

RESOLUTION NO. R-2003- 0431

RESOLUTION APPROVING ZONING PETITION TDR1995-118B
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF AMKBJ PARTNERS LTD
BY JOE LELONEK, AGENT

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 TDR1995-118B was presented as a development order to the Board of County Commissioners at a public hearing conducted on March 27, 2003; 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 has considered the findings in the staff report and 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;
4. Pursuant to Section 6.10.1. of the ULDC, the 1995-118B 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 TDR1995-118B the petition of AMKBJ Partners Ltd by Joe Lelonek, agent, for a Transfer of Development Rights for 3 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 March 27, 2003, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on March 27, 2003.

Filed with the Clerk of the Board of County Commissioners on 3 day of April, 2003.

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

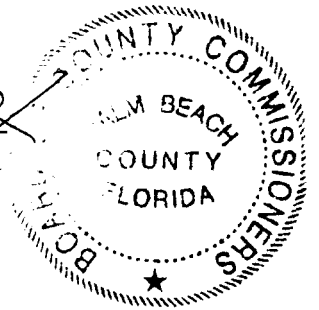


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

LOT 2 TRACT 42, TOWNSHIP 44 - 1/2 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE EST 10ACRES THEREOF, SAID TEN ACRES BEING EASTERLY TEN ACRES EAST OF A LINE PARALLEL TO THE EAST LINE OF LOT 2, AND LESS THE NORTH 40 FEET FOR LANTANA ROAD RIGHT-OF-WAY.

TOGETHER WITH

LEGAL DESCRIPTION:

THE EAST 10 ACRES OF LOT 2, TRACT 42, TOWNSHIP 44-1/2 SOUTH, RANGE 42 EAST; SAID EAST 10 ACRES BEING THE EASTERLY 10 ACRES OF SAID LOT 2, LYING EAST OF A LINE RUNNING PARALLEL TO THE EAST LINE OF SAID LOT 2, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF SAID LOT 2 BLOCK 42, RUN THENCE SOUTH 8 DEGREES, 57 MINUTES, 16 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 2, SAID NORTH LINE BEING THE CENTER LINE OF LANTANA ROAD, A DISTANCE OF 1,058.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE EASTERLY ON THE SAME COURSE, A DISTANCE OF 291.24 FEET TO THE NORTHEAST CORNER OF SAID LOT 2; THENCE RUN SOUTH 9 DEGREES, 01 MINUTES, 38 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 2, A DISTANCE OF 1,524.12 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE RUN NORTH 87 DEGREES, 52 MINUTES, 26 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 2, A DISTANCE OF 291.32 FEET; THENCE RUN NORTH 9 DEGREES, 01 MINUTES, 38 SECONDS WEST A DISTANCE OF 1,523.69 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THE NORTH 40 FEET FOR RIGHT-OF-WAY FOR LANTANA ROAD, PALM BEACH COUNTY, FLORIDA. SAID LANDS LOCATED IN PALM BEACH COUNTY, FLORIDA.

AND:

FROM A GOVERNMENT LAND OFFICE MONUMENT AT THE SOUTHEAST CORNER OF LOT 1, GOVERNMENT TRACT 42, TOWNSHIP 44 1/2, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; GO IN A WESTERLY DIRECTION ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 1011.08 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE CONTINUE ALONG THE SAME COURSE A DISTANCE OF 448.87 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE GO IN A NORTHWESTERLY DIRECTION ALONG THE WEST LINE OF LOT 1, A DISTANCE OF 1483.48 FEET TO A POINT; THENCE GO IN AN EASTERLY DIRECTION PARALLEL TO THE NORTH LINE OF LOT 1, A DISTANCE OF 448.87 FEET TO A POINT; THENCE GO IN A SOUTHEASTERLY DIRECTION PARALLEL TO THE WEST LINE OF LOT 1, A DISTANCE OF 1484.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

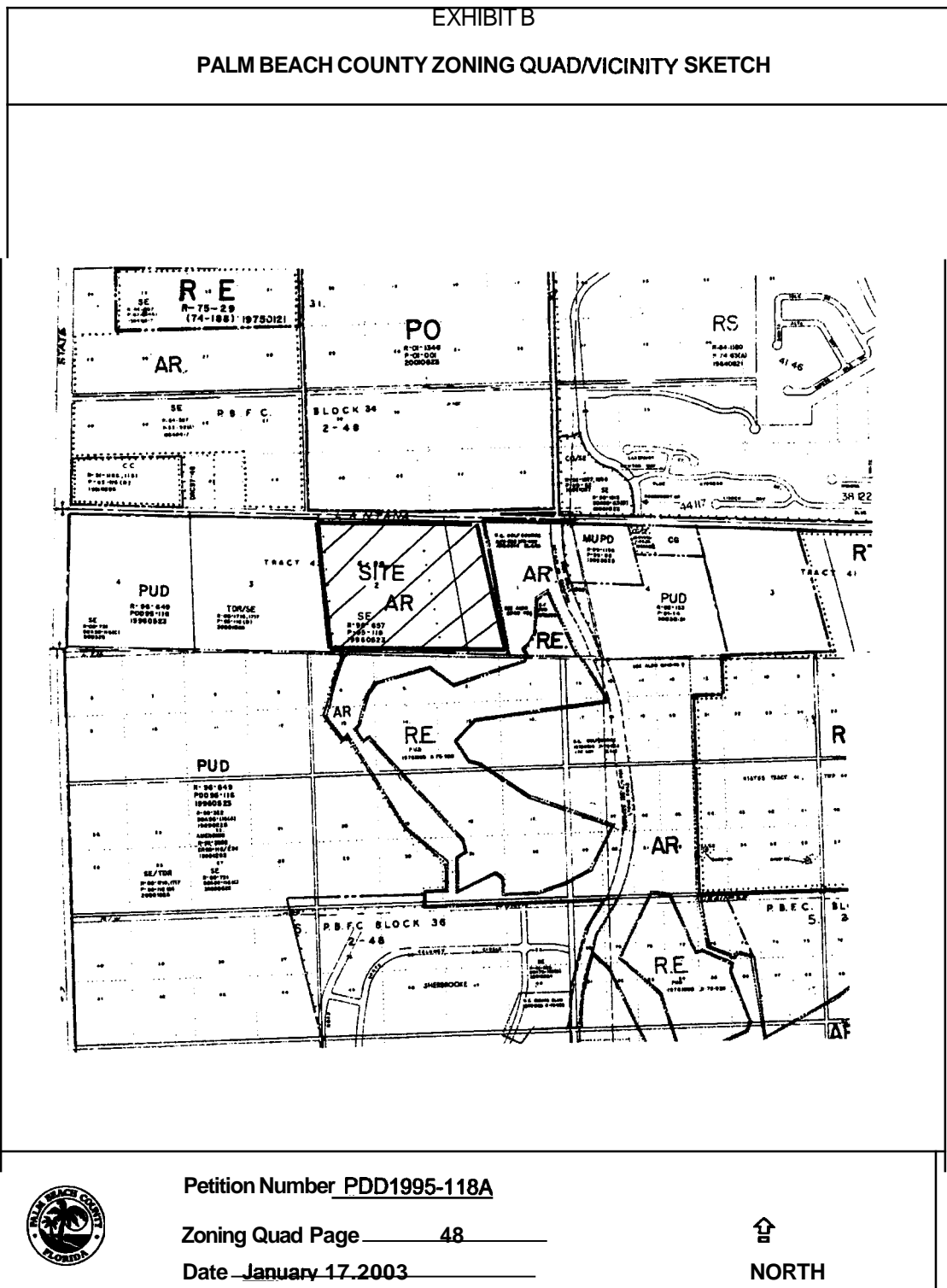


EXHIBIT C-1

TDR CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The preliminary development plan dated March 18, 2003 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - 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 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 three (3) TDR units at a selling price of \$13,308.00 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 - Zoning)
4. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, monies representing three TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: ZONING - 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: MONITORING - Zoning)

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; 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 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)

- 2. 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)