

RESOLUTION NO. R-2005-1048

RESOLUTION APPROVING ZONING APPLICATION R2004-661
(CONTROL NO. 2004-458)
REQUESTED USE
APPLICATION OF ANSCA COMMUNITIES LLC
BY LAND DESIGN SOUTH, INC., AGENT
(NICOLA 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 zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Requested Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application R2004-661 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2005; 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 recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Requested Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Requested Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Requested Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Requested Use meets applicable local land development regulations.

7. This Requested Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Requested Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Requested Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Requested Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

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 Application R2004-661, the application of ANSCA communities LLC, by Land Design South, Inc., agent, for a Requested Use to allow the Transfer of Development Rights for 14 units and to designate this petition as the receiving area in the Residential Planned Unit Development Zoning District, on a parcel of land legally described in EXHIBIT A, 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 May 26, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner AARONSON 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:

Tony Masilotti, Chairman	¥ AYE
Addie L. Greene, Vice Chairperson	¥ AYE
Karen T. Marcus	¥ AYE
Jeff Koons	¥ AYE
Warren H. Newell	¥ ABSENT
Mary McCarty	¥ ABSENT
Burt Aaronson	¥ AYE

The Chairman thereupon declared that the resolution was duly passed and adopted on May 26, 2005.

Filed with the Clerk of the Board of County Commissioners on 22nd day of JUNE, 2005.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK

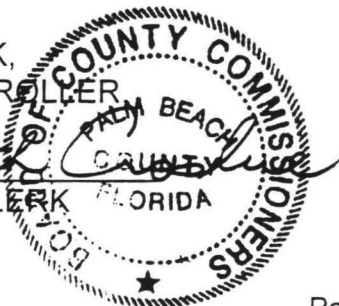


EXHIBIT A

LEGAL DESCRIPTION

THE EAST $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS RIGHT-OF-WAY IN ORDER OF TAKING IN O.R. BOOK 6798, PAGE 1051 AND QUIT CLAIM DEED IN O.R. BOOK 7511, PAGE 1952, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND

ALL OF TRACTS 12 AND 13, OF "AMENDED PLAT OF THE MARY A. LYMAN ET AL, SUBDIVISION" OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF EAST $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ AND SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THE SOUTH 5 ACRES OF TRACT 3, AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 9, PAGE 74, BEING MORE PARTICULARLY DESCRIBED AS THE SOUTH 5 ACRES OF THE WEST $\frac{1}{2}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST,

TOGETHER WITH THOSE GRANTS OF EASEMENT FOR INGRESS AND EGRESS RECORDED IN O.R. BOOK 14050, PAGE 1906 AND O.R. BOOK 14161, PAGE 690, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL A: THE NORTH 56.77 FEET OF THE SOUTH 283.93 FEET OF THE NORTH HALF ($N \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE NORTHEAST QUARTER ($NE \frac{1}{4}$) OF THE NORTHWEST QUARTER ($NW \frac{1}{4}$) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE NORTH 56.77 FEET OF THE SOUTH 283.93 FEET OF THE NORTH ONE-HALF ($N \frac{1}{2}$) OF TRACT 3, NORTHWEST QUARTER ($NW \frac{1}{4}$), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL B: THE NORTH 56.77 FEET OF THE SOUTH 227.21 FEET OF THE NORTH HALF ($N \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE NORTHEAST QUARTER ($NE \frac{1}{4}$) OF THE NORTHWEST QUARTER ($NW \frac{1}{4}$) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE NORTH 56.77 FEET OF THE SOUTH 227.21 FEET OF THE NORTH HALF ($\frac{1}{2}$) OF TRACT 3, NORTHWEST QUARTER ($1/4$), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL C: THE NORTH 56.77 FEET OF THE SOUTH 170.44 FEET OF THE NORTH HALF ($N \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE WEST HALF ($W \frac{1}{2}$) OF THE NORTHEAST QUARTER ($NE \frac{1}{4}$) OF THE NORTHWEST QUARTER ($NW \frac{1}{4}$) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE NORTH 56.77 FEET OF THE SOUTH 170.44 FEET OF THE NORTH HALF ($1/2$) OF TRACT 3, NORTHWEST QUARTER, ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL.,

RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 1: THE SOUTH 113.67 FEET OF THE NORTH HALF (N ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE SOUTH 113.67 FEET OF THE NORTH HALF (1/2) OF TRACT 3, NORTHWEST QUARTER (1/4), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2: THE NORTH 50.0 FEET OF THE SOUTH 688.6 FEET OF TRACT 3, NORTHWEST QUARTER (NW ¼) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE NORTH 50 FEET OF THE SOUTH HALF (1/2) TRACT 3, NORTHWEST QUARTER (1/4), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND

BEING MORE PARTICULARLY DESCRIBED AS THE NORTH 50.0 FEET OF THE SOUTH 688.6 FEET OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 2,338,501 SQUARE FEET OR 53.685 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

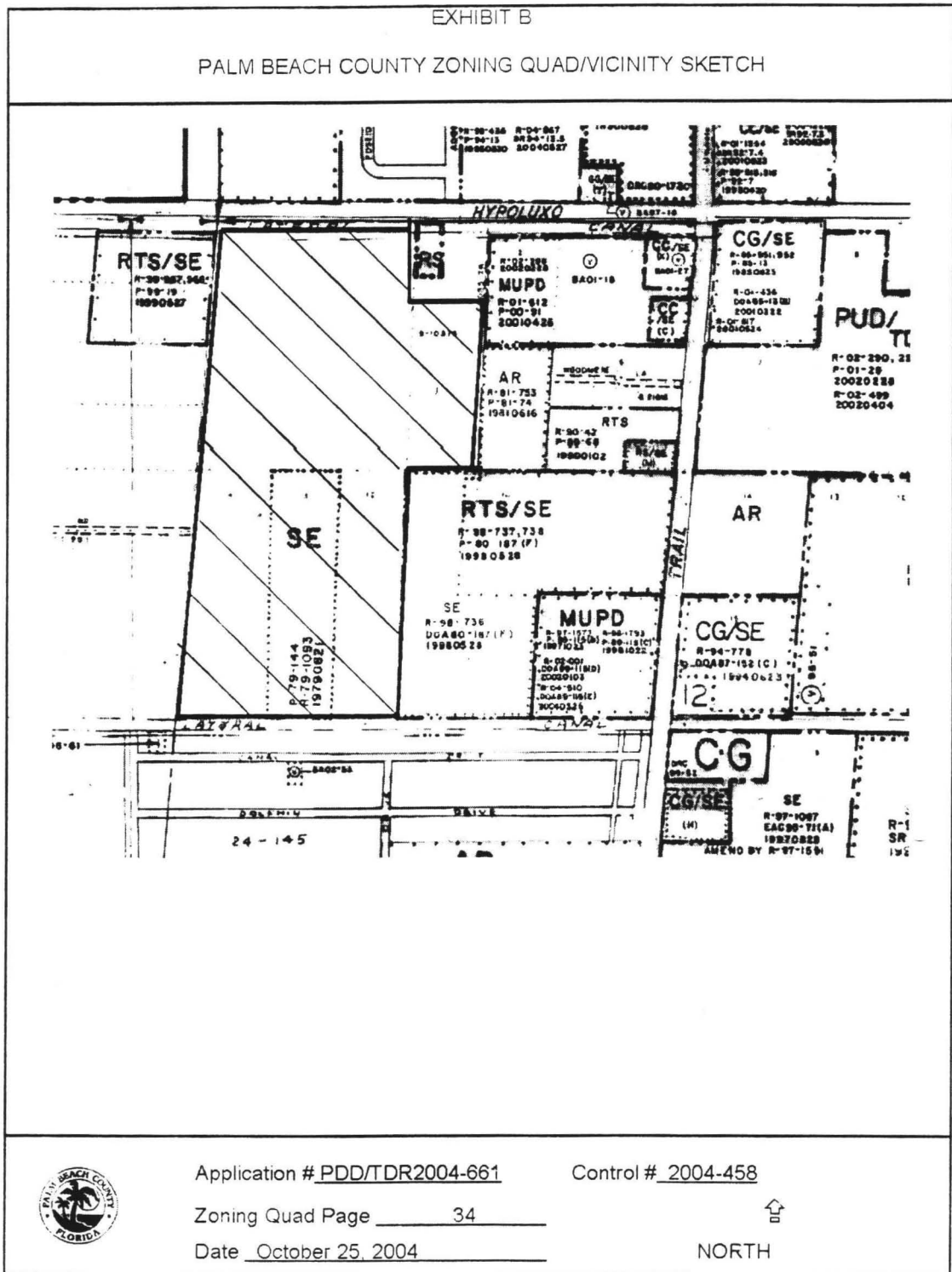


EXHIBIT C

CONDITIONS OF APPROVAL

TRANSFER OF DEVELOPMENT RIGHTS

1. The Master Plan dated May 12, 2005 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. At time of submittal for final Development Review Officer (DRO) approval, an official "Contract for Sale and Purchase of TDR Units", "TDR Escrow Agreement", and "TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning)
3. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (DRO), a "Contract for Sale and Purchase of TDR's" shall be executed by the property owner, 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 14 TDR units at a selling price of \$25,000.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
4. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (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)
5. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (DRO), monies representing 14 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
6. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
7. 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)
8. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING - Zoning)

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)