

RESOLUTION NO. R-2008- 1708

RESOLUTION APPROVING ZONING APPLICATION DOA/TDR-2007-01202
(CONTROL NO. 2003-00011)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF Colony At Lake Worth Llc
BY Land Design South, Inc., AGENT
(Colony at Lake Worth 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-2007-01202 was presented as a development order to the Board of County Commissioners at a public hearing conducted on September 29, 2008; 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 findings in the staff report and 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 FISCAL YEAR_MONTH-FISCAL YEAR_YEAR be TDR_PRICE 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-2007-01202 the application of Colony At Lake Worth Lic by Land Design South, Inc., 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, 2008, 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 Robert Kanjian and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Aye
Jeff Koons, Vice Chair	-	Absent
Karen T. Marcus	-	Nay
Robert J. Kanjian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Nay

The Chairperson hereupon declared that the resolution was duly passed and adopted on September 29, 2008.

Filed with the Clerk of the Board of County Commissioners on 29th day of September, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on October 17, 2008.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & CONTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

All of COLONY AT LAKE WORTH, A CONDOMINIUM, according to the Declaration of Condominium thereof recorded in Official Records Book 20380, at Page 990, of the Public Records of Palm Beach County, Florida.

Being more particularly described as follows:

A portion of land lying within the Southeast one—quarter (SE ¼) of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of Section 35, Township 44 South, Range Commencing at the Southeast corner of Section 35, Township 44 South, Range line of the Southeast one-quarter (SE 1/4) of said Section 35, a distance of 1,379.57 feet; thence North 01°33'34" East, a distance of 54.00 feet to the POINT OF BEGINNING; thence North 88°26'26" West, a distance of 637.56 feet to a point being on the West line of the East one-half (E 1/2) of the Southwest one-quarter (SW 1/4) of the Southeast one-quarter (SE 1/4) of said Section 35, the preceding course being coincident with the North right-of-way line for Lantana Road as recorded in Official Records Book 5779, Page 1217, Official Records Book 5721, Page 1590, and Official Records Book 5695, Page 137, all of the Public Records of Palm Beach County, Florida; thence North 01°59'50" East along said West line, a distance of 1,293.49 feet to a point being on the South right-of-way line for Nash Drive as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida; thence South 88°50'46" East along said South right-of-way line, a distance of 663.76 feet to a point being on the West right-of-way line for Myers Road as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida, said point to be hereinafter referred to as "Reference Point A"; thence South 02°02'52" West along said West right-of-way line, a distance of 1,273.20 feet to the Northeasterly corner of right-of-way acquisition Parcel No. 110 for Lantana Road as recorded in Official Records Book 5779, Page 1217 of the Public Records of Palm Beach County, Florida; thence South 46°48'22" West along the Northerly line of said right-of-way acquisition Parcel No. 110, a distance of 35.51 feet to the Point of Beginning.

Together with:

A portion of land lying within the Southeast one-quarter (SE 1/4) of Section 35, Township 44 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the aforementioned "Reference Point A"; thence North 02°02'52" East along the Northerly prolongation of the West right-of-way line for Myers Road as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida, a distance of 50.01 feet to a point being on the North right-of-way line for Nash Drive as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida, and the Point of Beginning; thence North 88°50'46" West along said North right-of-way line, a distance of 326.90 feet to a point being on the West line of the East one-half (E 1/2) of the East one-half (E 1/2) of the Northwest one-quarter (NW 1/4) of the Southeast one-quarter (SE 1/4) of said Section 35; thence North 02°01'21" East along said West line, a distance of 341.64 feet to a point being on a line 1,007.99 feet south of and parallel to (as measured at right angles), the North line of the East one-half (E 1/2) of the Northwest one-quarter (NW 1/4) of the Southeast one-quarter (SE 1/4) of said Section 35; thence South 89°15'01" East along said line, a distance of 327.10 feet to a point being on the West right-of-way line for Myers Road as recorded in Deed Book 1088, Page 518 of the Public Records of Palm Beach County, Florida; thence South 02°02'52" West along said West right-of-way line, a distance of 343.95

feet to the Point of Beginning.

Said lands situate, lying and being in Palm Beach County, Florida.

In all totaling 971,044.219 square feet or 22.292 acres more or less.

EXHIBIT B
VICINITY SKETCH

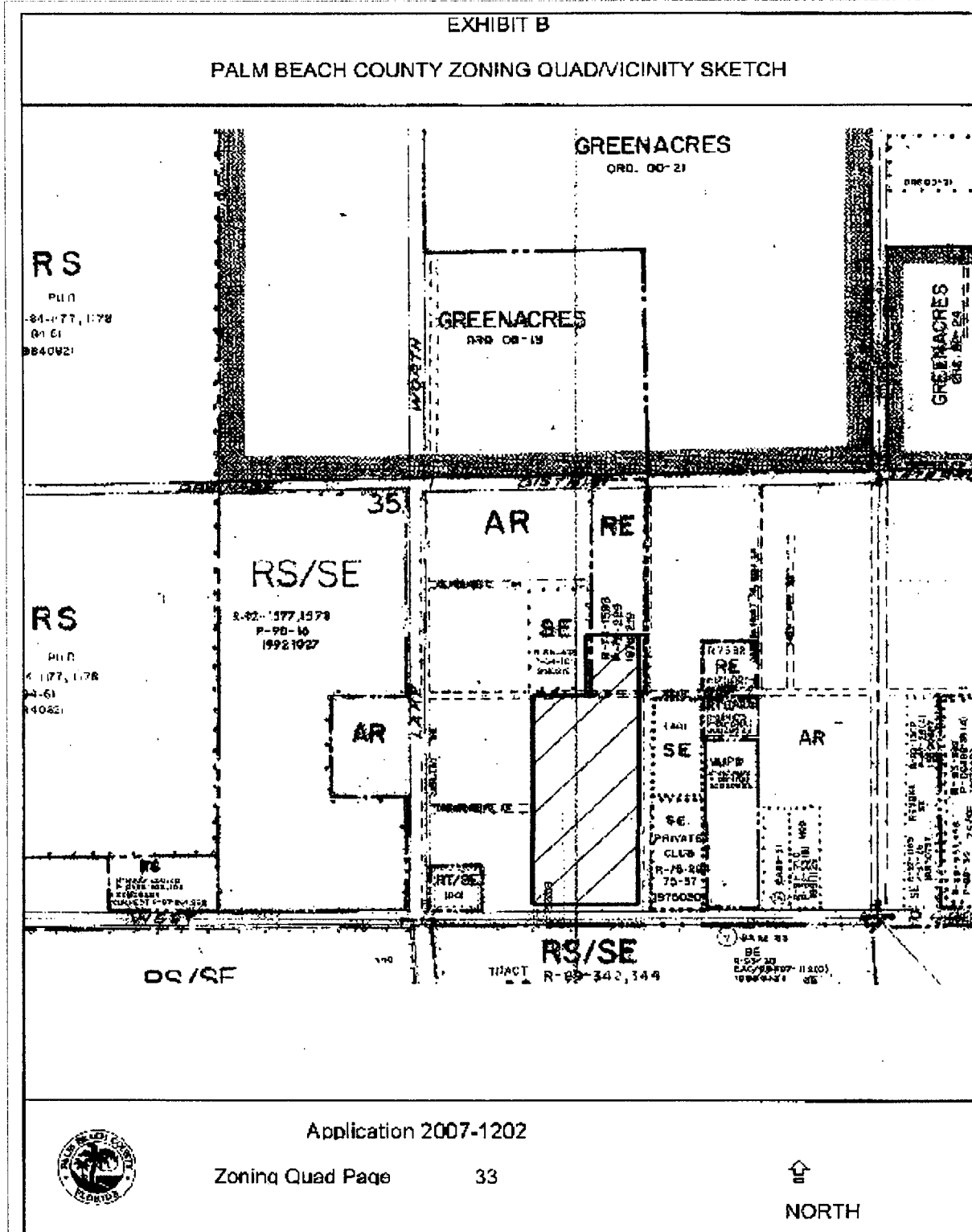


EXHIBIT C

TRANSFER OF DEVELOPMENT RIGHTS

1. Condition A.1 of Resolution R-2004-159, Control 2003-011 which currently states:

The Preliminary Development Plan (PDP) dated November 18, 2003 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

The Master Plan (MP) dated September 11, 2008 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)

2. Prior to approval of the Preliminary Development Plan (PDP) by the DRO, a Contract for Sale and Purchase of TDRs shall be executed by the petitioner, 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 39 TDR units at a selling price of \$13,308.00 per unit. (Previous Condition A.2 of Resolution R-2004-159, Control 2003-011) (DRO: COUNTY ATTORNEY - Zoning) [NOTE: Completed]

3. Prior to approval of the Preliminary Development Plan (PDP) by the DRO, two (2) recorded copies of the Contract for Sale and Purchase of TDRs shall be provided to the Palm Beach County Zoning Division. (Previous Condition A.3 of Resolution R-2004-159, Control 2003-011) (DRO: ZONING - Zoning) [NOTE: Completed]

4. Prior to approval of the Preliminary Development Plan (PDP) by the DRO, monies representing 39 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (Previous Condition A.4 of Resolution R-2004-159, Control 2003-011) (DRO: ZONING - Zoning) [NOTE: Completed]

5. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (Previous Condition A.5 of Resolution R-2004-159, Control 2003-011) (BLDG. PERMIT: MONITORING - Zoning) [NOTE: Completed]

6. 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. (Previous Condition A.6 of Resolution R-2004-159, Control 2003-011) (BLDG. PERMIT: MONITORING - Zoning) [NOTE: Completed]

7. Condition A.7 of Resolution R-2004-159, Control 2003-011 which currently states:

Any additional increase in density must be requested through the TDR program. (ONGOING: CODE ENF- Zoning)

Is hereby deleted. REASON: [No longer applicable]

8. At time of submittal for final Development Review Officer (DRO) approval for this application, an official "Contract for Sale and Purchase of TDR Units", "TDR Escrow Agreement", and "TDR Deed" shall be submitted for final review and execution for the additional 23 TDR units. (DRO: ZONING - Zoning)

9. 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 twenty-three (23) additional 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 twenty-three (23) additional TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County or the non-refundable monies shall be paid to Palm Beach County. (DRO: ZONING - Zoning)

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

11. Prior to the issuance of the first building permit, a deed conveying the twenty-three (23) additional 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

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) (Previous Condition B.1 of Resolution R-2004-159, Control 2003-011)

2. Previous Condition B.2 of Resolution R-2004-159, Control 2003-011 which currently states:

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)

Is hereby deleted. [REASON: superceded by new COMPLIANCE 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)