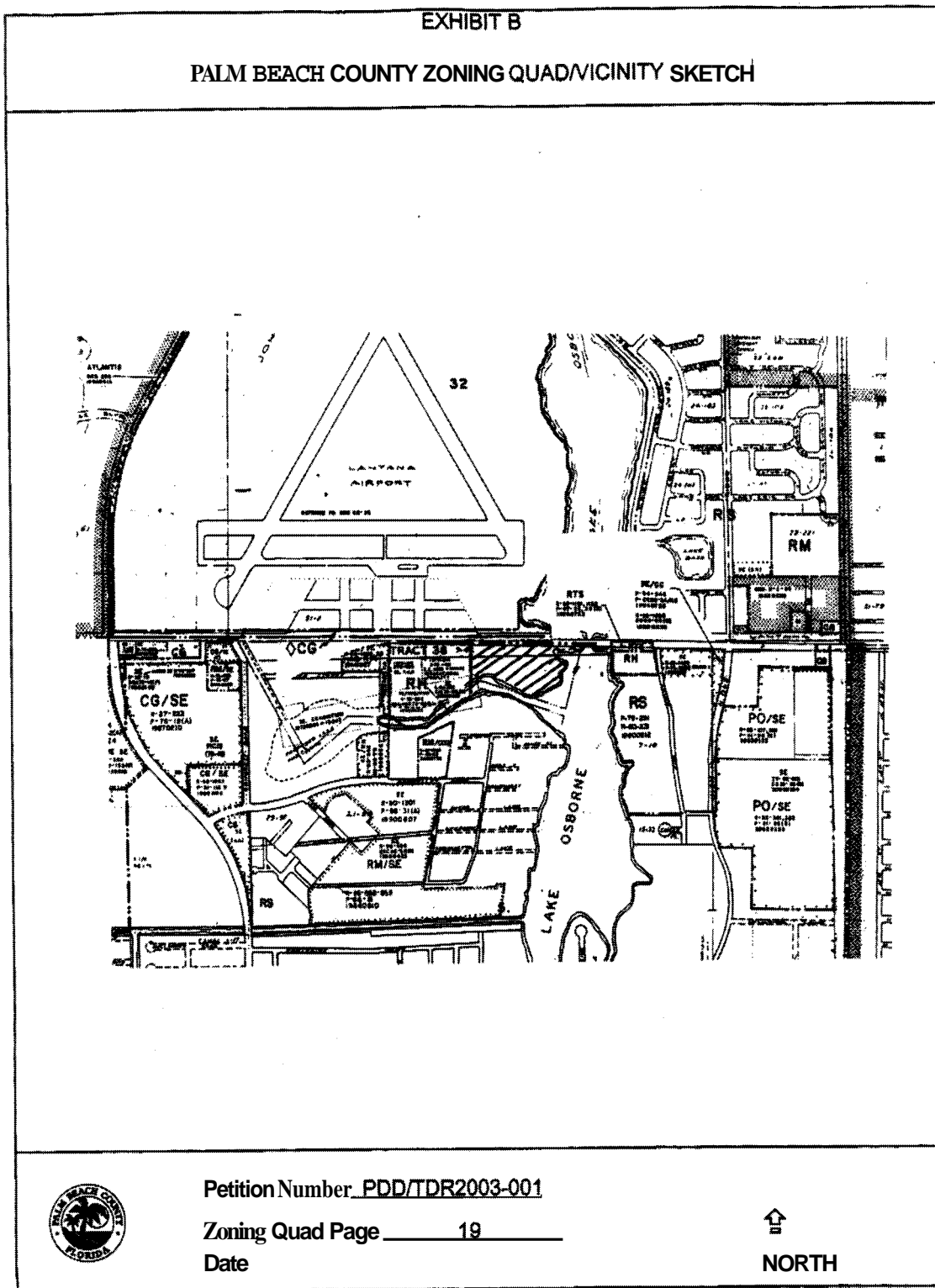
A PARCELOF LAND SITUATE AND LYING IN PALMBEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 13 FEET OF THE PART OF HIATUS TRACT 38 BETWEEN TOWNSHIP 44 AND 45 IN RANGE 43, BOUNDED AS FOLLOWS: ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD; ON THE SOUTH BY A LINE PARALLEL TO AND 38 FEET SOUTH OF (MADE AT RIGHT ANGLES) THE SOUTH LINE OF SECTION 32, TOWNSHIP 44 SOUTH, RANGE 43 EAST; ON THE EAST BY THE WEST SHORE OF LAKE OSBORNE AND ON THE WEST BY THE NORTHERLY EXTENSION OF THE EAST LINE OF THE WEST 54.35 FEET OF LOT 6, OF SAID LAKE OSBORNE SUBDIVISION.

CONTAINING 0.24 ACRES.

NET AREA OF PARCELS IS 9.86 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C - 2

### TDR CONDITIONS OF APPROVAL

#### A. TRANSFER OF DEVELOPMENT RIGHTS

1. The preliminary development plan dated March 11, 2003 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING – Zoning)
2. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, a Contract for Sale and Purchase of TDR's shall be executed by the applicant, in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of 3 TDR units at a selling price of \$13,308.00 per unit. (DRC: COUNTY ATTORNEY – Zoning)
3. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, two (2) recorded copies of the Contract for Sale and Purchase of TDR's shall be provided to the Palm Beach County Zoning Division. (DRC: ZONING – Zoning)
4. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, monies representing 3 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: ZONING – Zoning)
5. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County, Building permits issued for sales models and/or a temporary real estate sales and management office permitted pursuant to the Unified Land Development Code standards shall not be the trigger for the release of the escrow funds. (BLDG PERMIT: MONITORING – Zoning)
6. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. This condition does not apply to building permits issued for sales models and/or a temporary real estate sales and management office permitted pursuant to the Unified Land Development Code standards. (BLDG PERMIT: MONITORING – Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING – Zoning)

#### B. 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 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 Section 5.8 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)