

RESOLUTION NO. R-2004-0161

RESOLUTION APPROVING ZONING PETITION TDR2003-013
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF E. B. DEVELOPERS INC.
BY LAND DESIGN SOUTH, AGENT
(BELMONT AT HAVERHILL 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 TDR2003-013 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 2003-013 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 TDR2003-013 the petition of E. B. Developers Inc. by Land Design South, agent, for a Transfer of Development Rights for 36 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 Koons moved for the approval of the Resolution.

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

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

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

BY:


DEPUTY CLERK


EXHIBIT A
LEGAL DESCRIPTION

Parcel 1 (Weinstein Property)
Parcel ID 00424436090040010 / 00424436090040030

Tract 4, less the South 344.63 feet and less the North 60 feet, subdivision of the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida.

Also described as follows:

Being a part of Tract 4 in the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida, more particularly described as follows:

Commencing at the Northeast corner of the said Southwest 1/4 of Section 36; thence North 87°42'16" West along the North Line of SW 1/4 of said section, a distance of 1339.81 feet (bearing along the center line of Military Trail and the East line of the SW 1/4 being North 01°47'37" East and all other bearings relative thereto); thence South 01°58'38" West, a distance of 60.00 feet to the Point of Beginning; thence continue South 01°58'38" West, along the East line of said Tract 4 a distance of 972.79 feet; thence North 88°05'44" West, a distance of 335.87 feet; thence North 02°01'38" East along the West line of said Tract 4, a distance of 975.08 feet; thence South 87°42'16" East, a distance of 335.02 feet to the Point of Beginning.

Parcel 2 (Byrd Property)
Parcel ID 00424436090050010

The South 1/2 of the North 1/2 of Tract 5, of the Southwest Quarter of Section 36, Township 44 South, Range 42 East, Palm Beach County, Florida; subject to a 25 foot easement running North and South along the East line thereof.

Parcel 3 (Sed Property)
Parcel ID 00424436090050020 / 00424436090060031

The North 1/4 of Tract 5 of the Subdivision of the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida.

AND

The East 1/2 of the NE 1/4 of Tract 6 of the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida.

Parcel 4 (Vizoso Property)
Parcel ID 00424436090060010

The South 1/2 of Tract 6 of the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida; together with an easement for road purposes over the North 25 feet of the Southwest 1/4 of said Tract 6 and over the South 25 feet of the Northwest 1/4 of said Tract 6.

Parcel 5 (Souza Property)
Parcel ID 00424436090040020

The South 344.63 feet of Tract 4, of the Southwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof, as recorded in Plat Book 3, Page 10, of the Public Records of Palm Beach County, Florida.

TOGETHER WITH:

Parcel 6:

WATER MANAGEMENT AREA #1 - PARCEL A HAVERHILL ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12064, PAGE 1863 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ALSO BEING A PORTION OF THE WEST 1/2 (ONE-HALF) OF THE NORTHWEST 1/4 (ONE-QUARTER) OF TRACT 6 OF A SUBDIVISION OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. AS PER PLAT OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 3, AT PAGE 10, OF SAID PUBLIC RECORDS OF PALM BEACH COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A PALM BEACH COUNTY BRASS DISK IN CONCRETE MARKING THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE NORTH 02°08'51" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SAID SECTION 36 AND THE EXISTING EAST RIGHT OF WAY LINE OF HAVERHILL ROAD, AS RECORDED IN DEED BOOK 768 AT PAGE 207 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 2427.04 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6; THENCE SOUTH 87°48'17" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 39.57 TO THE POINT OF BEGINNING; THENCE NORTH 02°08'57" EAST. A DISTANCE OF 286.65 FEET TO AN INTERSECTION WITH THE EXISTING SOUTH RIGHT OF WAY LINE FOR THE LAKE WORTH DRAINAGE DISTRICT CANAL L-15 AS RECORDED IN OFFICIAL RECORDS BOOK 4971 AT PAGE 740 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE SOUTH 87°42'17" EAST ALONG SAID EXISTING SOUTH RIGHT OF WAY LINE, A DISTANCE OF 127.94 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST 1/2 (ONE-HALF) OF THE NORTHWEST 1/4 (ONE-QUARTER) OF SAID TRACT 6; THENCE SOUTH 02°07'32" WEST ALONG SAID EAST LINE, A DISTANCE OF 286.43 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6 AND CENTERLINE OF A 50.00 FEET WIDE "ROAD PURPOSES EASEMENT" AS RECORDED IN OFFICIAL RECORDS BOOK 1045 AT PAGE 385 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 87°48'17" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 128.06 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

Parcel 7:

WATER MANAGEMENT AREA NUMBER 1 - PARCEL B HAVERHILL ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12064, PAGE 1851 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ALSO BEING A PORTION OF THE EAST 1/2 (ONE-HALF) OF THE NORTHWEST 1/4 (ONE-QUARTER) OF TRACT 6 OF A SUBDIVISION OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. AS PER "PLAT OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST", AS RECORDED IN PLAT BOOK 3, AT PAGE 10 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A PALM BEACH COUNTY BRASS DISK IN CONCRETE MARKING THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE NORTH 02°08'51" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SAID SECTION 36 AND THE EXISTING EAST RIGHT OF WAY LINE OF HAVERHILL ROAD, AS RECORDED IN DEED BOOK 768 AT PAGE 207 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 2427.04 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6; THENCE SOUTH 87°48'17" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 167.63 FEET TO THE POINT OF BEGINNING; THENCE NORTH 02°07'32" EAST, A DISTANCE OF 286.43 FEET TO AN INTERSECTION WITH THE EXISTING SOUTH RIGHT OF WAY LINE FOR THE LAKE WORTH DRAINAGE DISTRICT CANAL L-15 AS RECORDED IN OFFICIAL RECORDS BOOK 4971 AT PAGE 740 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE SOUTH 87°42'17" EAST ALONG SAID EXISTING SOUTH RIGHT OF WAY LINE, A DISTANCE OF 167.52 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE EAST 1/2 (ONE-HALF) OF THE NORTHWEST 1/4 (ONE-QUARTER) OF SAID TRACT 6; THENCE SOUTH 02°06'14" WEST ALONG SAID EAST LINE, A DISTANCE OF 286.14 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6 AND CENTERLINE OF A 50.00 FEET WIDE "ROAD PURPOSES EASEMENT" AS RECORDED IN OFFICIAL RECORDS BOOK 1045 PAGE 385 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE NORTH 87°48'17" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 167.63 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

Parcel 8:

WATER MANAGEMENT AREA NUMBER 1 - PARCEL C HAVERHILL ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12064, PAGE 1843 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. ALSO BEING A PORTION OF THE WEST 1/2 (ONE-HALF) OF THE NORTHEAST 1/4 (ONE-QUARTER) OF TRACT 6 OF A SUBDIVISION OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. AS PER "PLAT OF SECTION 36, TOWNSHIP 44 SOUTH, RANGE 42 EAST", AS RECORDED IN PLAT BOOK 3, AT PAGE 10 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A PALM BEACH COUNTY BRASS DISK IN CONCRETE MARKING THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE NORTH 02°08'51" EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 (ONE-QUARTER) OF SAID SECTION 36 AND THE EXISTING EAST RIGHT OF WAY LINE OF HAVERHILL ROAD, AS RECORDED IN DEED BOOK 768 AT PAGE 207 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 2427.04 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6; THENCE SOUTH 87°48'17" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 335.25 FEET TO THE POINT OF BEGINNING; THENCE NORTH 02°06'14" EAST, A DISTANCE OF 286.14 FEET TO AN INTERSECTION WITH THE EXISTING SOUTH RIGHT OF WAY LINE FOR THE LAKE WORTH DRAINAGE DISTRICT CANAL L-15 AS RECORDED IN OFFICIAL RECORDS BOOK 4971 AT PAGE 740 OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY; THENCE SOUTH 87°42'17" EAST ALONG SAID EXISTING SOUTH RIGHT OF WAY LINE, A DISTANCE OF 167.52 FEET TO AN INTERSECTION WITH THE EAST LINE OF THE WEST 1/2 (ONE-HALF) OF THE NORTHEAST 1/4 (ONE-QUARTER) OF SAID TRACT 6; THENCE SOUTH 02°04'55" WEST ALONG SAID EAST LINE, A DISTANCE OF 285.84 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH 1/2 (ONE-HALF) OF SAID TRACT 6; THENCE NORTH 87°48'17" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 167.63 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THEREFROM:

Lands as described in Chancery Case 407, as recorded in Official Record Book 6493, Page 71, of the public records of Palm Beach County, Florida.

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

Containing 24.26 acres more or less.

EXHIBIT C-1

TDR CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The Preliminary Development Plan (PDP) dated December 15, 2003 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to final Development Review Committee (DRC) approval of the PDP, a Contract for Sale and Purchase of TDR's 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 36TDR units at a selling price of \$13,308.00 per unit. (DRC: CTY ATTY - Zoning)
3. Prior to final Development Review Committee (DRC) approval of the PDP, 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 final Development Review Committee (DRC) approval of the PDP, monies representing 36 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)