

RESOLUTION NO. R-2009- 0371

RESOLUTION APPROVING ZONING APPLICATION DOA/R/TDR-2008-00441
(CONTROL NO. 2004-00524)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF WOODWIND 2007 LLC
BY LAND DESIGN SOUTH, INC., AGENT
(WOODWIND 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/R/TDR-2008-00441 was presented as a development order to the Board of County Commissioners at a public hearing conducted on February 25, 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 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 2009 be \$1.00 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/R/TDR-2008-00441 the application of Woodwind 2007 LLC 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 February 25, 2009, 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 Greene and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Absent
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Naye
Commissioner Addie L. Greene	-	Aye

The Chairperson hereupon declared that the resolution was duly passed and adopted on February 25, 2009.

Filed with the Clerk of the Board of County Commissioners on March 3rd, 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

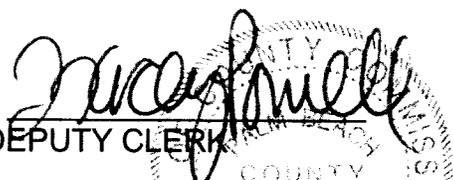
BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

TRACTS 9 THROUGH 12, BLOCK 34, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 1,582,934 SQAURE FEET OR 36.34 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY RECORD.

00-42-43-27-05-034-0090

00-42-43-27-05-034-0111

00-42-43-27-05-034-0121

00-42-43-27-05-034-0100

00-42-43-27-05-034-0113

00-42-43-27-05-034-0122

EXHIBIT B
VICINITY SKETCH

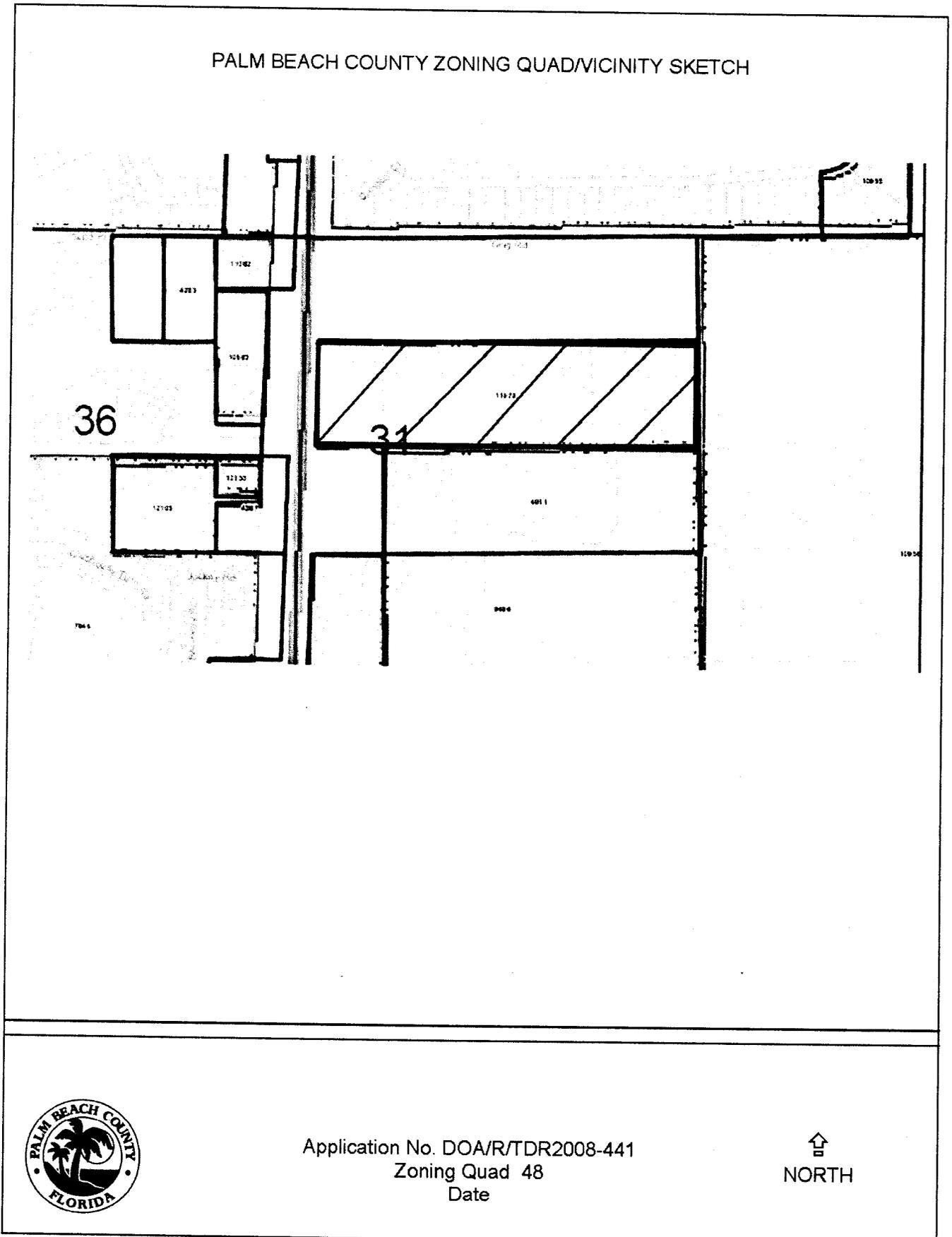


EXHIBIT C

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 shall:

- a. execute a Contract for Sale and Purchase of TDRs shall be executed by the property owner, 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 109 TDR units at a selling price of one dollar (\$1.00) per unit.
- b. submit recorded copies of the Contract for Sale and Purchase of TDRs shall be provided to the Palm Beach County Zoning Division.
- c. place monies representing 109 TDR units 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

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)

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)