

RESOLUTION NO. R-2004-1654

RESOLUTION APPROVING ZONING PETITION TDR2003-045  
TRANSFER OF DEVELOPMENT RIGHTS (TDR)  
PETITION OF EB DEVELOPERS, INC.  
BY LAND DESIGN SOUTH, AGENT  
(COLONY LAKES 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended), have been satisfied; and

WHEREAS, Zoning Petition TDR2003-045 was presented as a development order to the Board of County Commissioners at a public hearing conducted on July 22, 2004; 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 Article 5.G.2.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.G.4 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 FY02-03 be \$15,837.00 per unit; and;
4. Pursuant to Article 5.G.2.H. of the ULDC, the 2003-045 qualifies as a TDR Receiving Area; and
5. Pursuant to Article 5.2.G.2.J.5 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 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 TDR2003-045 the petition of EB Developers, Inc. by Land Design South, agent, for a Transfer of Development Rights for 36 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, was approved on July 22, 2004, 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 Masilotti and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 22, 2004.

Filed with the Clerk of the Board of County Commissioners on 24 day of August, 2004.

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:

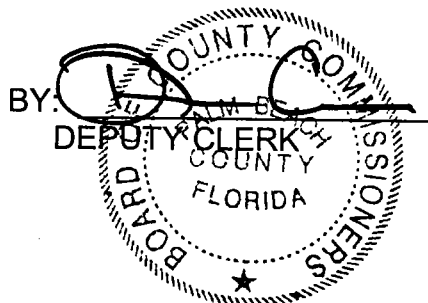
  
DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

**Parcel 1 (Harmes Property)**

**Parcel ID 00424512000007043**

A Parcel of land in the Southwest Quarter of the Southwest Quarter of Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows: Begin at the Northeast corner of the said Southwest Quarter of the Southwest Quarter and running Southerly along the East line of said Southwest Quarter of the Southwest Quarter 666.69 feet to a point; thence run Westerly parallel to the North Line of said Southwest Quarter of the Southwest Quarter, 327 feet to a point; thence run Northerly parallel to the East line of said Southwest Quarter of the Southwest Quarter 666.69 feet to the North line of said Southwest Quarter of the Southwest Quarter; thence run Easterly on the North line of said Southwest Quarter of the Southwest Quarter 327 feet to the Point of Beginning.

**Parcel 2 (Hoefler Property)**

**Parcel ID 00424512000007045**

A parcel of land in the Southwest Quarter of the Southwest Quarter of Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows: The North 666.69 feet of the East half of the Southwest Quarter of the Southwest Quarter of Section 12, Township 45 South, Range 42 East, less the East 327 feet thereof; ALSO LESS so much thereof as is included within the boundaries of the following tract: From the Northwest corner of the said Southwest quarter of the Southwest quarter of Section 12, run thence Easterly along the North line of said Southwest quarter of the Southwest quarter a distance of 595.77 feet to the point of beginning of the tract described herewith: thence continue Easterly on the same course a distance of 200.28 feet; thence run Southerly at right angles to the preceding course a distance of 217.5 feet; thence run Westerly, parallel to the said North line of the said Southwest quarter of the Southwest quarter, a distance of 200.28 feet; thence run Northerly a distance of 217.5 feet to the point of beginning.

**Parcel 3 (Jones Property)**

**Parcel ID 00424512000007046 / Parcel ID 00424512000007051**

A parcel of land in the Southwest 1/4 of the Southwest 1/4 of Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida, being more specifically described as follows:

For a point of reference, commence at the SW corner of said Section 12, Bear North 0°23'30" West, a distance of 1,338.25 feet; thence North 89°51'00" East, a distance of 275.00 feet to the point of beginning; thence continue North 89°51'00" East a distance of 413.77 feet; thence South 0°09'00" East, 217.50 feet; thence South 89°51'00" West 41.87; thence South 218.34 feet; thence West 372.50 feet; thence North 434.87 feet to the point of beginning.

**Parcel 4 (Perkins Property)**

**Parcel ID 00424512000007048**

A parcel of land in the Southwest one-quarter of the Southwest one-quarter Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows:

Begin at the Northeast corner of said Southwest one-quarter of the Southwest one-quarter; Thence, running Southerly on the East line of said Southwest one-quarter of the Southwest one-quarter, 666.69 feet to the POINT OF BEGINNING:

Thence, run Westerly, parallel to the North line of said Southwest one-quarter of the Southwest one-quarter, 401.65 feet to a point; Thence, run Southerly, parallel to the East line of said Southwest one-quarter of the Southwest one-quarter, 677 feet, more or less, to the South line of the Southwest one-quarter of the Southwest one-quarter;

Thence, run Easterly, along the South line of said Southwest one-quarter of the Southwest one-quarter, 401.65 feet, more or less, to the Southeast corner of said Southwest one-

quarter of the Southwest one-quarter;

Thence, run Northerly, on the East line of said Southwest one-quarter of the Southwest one-quarter, 680.71 feet to the POINT OF BEGINNING.

LESS, the Southerly 30 feet for Canal right of way and LESS Right of Way for Miner Road, as laid out and in use.

**Parcel 5 (Jones Property)**

**Parcel ID 00424512000007070**

A triangular parcel being the Southerly 455.30 feet of the Northerly 672.8 feet of the Easterly 41.87 feet of the Westerly 688.77 feet of the Southwest 1/4 of the Southwest 1/4 Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida. (Surveyor's Note: The legal description provided does not form a triangular parcel of land as mentioned therein. The Parcel described does render a four sided figure. The intent of the Quit Claim Deed as recorded in O.R.B. 9568, Pg. 1807, P.B.C.R. is to "convey any interest grantors had to the triangular pie shaped parcel laying South of Lot 705.1, East of Lots 704.1, and 706, and West of Lot 704.5.", as stated therein. The undersigned surveyor suggests that this deed be corrected to accommodate said four sided figure, by those within the legal profession).

**Parcel 6 (McManus Property)**

**Parcel ID 00424512040090030**

The North 98 feet of the South 99 feet of the North 1/2 of Tract 9 of the Southwest corner of Section 12, Township 45 South, Range 42 East, less the right of way for State Road 809, according to the plat on file in Plat Book 9, Page 74, Public Records of Palm Beach County, Florida.

**Parcel 7 (Lowe Property)**

**Parcel ID 00424512040100020**

North 1/2 of North 1/2 of North 1/2 of Tracts 10 and 11, SW 1/4 of the Amended Plat of Section 12, Township 45 South, Range 42 East, Mary A. Lyman, et al, according to the plat thereof, recorded in Plat Book 9, Page 74, Public Records of Palm Beach County, Florida.

**Parcel 8 (Lowe Property)**

**Parcel ID 00424512040100030**

South 1/2 of the North 1/2 of North 1/2 of Tracts 10 and 11, SW 1/4 of the Amended Plat of Section 12, Township 45 South, Range 42 East, Mary A. Lyman, et al, according to the plat thereof, recorded in Plat Book 9, Page 74, Public Records of Palm Beach County, Florida. Together with easement for ingress and egress as contained in instrument recorded in O.R. Book 1964, Page 1266, Public Records of Palm Beach County, Florida.

**Parcel 9 (Perkins Property)**

**Parcel ID 00424513040110010**

The West one-half (1/2) of the Southwest Quarter of the Southeast Quarter of the Southwest Quarter of Section 12, Township 45 South, Range 42 East, Also known as the South one-half (1/2) of Tract 11, according to the Amended Plat of Section 12, Township 45 South, Range 42 East, Mary A. Lyman et al, as recorded in Plat Book 9, at Page 74, Public Records of Palm Beach County, Florida.

**Parcel 10 (Ellis Property)**

**Parcel ID 00424512000007050**

A Parcel of land in the Southwest 1/4 of the Southwest 1/4 of Section 12, Township 45 South, Range 42 East, Palm Beach County, Florida, more particularly described as follows: From the Northwest corner of the said Southwest 1/4 of the Southwest 1/4 of Section 12; run thence Easterly along the North line of said Southwest 1/4, a distance of 595.77 feet to the Point of Beginning of the tract to be herein conveyed; thence continue Easterly on the same course, a distance of 200.28 feet; thence run Southerly, at right angles to the preceding course, a distance of 217.5 feet; thence run Westerly, parallel to the said North line of the Southwest 1/4 a distance of 200.28 feet; thence run Northerly, a distance of 217.5 feet to the Point of Beginning. Less the West 93 feet thereof.

**Parcel 11 (Boynton Beach Community Church, Inc. Property)**

**Parcel ID 00424512040090020**

The South 1/2 of Tract 9, less the South 165 feet thereof, and less the Right of Way of State Road 809, and the South 1/2 of the North 1/2 of Tracts 10 and 11, less the South 165 feet thereof, Subdivision of the Southwest quarter of Section 12, Township 45 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 9, Page 74, less that certain portion conveyed to State of Florida in Deed Book 893, Page 337, and less that portion conveyed to Palm Beach County in Deed Book 909, Page 208, and O.R. Book 6090, Page 385, of the Public Records of Palm Beach County, Florida.

Total acreage = 37.01 acres ±.

NOTE: This area reflects the less out for Miner Road as mentioned in the Right-of-Way Deed recorded in O.R.B. 262, PG. 652 of the Public Records of Palm Beach County, Florida, and the less out for Military Trail as mentioned in the Right-of-Way Deed recorded in O.R.B. 5972, PG. 1673 of the Public Records of Palm Beach County, Florida. The above mentioned Right-of-Way Deeds were not included within Fund Commitment Form, Commitment No.: CF-1031143.

EXHIBIT B  
VICINITY SKETCH

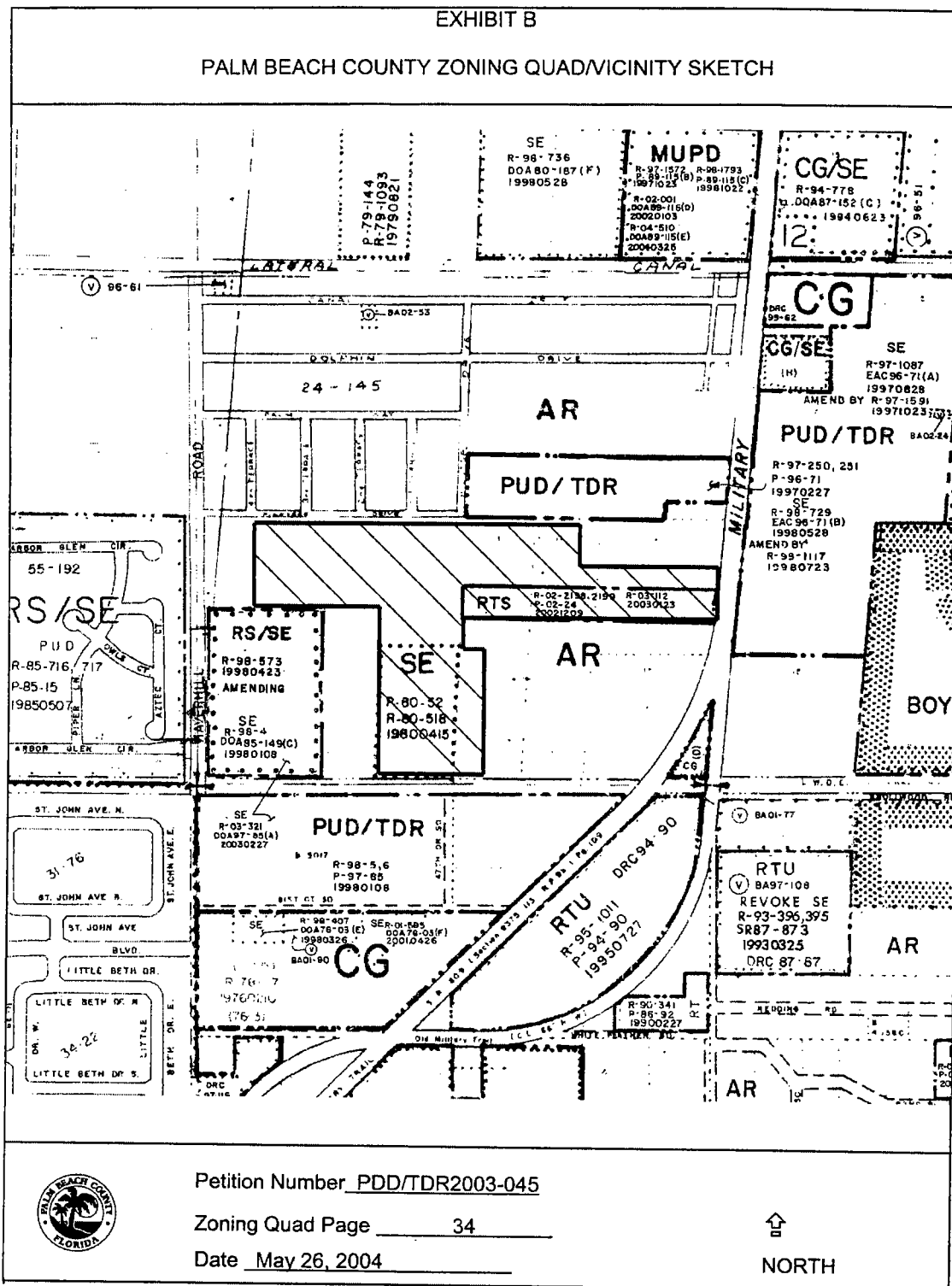


EXHIBIT C-1

TDR CONDITIONS OF APPROVAL

A. TRANSFER OF DEVELOPMENT RIGHTS

1. The Master Plan dated April 16, 2004, and perimeter/internal buffers shown thereon shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. Prior to approval of the Master Plan by the DRO, 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 36 TDR units at a selling price of \$15,837.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to approval of the Master Plan by the DRO, two (2) recorded copies of the "Contract for Sale and Purchase of TDR's" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to approval of the Master Plan by the DRO, monies representing 36 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
5. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (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. (BLDG PERMIT: MONITORING - Zoning)
7. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING - 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:
  - 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)