

RESOLUTION NO. R-2019 -0258

RESOLUTION APPROVING ZONING APPLICATION ABN/ZV/PDD/CA-2018-01172
(CONTROL NO. 2009-02465)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF AHS Development Group, LLC, Florida Public Utilities Company
BY Schmidt Nichols, AGENT
(Banyan Ridge Planned Unit Development)

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 zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application ABN/ZV/PDD/CA-2018-01172 was presented to the Board of County Commissioners at a public hearing conducted on February 28, 2019;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Class A Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 ABN/ZV/PDD/CA-2018-01172, the Application of AHS Development Group, LLC, Florida Public Utilities Company, by Schmidt Nichols, Agent, for a Class A Conditional Use to allow a Transfer of Development Rights to a Planned Development, on a parcel of land generally described as shown on the legal description 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

February 28, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	-	Aye
Commissioner Dave Kerner, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on February 28, 2019.

Filed with the Clerk of the Board of County Commissioners on March 25th, 2019.

This resolution shall not become effective until the Large Scale Land Use Amendment No. LGA-2019-001 is effective.

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 LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PALM BEACH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

TRACTS "B", TURNPIKE BUSINESS PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 119, PAGE 126, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, CONTAINING A TOTAL OF 10.414 ACRES MORE OR LESS.

OTHERWISE DESCRIBED AS FOLLOWS:

BEING ALL OF TRACT "B", TURNPIKE BUSINESS PARK AS RECORDED IN PLAT BOOK 119, PAGE 126 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "B"; THENCE ALONG THE EAST LINE OF SAID TRACT "B" THE FOLLOWING THREE (3) COURSE, SAID EAST LINE ALSO BEING THE WESTERLY RIGHT OF WAY OF CLEARLY ROAD; THENCE SOUTH $03^{\circ}03'19''$ WEST, 32.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 677.00 FEET AND THE CENTRAL ANGLE OF $71^{\circ}49'28''$; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 848.67 FEET TO THE POINT OF TANGENCY; THENCE SOUTH $74^{\circ}52'47''$ WEST, 248.70 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "B"; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT "B" THE FOLLOWING THREE (3) COURSES; THENCE NORTH $34^{\circ}27'35''$ WEST, 310.20 FEET; THENCE NORTH $40^{\circ}39'09''$ EAST, 96.54 FEET; THENCE NORTH $49^{\circ}20'51''$ WEST, 86.19 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "B"; THENCE NORTH $40^{\circ}39'09''$ EAST ALONG THE WESTERLY LINE OF SAID TRACT "B", SAID LINE ALSO BEING THE EASTERLY RIGHT OF WAY OF THE FLORIDA TURNPIKE, 420.50 FEET TO THE NORTHWEST CORNER OF SAID TRACT "B"; THENCE NORTH $89^{\circ}03'22''$ EAST ALONG THE NORTH LINE OF SAID TRACT "B", 645.42 FEET TO THE POINT OF BEGINNING.

CONTAINING 10.414 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 13, 2018. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to issuance of the first Building Permit, the Property Owner shall pay one hundred (100) percent of the Transfer of Development Rights (TDR) Funds to the Zoning Division. Upon payment of the funds, the TDR Deed shall be recorded by the Property Owner, and a copy shall be provided to the Zoning Division. (BLDGPM: MONITORING - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall perform the following: a. Execute a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building Department. The Contract shall accommodate a maximum of 28 TDR units at a selling price of \$318,600 for 18 units (\$17,700 per unit), and \$8,850 for ten units (\$885 per unit), for a total TDR cost of \$327,450. (DRO: COUNTY ATTORNEY - Zoning)

COMPLIANCE

1. 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)

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; the 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 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 of Approval; 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)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.