

RESOLUTION NO. R-2006- 1212

RESOLUTION APPROVING ZONING APPLICATION TDR2005-1730
(CONTROL NO. 2002-011)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF WESTBROOKE HOMES
BY SARA LOCKHART, 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), as amended, have been satisfied; and

WHEREAS, Zoning Application TDR2005-1730 was presented as a development order to the Board of County Commissioners at a public hearing conducted on June 22, 2006; 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 FY03-04 be \$25,000.00 per unit; and;
4. Pursuant to Article 5.G.2.H. of the ULDC, the 19998 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 Application TDR2005-1730 the application of Westbrooke Homes by Sara Lockhart, agent, for a Transfer of Development Rights to allow the transfer of 114 development rights and designate this application 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 June 22, 2006, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

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

The Chairman thereupon declared that the resolution was duly passed and adopted on June 22, 2006.

Filed with the Clerk of the Board of County Commissioners on 11th day of July, 2006.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

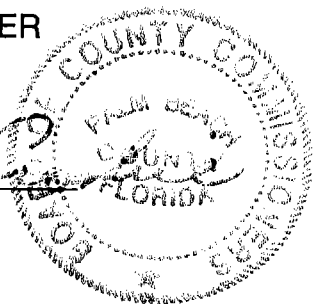


EXHIBIT A

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" WEST, A DISTANCE OF 301.77 FEET TO THE NORTH LINE OF TRACT 9, SAID BLOCK 5; THENCE, SOUTH 89°03'20" WEST, ALONG THE NORTH LINE OF TRACTS 9 AND 10, SAID BLOCK 5, A DISTANCE OF 739.72 FEET TO THE EAST LINE OF THE FLORIDA STATE TURNPIKE RIGHT-OF-WAY; THENCE, SOUTH 40°37'50" WEST, ALONG SAID RIGHT-OF-WAY, DEPARTING SAID TRACT LINES, A DISTANCE OF 1509.86 FEET TO THE POINT OF TANGENCY OF A CURVE TO THE LEFT HAVING A RADIUS OF 11359.16 FEET; THENCE, SOUTHWESTERLY, ALONG SAID CURVE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 09°02'15", A DISTANCE OF 1791.73 FEET TO THE END OF SAID CURVE; THENCE, SOUTH 30°59'16" WEST, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 132.40 FEET TO THE SOUTH LINE OF TRACT 23, SAID BLOCK 6; THENCE, NORTH 89°04'15" EAST, ALONG THE SOUTH LINE OF TRACTS 23 AND 24, SAID BLOCK 6 AND THE EASTERLY PROLONGATION THEREOF, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1546.96 FEET TO THE INTERSECTION THEREOF WITH THE WESTERLY PROLONGATION OF THE SOUTH LINE OF TRACT 31, SAID BLOCK 5; THENCE, NORTH 89°02'42" EAST, ALONG SAID WESTERLY PROLONGATION AND THE SOUTH LINE OF SAID TRACT 31, A DISTANCE OF 40.80 FEET TO THE POINT OF BEGINNING.

CONTAINING: 54.63 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

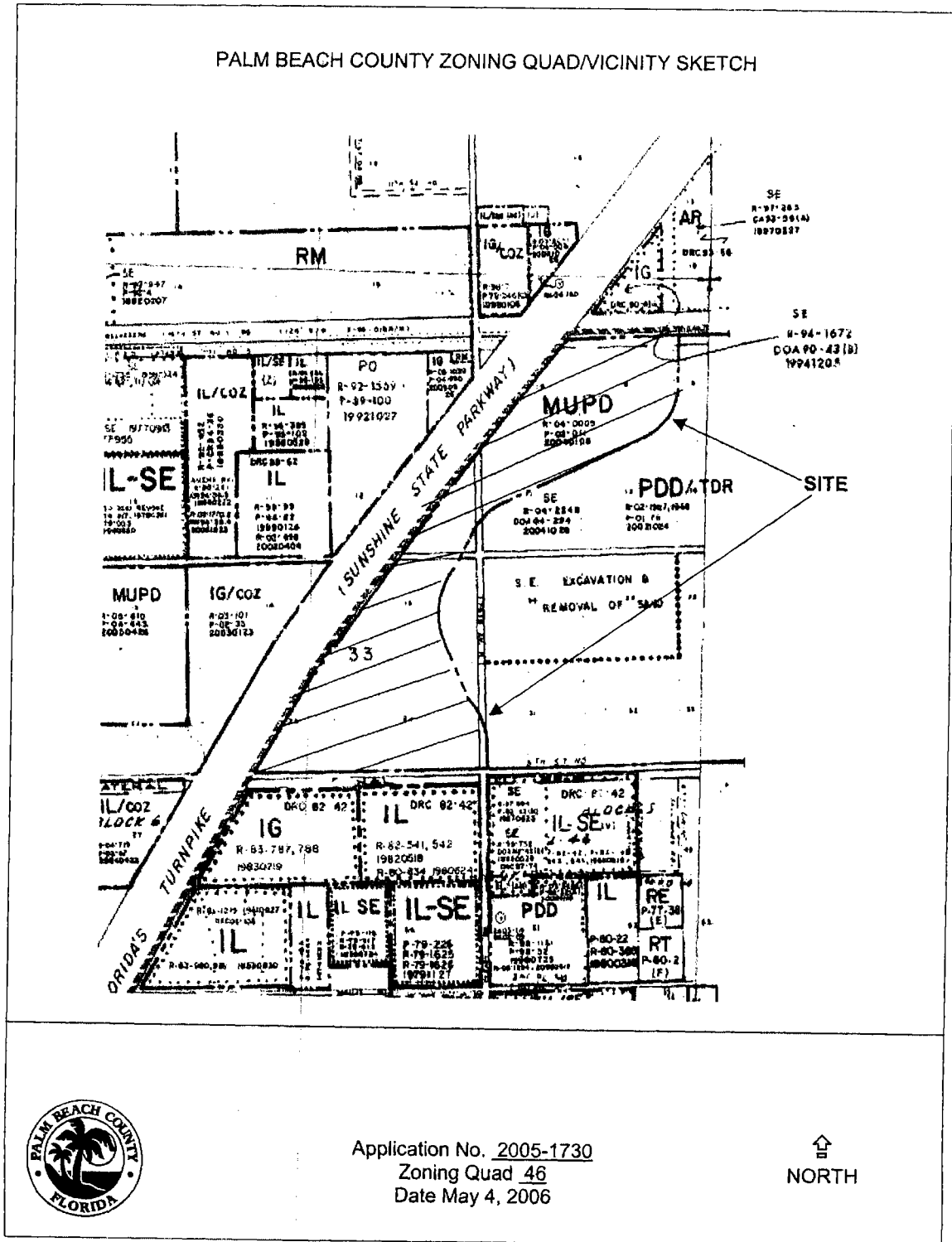


EXHIBIT C-1

TRANSFER OF DEVELOPMENT RIGHTS

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1. At time of submittal for final Development Review Officer (DRO) approval, an official "Contract for Sale and Purchase of TDR Units", "TDR Escrow Agreement", and "TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning)
2. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (DRO), a "Contract for Sale and Purchase of TDRs" shall be executed by the property owner, 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 one hundred fourteen (114) TDR units at a selling price of \$50,000.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
3. Prior to final approval by the Development Review Officer (DRO), two (2) recorded copies of the "Contract for Sale and Purchase of TDRs" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
4. Prior to final approval by the Development Review Officer (DRO), monies representing one hundred fourteen (114) 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)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner 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 Article 2.E 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)