

RESOLUTION NO. R-99- 331

RESOLUTION APPROVING ZONING PETITION TDR98-56
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
PETITION OF DAB OF PALM BEACHES, INC. AND ANDREW LOGAN
BY ROBERT BENTZ, AGENT
NYE 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 TDR98-56 was presented as a development order to the Board of County Commissioners at a public hearing conducted on February 25, 1999; 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, the recommendation of the Land Use Advisory Board, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. Pursuant to Section 6.1.O.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 TDR Unit associated with the NYE PUD PDD98-56 be in the amount of \$9,600.00; and
4. Pursuant to Section 6.10.1. of the ULDC, the TDR98-56 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 TDR98-56, the petition of DAB of Palm Beaches, Inc. and Andrew Logan by Robert Bentz, agent, for the purchase of 44 Transfer of Development Rights (TDR) units from the Palm Beach County TDR Bank at \$9,600 each and designation of PDD98-56 as the receiving area for the 44 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, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts 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:

Maude Ford Lee, Chair	-	Absent
Warren Newell, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Carol A. Roberts	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on February 25, 1999.

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

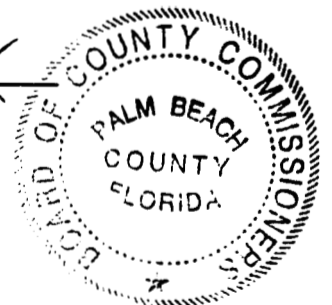


EXHIBIT A

LEGAL DESCRIPTION

THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4), AND THE WEST QUARTER (W 1/4) OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, AND, THAT PART OF THE NORTH THREE-QUARTERS (N 3/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LYING EAST OF LAKE WORTH DRAINAGE DISTRICT EQUALIZING CANAL NO. 3

LESS AND EXCEPT THEREFROM THE FOLLOWING:

A 65 FOOT WIDE PARCEL ALONG THE WESTERLY SIDE OF THE PROPERTY HEREIN DESCRIBED AND ALSO LESS THE NORTHERLY 135 FEET OF THE PROPERTY HEREIN, DESCRIBED, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"A 65 FOOT WIDE PARCEL OF LAND IN THE SOUTH HALF (S 1/2) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LYING EAST OF AND ADJACENT TO A STRAIGHT LINE, SAID STRAIGHT LINE BEGINNING AT THE SOUTH QUARTER (S 1/4) CORNER OF SAID SECTION 2 AND ENDING AT A POINT ON THE NORTH LINE OF SAID SECTION 2, LOCATED 480 FEET WEST OF THE NORTH QUARTER (N 1/4) CORNER. THE 65 FOOT WIDE PARCEL OF LAND BEGINS AT THE SOUTH LINE OF SECTION 2 AND ENDS AT THE EAST-WEST QUARTER LINE OF SECTION 2, AND THE NORTH 135 FEET OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4); THE NORTH 135 FEET OF THE WEST QUARTER (W 1/4) OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4); AND THE NORTH 135 FEET OF THAT PART OF THE NORTH THREE-QUARTERS (N 3/4) OF THE SOUTHWEST QUARTER (SW 1/4) LYING EAST OF THE LAKE WORTH DRAINAGE DISTRICT EQUALIZING CANAL NO. 3, ALL IN SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST."

ALSO LESS AND EXCEPT THEREFROM THE FOLLOWING:

THE SOUTH HALF (S 1/2) OF THE WEST QUARTER (W 1/4) OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION 2; TOWNSHIP 45 SOUTH, RANGE 42 EAST, RUN THENCE EASTERLY ALONG THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 1664.02 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE WEST QUARTER (W 1/4) OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4), AS THE POINT OF BEGINNING, THENCE NORTHERLY ALONG THE EAST LINE OF SAID WEST QUARTER (W 1/4) OF THE EAST HALF (E 1/2) OF THE SOUTHEAST QUARTER (SE 1/4), A DISTANCE OF 1337.94 FEET, MORE OR LESS, THENCE WESTERLY A DISTANCE OF 333.05 FEET, MORE OR LESS, TO A POINT; THENCE SOUTHERLY A DISTANCE OF 1336.67 FEET, MORE OR LESS, TO THE SOUTH LINE OF SECTION 2, THENCE EASTERLY ALONG THE SOUTH LINE OF SECTION 2, A DISTANCE OF 332.85 FEET MORE OR LESS TO THE POINT OF BEGINNING, LESS THE RIGHT-OF-WAY OF HYPOLUXO ROAD.

ALSO LESS AND EXCEPT THEREFROM THE FOLLOWING:

BEGINNING AT A POINT 65 FEET EAST OF THE QUARTER CORNER ON THE SOUTH LINE OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, FOR POINT OF BEGINNING; THENCE RUN EASTERLY ON THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 476.17 FEET, MORE OR LESS, TO A POINT; THENCE NORTHERLY, A DISTANCE OF 1157.98 FEET, MORE OR LESS, TO A POINT, THENCE WESTERLY TO A POINT IN THE EAST LINE OF THE 65 FOOT STRIP DECEDED TO THE LAKE WORTH DRAINAGE DISTRICT IN OFFICIAL RECORDS BOOK 1737, PAGE 918, PALM BEACH COUNTY RECORDS, THENCE SOUTHERLY ALONG THE EAST LINE OF SAID 65 FOOT STRIP, A DISTANCE OF 1160 FEET, MORE OR LESS, TO THE POINT ON THE SOUTH LINE OF SECTION 2, 65 FEET EAST OF THE SOUTH QUARTER CORNER AND THE POINT OF BEGINNING; LESS THE RIGHT-OF-WAY OF HYPOLUXO ROAD.

THE ABOVE DESCRIBED PARCEL OF LAND IS MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

FROM THE SOUTH QUARTER CORNER OF SAID SECTION 2, BEAR SOUTH 89°09'54" EAST ALONG THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 65.45 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°09'54" EAST ALONG SAID SOUTH LINE OF SECTION 2, A DISTANCE OF 476.17 FEET; THENCE NORTH 00°48'29" EAST, A DISTANCE OF 1157.98 FEET; THENCE NORTH 89°42'58" WEST, A DISTANCE OF 610.77 FEET PLUS OR MINUS TO THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT E-3 (ACCORDING TO OFFICIAL RECORDS BOOK 1737, PAGE 918, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA); THENCE SOUTH 05°51'15" EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 1160 FEET; PLUS OR MINUS TO THE POINT OF BEGINNING.

LESS, HOWEVER, THE RIGHT-OF-WAY FOR HYPOLUXO ROAD.

ALSO LESS AND EXCEPT THEREFROM

THAT PART LYING SOUTH OF THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, AS DESCRIBED IN RIGHT-OF-WAY DEED TO COUNTY OF PALM BEACH AND RECORDED IN DEED BOOK 1038, PAGE 673, PALM BEACH COUNTY RECORDS.

ALSO LESS AND EXCEPT THEREFROM

THE SOUTH 110.00 FEET OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST IN PALM BEACH COUNTY, FLORIDA, AS SHOWN ON THE RIGHT-OF-WAY MAP OF HYPOLUXO ROAD DATED NOVEMBER 1987.

EXCEPT THAT PORTION THEREOF LYING WESTERLY OF THE EAST LINE OF THE LAND DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 2553, PAGE 1880, RECORDS OF SAID PALM BEACH COUNTY.

ALSO EXCEPT THAT PORTION THEREOF LYING SOUTHERLY OF THE NORTHERLY LINE OF THE LAND DESCRIBED IN THE DEED RECORDED IN OFFICIAL RECORDS BOOK 1038, PAGE 673, RECORDS OF SAID PALM BEACH COUNTY.

EXHIBIT B
VICINITY SKETCH

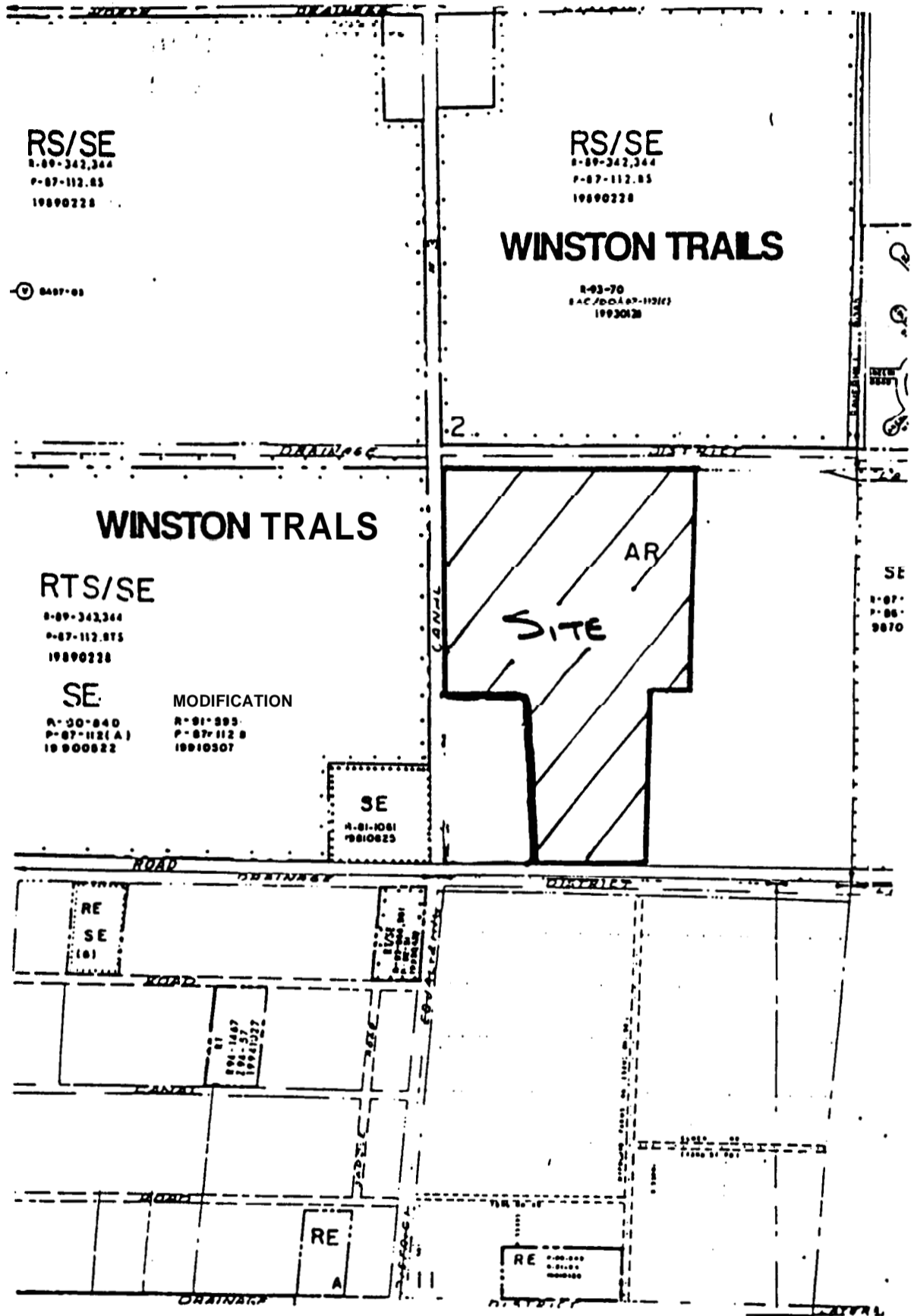


EXHIBIT C.I

TDR CONDITIONS OF APPROVAL

1. The preliminary development plan dated 1/25/99 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: PLANNING/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 **44** TDR units at a selling price of \$9,600.00 per unit. (DRC: PLANNING)
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 Planning Division. (DRC: PLANNING)
4. Prior to certification of the Preliminary Development Plan (PDP) by the DRC, monies representing **44** TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: PLANNING)
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-Planning)
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 - Planning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: PLANNING) EXHIBIT C

EXHIBIT C.1

TDR CONDITIONS OF APPROVAL

1. The preliminary development plan dated 1/25/99 and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING:PLANNING/ZONING)
2. Prior to certification of the Preliminary Development Plan (PDP) by the Df IC, a "Contract for Sale and Purchase of TDR's" shall be executed ~~and recorded~~ 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 44 TDR units at a selling price of \$9,600.00 per unit. (DRC: PLANNING)
3. Prior to certification of the Preliminary Development Plan (PDP) by the Df IC, two (2) recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Planning Division. (DRC: PLANNING)
4. Prior to certification of the Preliminary Development Plan (PDP) by the Df IC, monies representing 44 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRC: PLANNING)
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-Planning)
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 - Planning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING:PLANNING) EXHIBIT C