

RESOLUTION NO. R-98- 6

RESOLUTION APPROVING ZONING PETITION TDR97-85
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF MEADOWLAND DEVELOPMENT CORP.
BY KIERAN KILDAY, AGENT
GATEWAY GARDENS 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 the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-10, as amended), have been satisfied; and

WHEREAS, Zoning Petition TDR97-85 was presented as a development order to the Board of County Commissioners at a public hearing conducted on December 4, 1997; 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, the recommendation of the Land Use Advisory Board, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. Pursuant to Section 6.10.H. 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 Section 6.10.H.4.b. of the ULDC, the Planning Division and the Land Use Advisory Board (LUAB) have recommended that the sale price for a TDR Unit associated with the Gateway Gardens PUD PDD97-85 be in the amount of \$5,575.00; and
4. Pursuant **to** Section 6.10.1. of the ULDC, the PDD97-85 qualifies as a TDR Receiving Area; and
5. Pursuant to Section 6.10.K.3.e. of the ULDC, there are five standards **with** must **be** complied with in order to **use** the TDR Program and each of the five standards has been complied with; and

WHEREAS, Section 5 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 TDR97-85 the petition of Meadowland Development Corp. by Kerian Kilday, agent, for a Transfer of Development Rights (TDR) for 47 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, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on December 4, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

Burt Aaronson, Chair	--	Absent
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	Aye
Karen T. Marcus		Aye
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye


The Chair thereupon declared that the resolution was duly passed and adopted on January 8, 1998.

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

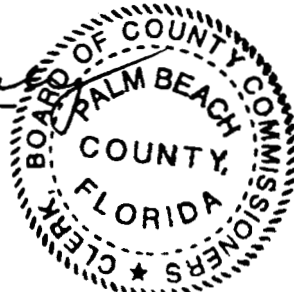


EXHIBIT A
LEGAL DESCRIPTION

THE NORTH HALF (N ½) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 13, TOWNSHIP 45 SOUTH RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE WEST **40.00** FEET THEREOF, LESS THE NORTH 46.0 FEET THEREOF

AND

THE PART OF THE NORTH HALF (N ½) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (**NW 1/4**) OF SECTION 13, TOWNSHIP 45 SOUTH RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF MILITARY TRAIL (STATE ROAD **809**).

EXHIBIT B
VICINITY SKETCH

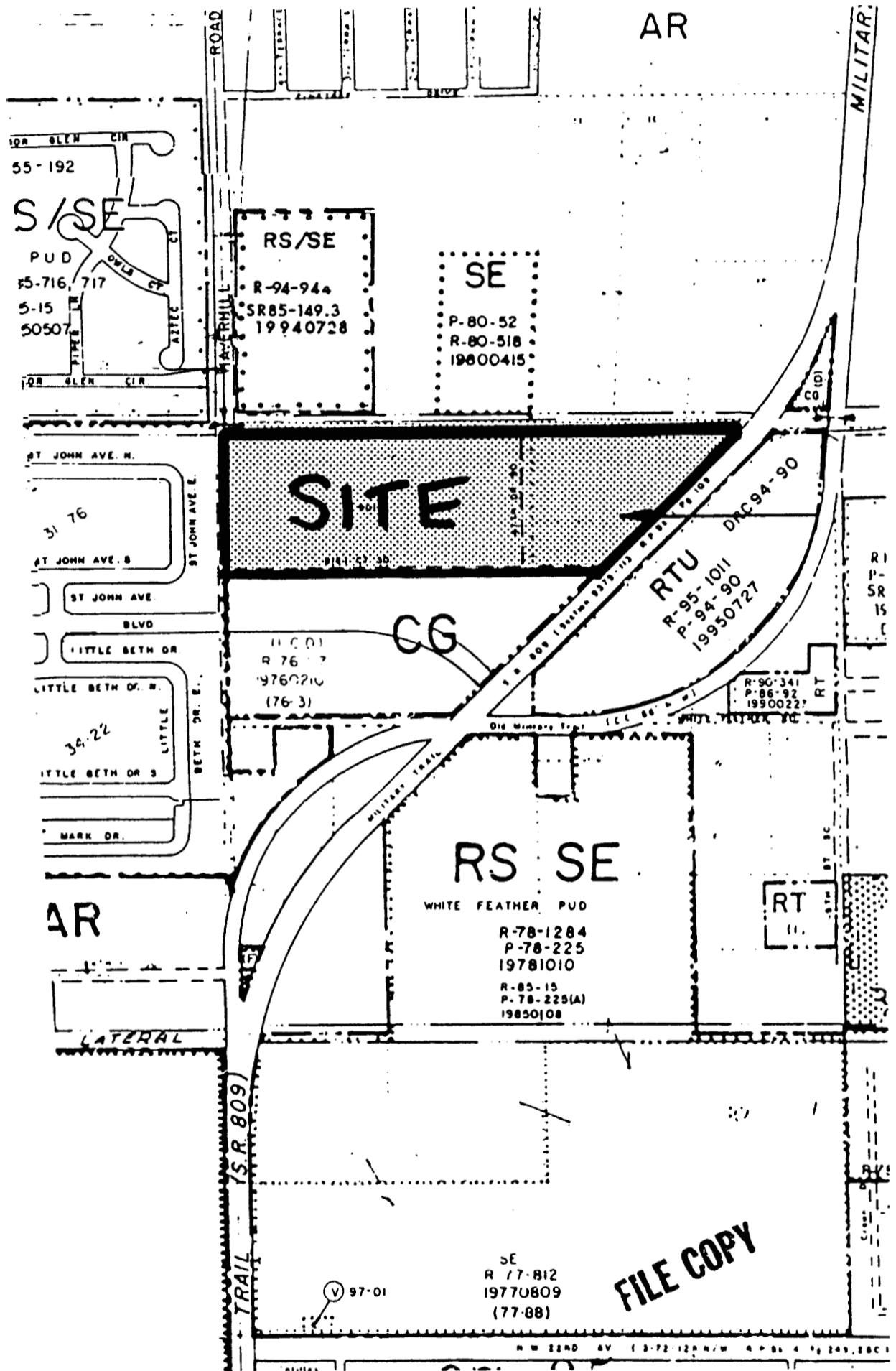


EXHIBIT C

TDR CONDITIONS OF APPROVAL

A. PLANNING

1. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, a "Contract for Sale and Purchase of TDR's" shall be executed by the applicant, 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 **47** TDR units at a selling price of \$5,575.00 per unit. (DRC: PLANNING)
2. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, **two (2)** recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Planning Division. (DRC: PLANNING)
3. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, monies representing **47** TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: PLANNING)
4. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. Building permits issued for sales models and/or a temporary real estate sales and management office permitted pursuant to the Unified Land Development Code standards shall not be the trigger for the release of the escrow funds. (BLDG PERMIT: MONITORING - Planning)
5. 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. This condition does not apply to building permits issued for sales models and/or a temporary real estate sale; and management office permitted pursuant to the Unified Land Development Code standards. (BLDG PERMIT: MONITORING - Planning)
6. Although the subject property will receive an MR-5 designation during the corrective staff initiated land use amendment process, the project shall be restricted to the requested density of **4.51 du/acre** on the subject parcel. Any additional increase in density must be requested through the TDR program. (ONGOING: PLANNING)

B. COMPLIANCE

1. 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; 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 noncompliance, 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 majority vote of the Code Enforcement Board 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. (MONITORING)

- B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (ELDG PERMIT: Monitoring-Eng)
 - C) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
4. In order to comply with the mandatory Traffic Performance Standard, the Developer shall be restricted to the following phasing schedule:
- Certificates of Occupancy for more than 3500 gross leasable floor area of convenience store, a gas station with 8 fueling position; and a car wash shall not be issued until contract has been let for the construction of SR 7 as a 4 lane facility from Clint Moore Road to West Atlantic Avenue plus the appropriate paved tapers. (ELDG PERMIT: MONITORING-Eng)
 - The mix of allowable commercial uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING: Eng)

F. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING ATLANTIC AVENUE)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide landscape buffer strip; and
 - b. An average two (2) foot high undulating berm measured from top of curb; and
 - c. One (1) canopy tree planted every thirty (30) feet on center; and
 - d. One (1) palm or pine tree for each twenty (20) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - e. Twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation and to be planted at the plateau of the berm and to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

G. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip; and
 - b. A six (6) foot high black vinyl coated chain link fence. (CO: LANDSCAPE)
2. The following landscaping requirements shall be installed on the exterior side of the required fence:
 - a. One (1) canopy tree planted every twenty (20) feet on center;
 - b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and

- c. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained to a minimum height of seventy two (72) inches. (CO: LANDSCAPE)

H. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING INDUSTRIAL)

- 1. Landscaping and buffering along the above property line shall be upgraded to include:
 - a. A minimum five (5) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every thirty (30) feet on center; and
 - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - d. Twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

I. LANDSCAPING - INTERIOR

- 1. One landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)
- 2. Foundation planting or grade level planters shall be provided along the facades of the main building (except under gas canopy) to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 40% of the total length of the applicable exterior side of the structure; and,
 - c. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)
- 3. A six (6) foot high black vinyl coated chain link fence shall be provided along the entire south side of the dry detention and open space area. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation and to be placed on the south side of the required fence, the plant material shall be maintained to a minimum height of thirty six (36) inches. (DRC/CO: ZONING/ LANDSCAPE)

J. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BUILDING/CODE ENFORCEMENT-Zoning)
- 2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (BUILDING-Zoning)
- 3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

K. SIGNS

1. Freestanding sign fronting on Atlantic Avenue shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twelve **(12)** feet;
 - b. Maximum sign face area per side - 120 square feet;
 - c. Maximum number of signs - one **(1)**; and
 - d. Style - monument style only. (CO: BLDG)
2. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)
3. Wall signs shall be restricted to the south and west facades of the building only. (CO: BLDG)
4. Gas canopy signs shall be restricted to the south and east sides of the canopy only. (CO: BLDG)
5. "No loitering" signs shall be posted inside the building. Signs shall be written in both English and Spanish. (CO: BLDG)

L. USE LIMITATIONS

1. On-site operation of heavy machinery or refrigerated vehicles shall be prohibited from 7:00 p.m. to 5:00 a.m. daily. (ONGOING: CODE ENF)
2. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF)
3. No on site consumption of alcohol beverages shall be permitted. (ONGOING: CODE ENF)
4. No overnight parking of trucks and trailers shall be permitted on site. (ONGOING: CODE ENF)
5. No parking of any vehicles, trailers or shipping containers shall be permitted on the premises, except that vehicles and trailers that are physically attached and being towed by these vehicles, may park or stand on the premises up to but no longer than **two (2)** hours in order to patronize the facilities. Vehicles which suddenly and unexpectedly become unroadworthy may remain on the premises in order to effect minor repairs, provided that the minor repairs do not keep the vehicle on the premises longer than **twenty four (24)** hours. If minor repairs are not attempted then the vehicles must be removed within twelve (12) hours of entering the premises. (ONGOING: CODE ENF)
6. No outdoor seating shall be permitted on the site. (ONGOING: CODE ENF)
7. A **four (4)** foot high gate shall be installed at the Atlantic Boulevard entrance. The gate shall be closed after business hours.

M. COMPLIANCE

1. In granting this approval, the Palm Beach County Zoning Commission 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 Palm Beach County Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval or violation of any condition of approval for the subject property at any time shall result in the petition being brought back to the Palm Beach County Zoning Commission to consider the following:
 - 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 majority vote of the Code Enforcement Board 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. (MONITORING)