

RESOLUTION NO. R-2009-1604

RESOLUTION APPROVING ZONING APPLICATION DOA/TDR-2009-00218
(CONTROL NO. 2004-00247)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF Town Commons Acquisition Llc
BY CMS Engineering, LLC, AGENT
(Town Commons 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 applications relating to the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application DOA/TDR-2009-00218 was presented as a development order to the Board of County Commissioners at a public hearing conducted on September 29, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) 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 following findings of fact:

1. Pursuant to Article 5.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 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 FY 2007 be \$50,000.00 per unit; and;
4. Pursuant to Article 5.G.2 of the ULDC, the Subject Property qualifies as a TDR Receiving Area; and
5. Pursuant to Article 5.2.G 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.A.1.K.3.b (Action by the Board of County Commissioners) 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 DOA/TDR-2009-00218 the application of Town Commons Acquisition Llc by CMS Engineering, LLC, agent, for a Transfer of Development Rights to allow the Transfer of Development Rights and to designate this application as the receiving area for those units 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, was approved on September 29, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	-	Absent
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Nay
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Nay
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson hereupon declared that the resolution was duly passed and adopted on September 29, 2009.

Filed with the Clerk of the Board of County Commissioners on October 1, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS "A", "B" AND "C", TOGETHER WITH ALL OF TRACT "L-1", TOWN COMMONS-PLAT ONE, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 99, PAGE 68, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B"; THENCE N.89°26'07"E. ALONG THE NORTH LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 1,282.58 FEET TO THE NORTHEAST CORNER OF SAID TOWN COMMONS-PLAT ONE; THENCE S.36°11'44"E. ALONG THE EASTERLY LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 961.21 FEET TO THE MOST EASTERLY CORNER OF SAID TOWN COMMONS-PLAT ONE; THENCE S.53°48'16"W. ALONG THE SOUTHERLY LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 151.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,370.00 FEET AND A CENTRAL ANGLE OF 09°48'52"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID SOUTHERLY LINE, A DISTANCE OF 234.67 FEET; THENCE N.36°11'29"W., A DISTANCE OF 101.63 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 180.11 FEET AND A CENTRAL ANGLE OF 56°14'03"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 176.77 FEET; THENCE N.36°11'44"W., A DISTANCE OF 139.70 FEET; THENCE S.53°48'15"W., A DISTANCE OF 264.57 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 29°22'15"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 25.63 FEET; THENCE S.24°26'00"W., A DISTANCE OF 3.45 FEET; THENCE N.66°00'15"W., A DISTANCE OF 129.51 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 212.00 FEET AND A CENTRAL ANGLE OF 21°00'18"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 77.72 FEET; THENCE N.44°59'57"W., A DISTANCE OF 398.67 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 45°00'00"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 87.96 FEET; THENCE N.89°59'57"W., A DISTANCE OF 216.39 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 20°00'00"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 39.10 FEET; THENCE S.70°00'03"W., A DISTANCE OF 116.85 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 400.00 FEET AND A CENTRAL ANGLE OF 19°07'21"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 133.50 FEET; THENCE S.89°07'24"W., A DISTANCE OF 75.59 FEET; THENCE CONTINUE WESTERLY ALONG SAID LINE, A DISTANCE OF 12.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TOWN COMMONS-PLAT ONE; THENCE N.00°33'53"W. ALONG SAID WEST LINE, A DISTANCE OF 451.47 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 933,634 SQUARE FEET / 21.433 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

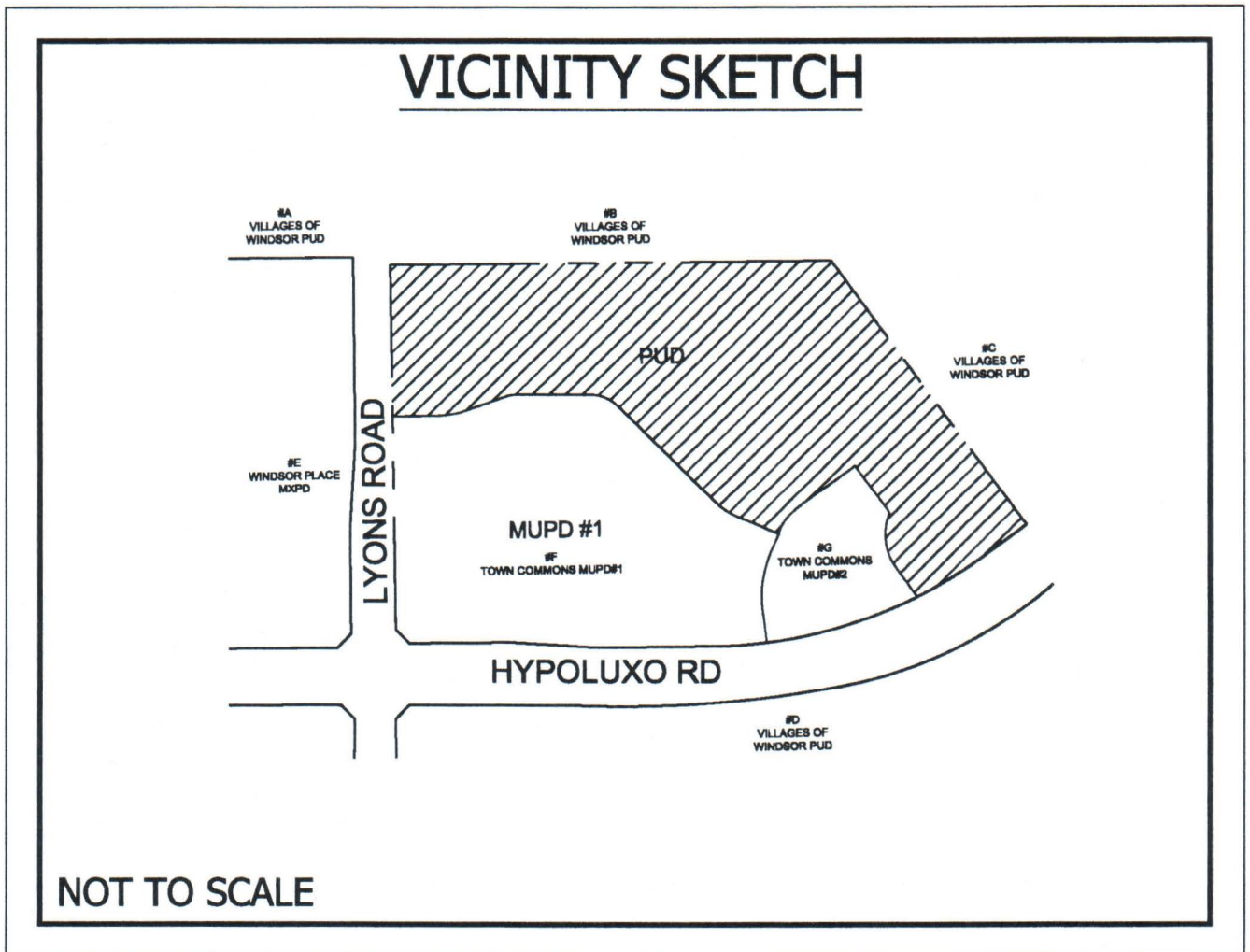


EXHIBIT C

TRANSFER OF DEVELOPMENT RIGHTS CONDITIONS OF APPROVAL

TRANSFER OF DEVELOPMENT RIGHTS

1. 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)

2. Prior to final approval by the Development Review Officer (DRO), the property owner/applicant shall perform the following:

- a. Execute a Contract for Sale and Purchase of TDRs" 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 28 TDR units at a selling price of one dollar (\$1.00) per unit. Two (2) recorded copies of the Contract for Sale and Purchase of TDRs" shall be provided to the Palm Beach County Zoning Division.
- b. Monies representing 28 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)

3. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)

4. 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)

COMPLIANCE-TDR

3. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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)

4. 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 (CO); 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 Unified Land Development Code (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 the 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)