

RESOLUTION NO. R-2002-1968

RESOLUTION APPROVING ZONING PETITION TDR2001-076
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF G.B. ENTERPRISES OF SOUTHWEST FLORIDA
BY GEORGE GENTILE, AGENT
JOHNSON PROPERTIES 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 TDR2001-076 was presented as a development order to the Board of County Commissioners at a public hearing conducted on October 24, 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 FY01-02 be \$10,399.00 per unit; and; and
4. Pursuant to Section 6.10.1. of the ULDC, the 2001-076 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 TDR2001-076 the petition of G.B. Enterprises of Southwest Florida by George Gentile, agent, for a Transfer of Development Rights for 97 units and to designate this petition 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 October 24, 2002, subject to the conditions of approval described in EXHIBIT C-1, 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 24, 2002.

Filed with the Clerk of the Board of County Commissioners on 6 day of November, 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

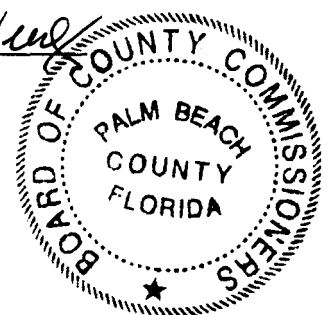


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND BEING PORTIONS OF BLOCKS 5 AND 6, INCLUDING THE PLATTED RIGHTS-OF-WAY CONTAINED THEREIN, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF CLEARY ROAD WITH THE CENTERLINE OF WESTPORT ROAD, AS SHOWN ON WESTPORT INDUSTRIAL PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 49, PAGE 49, SAID PUBLIC RECORDS; THENCE, NORTH 89°01'06" EAST, ALONG SAID CENTERLINE OF WESTPORT ROAD, A DISTANCE OF 40.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID CLEARY ROAD; THENCE, NORTH 00°58'54" WEST, DEPARTING SAID CENTERLINE AND ALONG SAID EAST RIGHT-OF-WAY LINE AND THE NORTHERLY PROLONGATION THEREOF, A DISTANCE OF 344.97 FEET TO THE SOUTH LINE OF TRACT 31, SAID BLOCK 5 AND THE POINT OF BEGINNING;

THENCE, CONTINUE NORTH 00°58'54" WEST, A DISTANCE OF 250.27 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 590.00 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°32'25", A DISTANCE OF 242.40 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 24°31'19" WEST, A DISTANCE OF 382.17 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 510.00 FEET; THENCE, NORTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°16'42", A DISTANCE OF 474.24 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 28°45'23" EAST, A DISTANCE OF 253.48 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 435.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 39°28'26", A DISTANCE OF 299.69 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 68°13'49" EAST, A DISTANCE OF 976.22 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 340.00 FEET; THENCE, NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 69°10'29", A DISTANCE OF 410.49 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 00°56'40" EAST, A DISTANCE OF 301.77 FEET TO THE NORTH LINE OF TRACT 9, SAID BLOCK 5; THENCE, NORTH 89°03'20" EAST, ALONG THE NORTH LINE OF TRACTS 9 AND 8, OF SAID BLOCK 5, A DISTANCE OF 332.16 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF SAID TRACT 8; THENCE, SOUTH 00°57'38" EAST, ALONG THE EAST LINE OF SAID WEST HALF, A DISTANCE OF 660.84 FEET TO THE SOUTHEAST CORNER OF SAID WEST HALF; THENCE, NORTH 89°03'03" EAST, ALONG THE SOUTH LINE OF TRACTS 8, 7, 6 AND 5, SAID BLOCK 5, A DISTANCE OF 2199.75 FEET TO THE WEST RIGHT-OF-WAY LINE OF JOG ROAD, ACCORDING TO THE RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORD BOOK 7188. PAGE 378, SAID PUBLIC RECORDS; THENCE, SOUTH 03°13'49" EAST, DEPARTING THE SOUTH LINE OF SAID TRACT 5 AND ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1385.14 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 33154.59; THENCE, SOUTHERLY, ALONG SAID CURVE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 00°36'52", A DISTANCE OF 355.54 FEET TO THE NORTHEAST CORNER OF PARCEL D1, ACCORDING TO THE RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORD BOOK 7188. PAGE 496, SAID PUBLIC RECORDS; THENCE, SOUTH 89°03'03" WEST, ALONG THE NORTH LINE OF SAID PARCEL D1, DEPARTING SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 443.67 FEET TO THE NORTHWEST CORNER OF SAID PARCEL; THENCE, SOUTH 00°56'57" EAST, ALONG

EXHIBIT A

LEGAL DESCRIPTION

THE WEST LINE OF SAID PARCEL, A DISTANCE OF 250.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE, NORTH 89°02'42" EAST, ALONG THE SOUTH LINE OF SAID PARCEL, A DISTANCE OF 450.00 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL, BEING A POINT ON THE SAID WEST RIGHT-OF-WAY LINE OF JOG ROAD, SAID RIGHT-OF-WAY LINE BEING A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 33154.59 FEET AND WHOSE RADIUS POINT BEARS SOUTH 87°48'58" WEST; THENCE, SOUTHERLY, ALONG SAID CURVE AND SAID RIGHT-OF-WAY LINE, DEPARTING SAID PARCEL LINE, THROUGH A CENTRAL ANGLE OF 00°02'04", A DISTANCE OF 20.00 FEET TO THE SOUTH LINE OF TRACT 36, SAID BLOCK 5; THENCE, SOUTH 89°02'42" WEST, ALONG THE SOUTH LINE OF TRACTS 36, 35, 34, 33, 32 AND 31, SAID BLOCK 5, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 3908.91 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 181.79 ACRES, MORE OR LESS.

EXHIBIT C-1

TDR CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING-Zoning)
2. Prior to the final DRC certification of the site plan, the property owner shall:
 - a. transfer developments rights from the sending area to the Johnson PUD by deed which shall be recorded;
 - b. record a conservation easement for the sending area. The easement shall restrict the use of the sending area as a park, and require the property be maintained predominantly in its natural state. The recordation of the easement shall be in a form and content acceptable to the County Attorney's office and Environmental Resources Management. Prior to recordation of this easement, the property owner shall enter into a maintenance agreement. The property owner shall provide a Maintenance Plan for perpetual maintenance of the sending area. The Plan shall require that the Town of Haverhill shall maintain the property free of invasive and exotic vegetation. The Plan shall be reviewed and approved by ERM;
 - c. convey ownership of the sending area to the Town of Haverhill. The Town shall accept ownership prior to the certification of the site plan. Documentation of the acceptance of ownership of the sending area by the Town, satisfactory to the County Attorney, shall be provided to the County prior to certification of the site plan;
 - d. provide a title policy ensuring marketability to Palm Beach County for the conservation easement. The policy is subject to approval by the County Attorney; and
 - e. remove all prohibited and invasive exotic vegetation, as defined in the ULDC, Section 9.5 on the property prior to the conveyance of ownership to the Town of Haverhill. The cost of the exotic removal shall be limited to no more than \$75,000 for the initial treatment. (DRC:COUNTY ATTY/ERM/PLANNING – Zoning/Planning)

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:
 - 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)

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