

RESOLUTION NO. R-2022-0901

RESOLUTION APPROVING ZONING APPLICATION CA-2022-00372
(CONTROL NO. 2021-00034)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF Brian Campbell
BY Land Research Management, Inc., AGENT
(Davis Road TDR)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapters 125 and 163, 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 as amended, have been satisfied;

WHEREAS, Zoning Application CA-2022-00372, submitted on behalf of Brian Campbell, by Land Research Management, Inc., Agent, for a Class A Conditional Use to allow the purchase of three Transfer of Development Right (TDR) units, was presented to the Board of County Commissioners at a public hearing conducted on August 25, 2022;

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 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 application CA-2022-0372, for a Class A Conditional Use to allow three Transfer of Development Right (TDR) units, 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 August 25, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marino moved for the approval of the Resolution.

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

Commissioner Robert S. Weinroth, Mayor	- Aye
Commissioner Gregg K. Weiss, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Dave Kerner	- Nay
Commissioner Maria Sachs	- Nay
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 25, 2022.

Filed with the Clerk of the Board of County Commissioners on August 25th, 2022.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

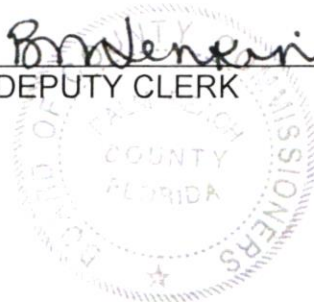


EXHIBIT A

LEGAL DESCRIPTION

LOT D, BLOCK 41, THE PALM BEACH FARMS CO. PLAT NO. 7, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 72, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 0.987 ACRES, MORE OR LESS

EXHIBIT B
VICINITY SKETCH

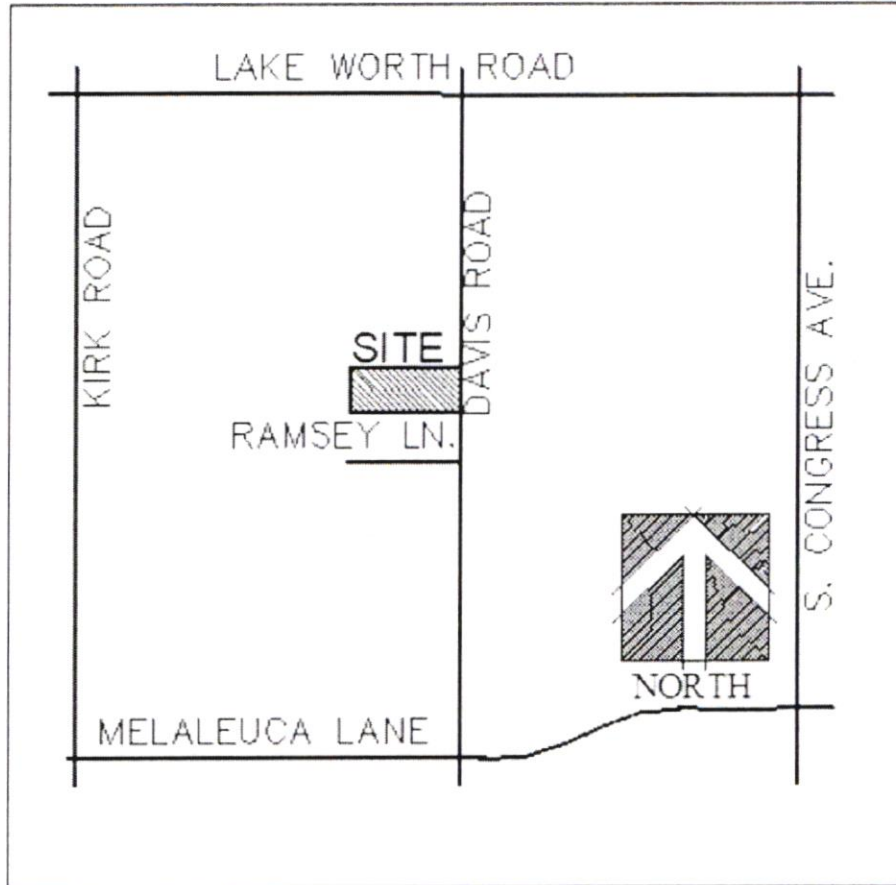


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 17, 2022. 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. (ONGOING: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a.. No Building Permits for the site may be issued after December 31, 2024. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Davis Road, 40 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney s fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector s Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

PARKS-RECREATION

1. Per U.L.D.C. Article 5.D.2.B.5., Prior to the issuance of the first building permit the petitioner is required to provide a check for \$7,428 payable to the Palm Beach County Board of County Commissioners for the Park and Recreation Trust Fund for the acquisition and improvement of community or neighborhood parks within a 5 mile radius of this petition. (BLDGPMT: PARKS AND RECREATION - Monitoring)

PLANNING

1. The subject request for 8 units with a required 1-unit Workforce Housing Program (WHP) obligation was calculated based on the 0.99-acre site with the MR-5 Future Land Use Designation and the purchase of 3 Transfer of Development Rights (TDR). The purchase of 3 TDRs prompted the WHP obligation. The WHP obligation for 1 unit shall be provided onsite as a multifamily rental unit. Should any change occur to the calculation or disposition of the unit, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning)

2. The Developer shall provide notice of commencement of availability to the Planning Division and the Department of Housing and Economic Development (DHED). (ONGOING: PLANNING - Planning)

3. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants for Workforce Housing, in a form acceptable to the County Attorney s Office. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to the Planning Division. (BLDGPMT: MONITORING - Planning)

4. Prior to the issuance of the first Building Permit, the Developer shall provide documentation to the Planning Division demonstrating compliance with the required design standards: compatible exteriors, provision of a dry model. (BLDGPMT: MONITORING - Planning)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Development Review Officer (DRO) Final Site Plan approval, 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. (DRO: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall, 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 2 Bonus TDR units at a selling price of six thousand, one hundred and twenty five dollars (\$6,125) per unit and one (1) Workforce Housing unit at three hundred and six dollars (\$306) per unit, for a total of twelve thousand, five hundred and fifty six dollars (\$12,556.00), prices are subject to change annually. (DRO: ZONING - 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.