

RESOLUTION NO. R-2004- 2030

RESOLUTION APPROVING ZONING PETITION TDR2003-105  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
PETITION OF COLSON & COLSON CONSTRUCTION CO.  
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT  
(SOUTH WIND HEIGHTS)

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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended), have been satisfied; and

WHEREAS, Zoning Petition TDR2003-105 was presented as a development order to the Board of County Commissioners at a public hearing conducted on September 30, 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 Article 5.G.2.G.2 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 Article 5.G.2.G.4 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 FY02-03 be \$15,837.00 per unit; and;
4. Pursuant to Article 5.G.2.H. of the ULDC, the 2003-105 qualifies as a TDR Receiving Area; and
5. Pursuant to Article 5.2.G.2.J.5 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, Article 2 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 TDR2003-105, the petition of Colson & Colson Construction Co. by Miller Land Planning Consultants, Inc., agent, for a Transfer of Development Rights for 8 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 September 30, 2004, 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 KOONS and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2004-0004 (MILITARY/GATEWAY CLF a.k.a SOUTHWIND HEIGHTS) is effective.

Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 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:


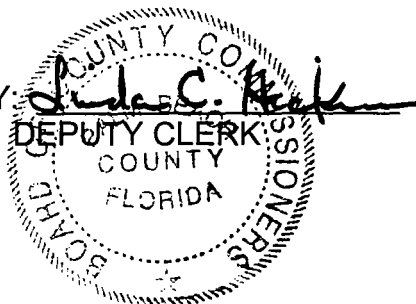
  
DEPUTY CLERK  
COUNTY  
FLORIDA  


EXHIBIT A

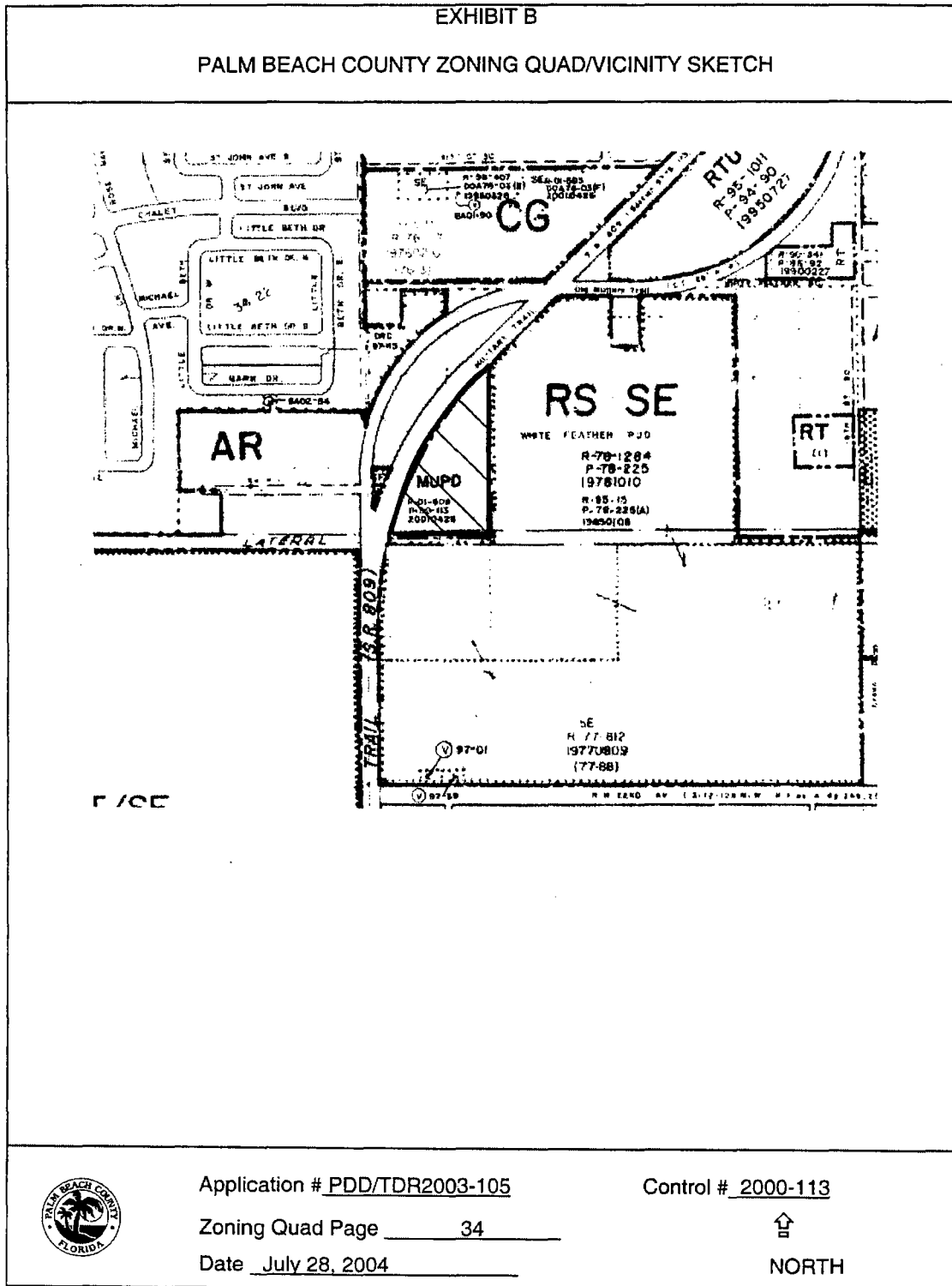
LEGAL DESCRIPTION

THAT PART OF THE WEST HALF (W. ½) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE NORTHWEST QUARTER (N.W. ¼) OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13, A DISTANCE OF 659.63 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF (W. ½) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 40.0 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13 AND THE POINT OF BEGINNING; THENCE CONTINUE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 852.60 FEET TO A POINT ON THE SOUTH-EASTERLY RIGHT OF WAY LINE OF MILITARY TRAIL (STATE ROAD 809); THENCE S.44°29'36"W., ALONG SAID SOUTH-EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 72.75 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A CENTRAL ANGLE OF 29°03'58" AND A RADIUS OF 1850.08 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 938.54 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 528.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 6.21 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



Application # PDD/TDR2003-105

Control # 2000-113

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Date July 28, 2004

NORTH

EXHIBIT C-1

CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The site plan dated June 11, 2004, and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to approval of the site plan by the DRO, 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 8 TDR units at a selling price of \$15,837.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to approval of the site plan by the DRO, two (2) recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to approval of the site plan by the DRO, monies representing 8 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: 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)