

RESOLUTION NO. R-2004- 0003

RESOLUTION APPROVING ZONING PETITION TDR2003-021  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
PETITION OF HOME DYNAMICS CORP  
BY SUN TECH ENGINEERING, INC., AGENT  
(THE MOUNTS 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 TDR2003-021 was presented as a development order to the Board of County Commissioners at a public hearing conducted on January 8, 2004; 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 2003-021 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 adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition TDR2003-021 the petition of Home Dynamics Corp by Sun Tech Engineering, Inc., agent, for a Transfer of Development Rights for 26 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 January 8, 2003, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	- Aye
Tony Masilotti, Vice Chairman	- Aye
Jeff Koons	- Absent
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 January 8, 2004.

Filed with the Clerk of the Board of County Commissioners on 2 day of February, 2004.

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

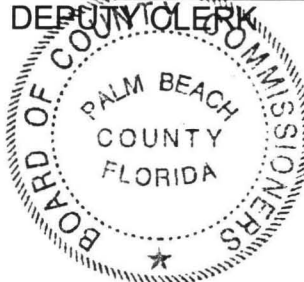


EXHIBIT A

LEGAL DESCRIPTION

THE FOLLOWING DESCRIBED PARCELS ALL LYING IN BLOCK 6 OR BLOCK 12, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 46, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 4: TRACT 43 OF SAID BLOCK 6, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF THE WEST PALM BEACH CANAL, LESS THE EAST 705 FEET AND LESS THE WEST 50 FEET THEREOF.

PARCEL 5: TRACT 8 OF SAID BLOCK 12, LESS THE EAST 296.66 FEET AND LESS THE WEST 50 FEET THEREFROM.

PARCEL 6: THE EAST 296.66 FEET OF TRACT 8 OF SAID BLOCK 12, TOGETHER WITH THE WEST 16.67 FEET OF THE WEST HALF OF TRACT 7 OF SAID BLOCK 12.

PARCEL 7: THE WEST HALF OF TRACT 7 OF SAID BLOCK 12, LESS THE WEST 16.67 FEET THEREFROM. SUBJECT TO AN EASEMENT FOR ELECTRIC UTILITIES OVER THE EAST 6 FEET THEREOF.

PARCEL 8: THE WEST HALF OF TRACT 10 OF SAID BLOCK 12, LESS THE WEST 16.67 FEET, LESS THE SOUTH 18 FEET, LESS THE RIGHT-OF-WAY FOR THE SUNSHINE STATE PARKWAY AND LESS A RIGHT-OF-WAY FOR INGRESS AND EGRESS, 50 FEET IN WIDTH, PARALLEL WITH ADJACENT TO THE RIGHT-OF-WAY OF THE SUNSHINE STATE PARKWAY. SUBJECT TO AN EASEMENT FOR ELECTRIC UTILITIES OVER THE NORTH 160 FEET THEREOF. SUBJECT TO AN EASEMENT FOR ELECTRIC UTILITIES OVER THE EAST 6 FEET THEREOF.

PARCEL 9: THE EAST 296.66 FEET OF TRACT 9 OF SAID BLOCK 12; TOGETHER WITH THE WEST 16.67 FEET OF THE WEST HALF OF TRACT 10 OF SAID BLOCK 12, LESS THE SOUTH 18 FEET THEREFROM. SUBJECT TO AN EASEMENT FOR ELECTRIC UTILITIES OVER THE NORTH 160 FEET THEREOF.

PARCEL 10: TRACT 9 OF SAID BLOCK 12, LESS THE EAST 296.66 FEET, LESS THE WEST 50 FEET AND LESS THE SOUTH 18 FEET THEREFROM. SUBJECT TO AN EASEMENT FOR ELECTRIC UTILITIES OVER THE NORTH 160 FEET THEREOF.

TOGETHER WITH:

THE FOLLOWING PORTION OF THE 50' ROAD RIGHT OF WAY BETWEEN W½ TRACT 7 AND TRACT 8, BLOCK 12 AND TRACT 43, BLOCK 6, PALM BEACH FARMS PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 46, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA:

THE S 25' OF SAID RIGHT OF WAY LYING NORTH AND CONTIGUOUS WITH PARCELS 5, 6 AND 7.

THE ENTIRE 50' RIGHT OF WAY BETWEEN PARCEL: 4 AND 5 BEING A DISTANCE OF 235'.

EXHIBIT B  
VICINITY SKETCH

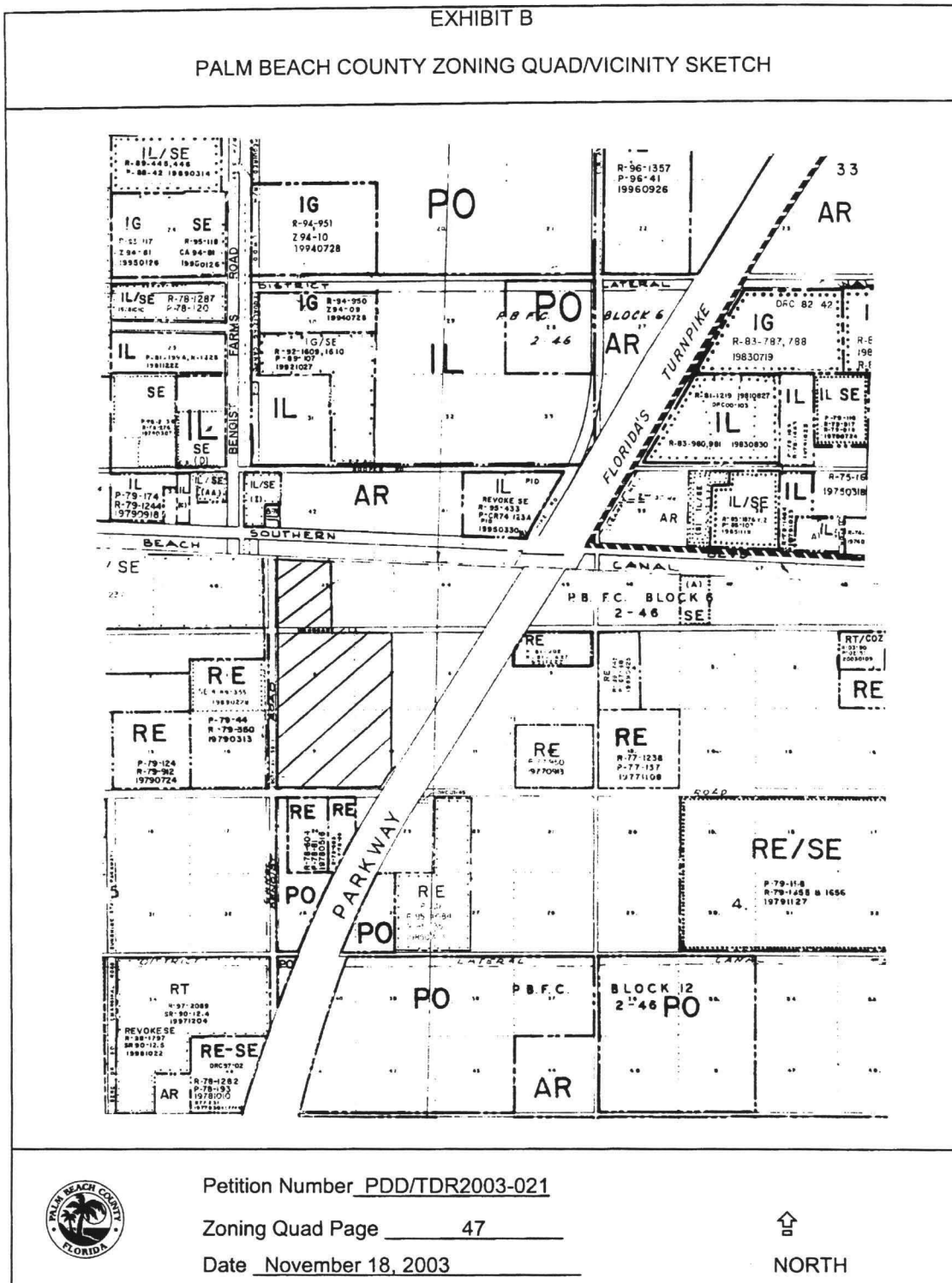


EXHIBIT C-1

CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The Preliminary Development Plan (PDP) dated October 10, 2003 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to approval of the Preliminary Development Plan (PDP) by the DRC, a Contract for Sale and Purchase of TDRs shall be executed by the petitioner, 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 26 TDR units at a selling price of \$13,308.00 per unit. (DRC: COUNTY ATTORNEY - Zoning)
3. Prior to approval of the Preliminary Development Plan (PDP) by the DRC, two (2) recorded copies of the Contract for Sale and Purchase of TDRs shall be provided to the Palm Beach County Zoning Division. (DRC: ZONING - Zoning)
4. Prior to approval of the Preliminary Development Plan (PDP) by the DRC, monies representing 26 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. (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. (BLDG. PERMIT: MONITORING - Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: CODE ENF- 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)