

RESOLUTION NO. R-2004-0159

RESOLUTION APPROVING ZONING PETITION TDR2003-011
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF E. B. DEVELOPERS INC
BY LAND DESIGN SOUTH, INC., AGENT
(BELMONT AT GREENACRES 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 TDR2003-011 was presented as a development order to the Board of County Commissioners at a public hearing conducted on January 29, 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 2003-011 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 TDR2003-011 the petition of E. B. Developers, Inc. by Land Design South, Inc., agent, for a Transfer of Development Rights for 39 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 29, 2004, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 29, 2004.

Filed with the Clerk of the Board of County Commissioners on 15 day of March, 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



EXHIBIT A
LEGAL DESCRIPTION

Parcel 1: (Dudley Property), Parcel ID 00-42-44-35-00-000-5061 / 00-42-44-35-00-000-5380 / 00-42-44-35-00-000-5390.

The West 1/4 of the Northeast 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 35, Township 44 South, Range 42 East, in Palm Beach County Florida, LESS the North 25 feet and the South 25 feet to be used with similar deductions of other tracts for two rights-of-way, each 50 feet in width, to Cadillac Drive. The Centerlines of said 50 foot rights-of-way being more fully described as follows: The center line of a road known as Nash Drive; From the Northeast corner of the above described parcel, run North 25 feet to the North line of the SW 1/4 of the SE 1/4 to the Point of Beginning; thence run West along the said North line of the SW 1/4 of the SE 1/4 to a point in the East right-of-way line of Cadillac Drive. The center line of a road known as Thunderbird Drive: From the Southeast corner of the parcel described in the first paragraph above, run South 25 feet to the Point of Beginning; thence run West along the South line of the West 1/4 of the Northeast 1/4 of the Southwest 1/4 of the Southeast 1/4 and the Northwest 1/4 of the Southwest 1/4 of the Southeast 1/4 to the East right-of-way line of Cadillac Drive.

AND

A parcel of land in the Southeast Quarter (SE 1/4) of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows: The North half (N 1/2) of the East half (E 1/2) of the West half (W 1/2) of the East half (E 1/2) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said section 35, LESS the North 25 feet thereof; and the North half (N 1/2) of the West half (W 1/2) of the East Quarter (E 1/4) of the Southwest Quarter (SW 1/4) of the Southeast Quarter (SE 1/4) of said Section 35, less the North 25 feet thereof.

Parcel 2: (Lantana Road Nursery Property), Parcel ID 00-42-44-35-00-000-5020 / 00-42-44-35-00-000-5120.

The South 1/2 of the West 1/2 of the East 1/4 of the Southwest 1/4 of the Southeast 1/4 of SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS the South 40 feet thereof deeded to Palm Beach County in Deed Book 972, Page 262, LESS the North 14 feet of the South 54 feet of subject premises as shown in Order of Taking in Official Record Book 5721, Page 1590, Public Records of Palm Beach County, Florida.

AND

The South 1/2 of the East 1/2 of the West 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS the South 40 feet thereof, deeded to Palm Beach County in Deed Book 972, Page 262, LESS the North 14 feet of the South 54 feet of subject premises as shown in Order of Taking in Official Record Book 5721, Page 1590, Public Records of Palm Beach County, Florida.

Parcel 3:

(L&S Wholesale Property), Parcel ID 00-42-44-35-00-000-5150. The East One-Quarter (E 1/4) of the East One-Half (E 1/2) of the Southwest One-Quarter (SW 1/4) of the Southeast One-Quarter (SE 1/4) of SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS the East 10 feet thereof and LESS the North 25 feet thereof.

LESS the North 14 feet of the South 54 feet of subject premises as shown in Order of Taking in Official Record Book 5779, Page 1217, Public Records of Palm Beach County, Florida.

Parcel 4: (Davis Property), Parcel ID 00-42-44-35-00-000-5400.

The East 1/2 of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida; LESS, the North 1007.99 feet and also LESS the South 25 feet for road right of way and the East 10 feet deeded to Palm Beach County for road right of way.

Parcel 5: (Kurusu Property), Parcel ID 00-42-44-35-00-000-5360.

The West 1/2 of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 35, Township 44 South, Range 42 East, Excepting therefrom the South 40 feet and the North 25 feet, Palm Beach County, Florida.

Parcel 6:

A portion of land lying within the west one-quarter (W 1/4) of the east one-half (E 1/2) of the southwest one-quarter (SW 1/4) of the southeast one-quarter (SE 1/4) of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida, also being a portion of the 50 foot wide right of way for Thunderbird Drive as recorded in Official Record Book 2342, Page 863, and Official Record Book 2177, Page 1216 of the Public Records of Palm Beach County, Florida. Being more particularly described as follows.

The north 25.00 feet of the south one-half (S 1/2) of the west one-quarter (W 1/4) of the east one-half (E 1/2) of the southwest one-quarter (SW 1/4) of the southeast one-quarter (SE 1/4) of said Section 35.

Together with:

The south 25.00 feet of the north one-half (N 1/2) of the west one-quarter (W 1/4) of the east one-half (E 1/2) of the southwest one-quarter (SW 1/4) of the southeast one-quarter (SE 1/4) of said Section 35.

Said lands situate, lying and being in Palm Beach County, Florida.

Parcel 7:

A portion of land lying within the east one-half (E 1/2) of the east one-half (E 1/2) of the west one-half (W 1/2) of the southeast one-quarter (SE 1/4) of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida, also being a portion of the 50 foot wide right of way for Nash Drive as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida. Being more particularly described as follows.

The south 25.00 feet of the north one-half (N 1/2) of the east one-half (E 1/2) of the east one-half (E 1/2) of the west one-half (W 1/2) of the southeast one-quarter (SE 1/4) of said Section 35.

Together with:

The north 25.00 feet of the south one-half (S 1/2) of the east one-half (E 1/2) of the east one-half (E 1/2) of the west one-half (W 1/2) of the southeast one-quarter (SE 1/4) of said Section 35.

All of the above described lands situate, lying and being in Palm Beach County, Florida.

Containing 987,388.68 square feet or 22.67 acres more or less.

EXHIBIT B
VICINITY SKETCH

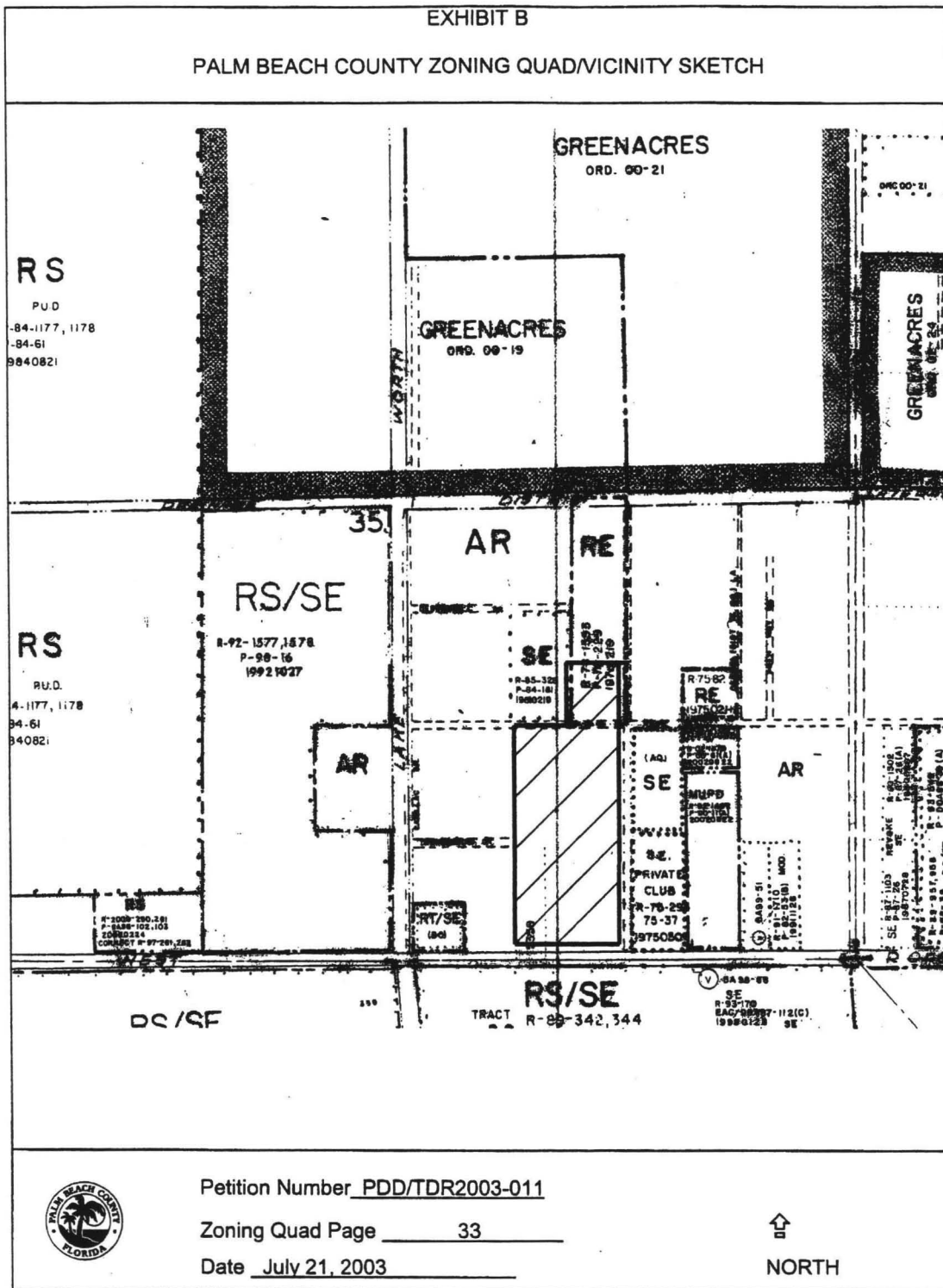


EXHIBIT C-1

CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The Preliminary Development Plan (PDP) dated November 18, 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 DRO, 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 39 TDR units at a selling price of \$13,308.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to approval of the Preliminary Development Plan (PDP) by the DRO, two (2) recorded copies of the Contract for Sale and Purchase of TDRs shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to approval of the Preliminary Development Plan (PDP) by the DRO, monies representing 39 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: 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)