

RESOLUTION NO. R-2002- 0291

RESOLUTION APPROVING ZONING PETITION TDR2001-029
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF HOLIDAY MANAGEMENT ASSOCIATES
BY LAND DESIGN SOUTH, AGENT
(COLONY CLUB APARTMENTS 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 TDR2001-029 was presented as a development order to the Board of County Commissioners at a public hearing conducted on February 28, 2002; 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 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 County TDR units for FY99-00 be \$9,833 per unit; and; and
4. Pursuant to Section 6.10.1. of the ULDC, the TDR2001-029 qualifies as a TDR Receiving Area; and
5. Pursuant to Section 6.10.K.3.e. 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, 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 TDR2001-029, the petition of Holiday Management Associates by Land Design South, agent, for a Transfer of Development Rights for 95 TDR units and designating the subject site as the receiving area 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 February 28, 2002, subject to the conditions of approval described in EXHIBIT C-2, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Tony Masilotti	-	Absent
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on February 28, 2002.

Filed with the Clerk of the Board of County Commissioners on 12 day of March, 2002.

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

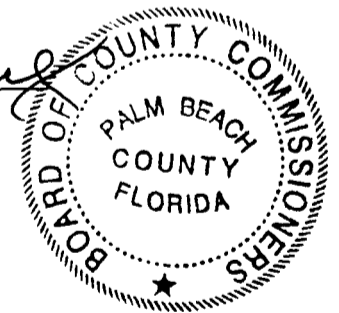


EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

TRACT 7 OF NE 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, ACCORDING TO AN AMENDED PLAT OF SAID SECTION 12, RECORDED IN PLAT BOOK 9, PAGE 74, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE PORTION OF TRACT 7 ACQUIRED BY PALM BEACH COUNTY FOR THE WIDENING OF MILITARY TRAIL AS SHOWN IN THE STIPULATION AND FINAL JUDGEMENT DATED NOVEMBER 20, 1989, AND RECORDED NOVEMBER 29, 1989, IN ORB 6274, PAGE 304.

SUBJECT TO:

RIGHT-OF-WAY OF WEST 50 FEET OF TRACT 7 FOR PUBLIC HIGHWAY PURPOSES AS IN DEED

BOOK 909, PAGE 208, PALM BEACH COUNTY RECORDS; AND RIGHT-OF-WAY FOR DRAINAGE DITCHES AND CANALS AS NOW LAID OUT AND IN USE.

TOGETHER WITH

PARCEL 2:

TRACT 5 OF NE 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE AMENDED PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 9, PAGE 74.

ALSO TOGETHER WITH

PARCEL 3:

THE WEST 1/2 OF THE EAST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE NORTHWEST CORNER OF THE ABOVE-DESCRIBED TRACT; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID TRACT A DISTANCE OF 320.0 FEET; THENCE EASTERLY PARALLEL TO THE NORTH LINE OF SAID TRACT A DISTANCE OF 138.93 FEET; THENCE NORTHERLY 93°43'30", AS MEASURED FROM WEST TO NORTH A DISTANCE OF 320.0 FEET;

THENCE WESTERLY ALONG THE NORTH LINE OF SAID TRACT A DISTANCE OF 138.0 FEET TO THE POINT OF BEGINNING. ALSO LESS THE NORTH 40 FEET FOR LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY OF CANAL L-18. THE ABOVE-DESCRIBED PARCEL BEING A PART OF THE WEST HALF OF TRACT 4, AS SHOWN ON PLAT BOOK 9, PAGE 74, SUBDIVISION OF SECTION 12, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

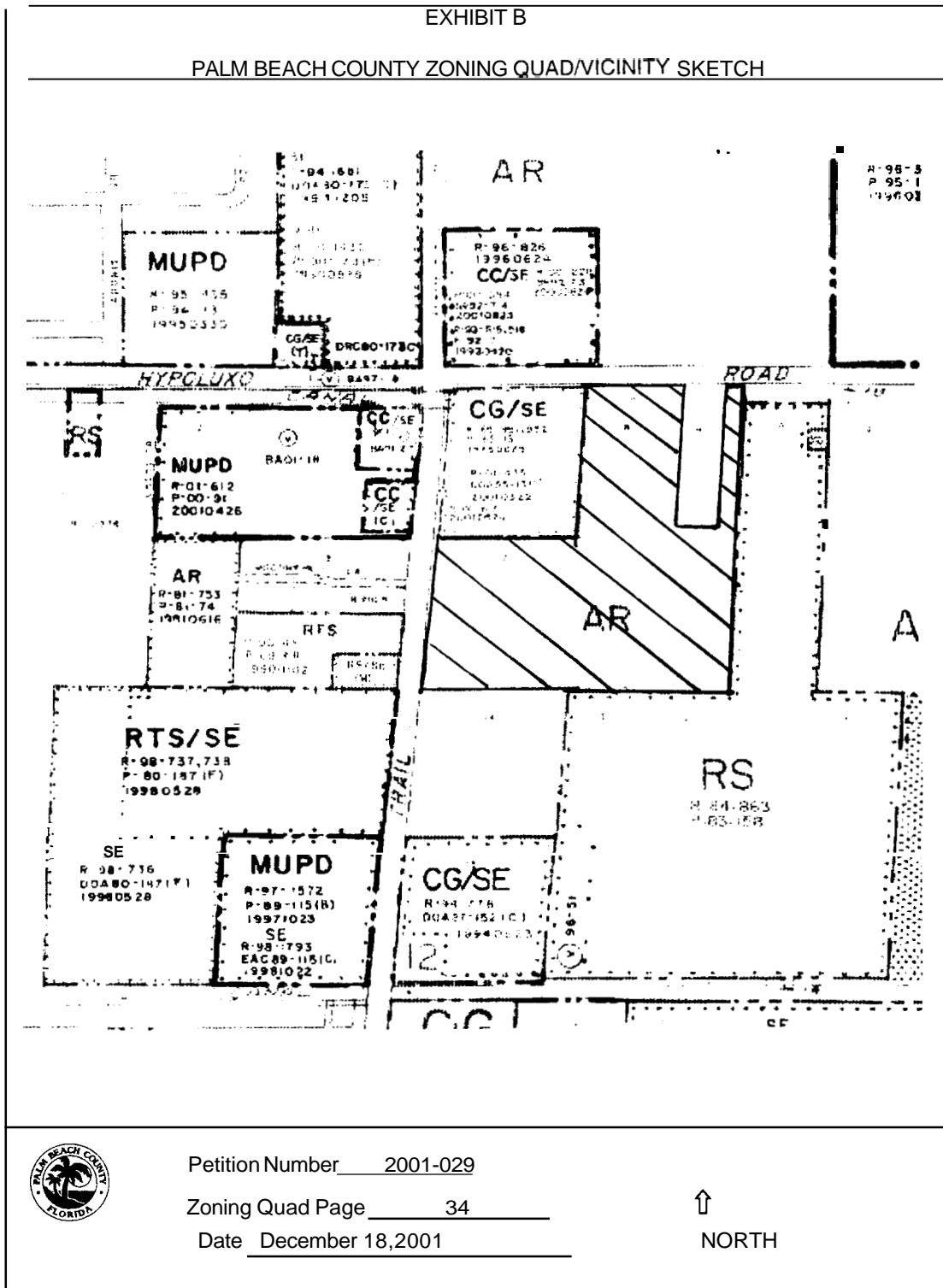


EXHIBIT C-2

TDR CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The approved site plan is dated October 25, 2001. All modifications to perimeter/internal buffers must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval. (ONGOING: ZONING)
2. 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 95 TDR units at a selling price of \$10,399.00 per unit. (DRC: COUNTY ATTORNEY-Zoning)
3. 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 Zoning Division. (DRC: ZONING)
4. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, monies representing 95 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: ZONING)
5. 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-Zoning)
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. This condition does not apply to 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. (BLDG PERMIT: MONITORING - Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING)

B. 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:

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- 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. (MONITORING)

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