

RESOLUTION NO. R-2015- 0821

RESOLUTION APPROVING ZONING APPLICATION DOA/TDR-2014-02516
(CONTROL NO. 2003-00079)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF Windsor Place Acquisition LLC
BY CMS Engineering, LLC, AGENT
(Windsor Place MXPDP)

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 applications relating to the Unified Land Development Code;

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied;

WHEREAS, Zoning Application DOA/TDR-2014-02516 was presented as a development order to the Board of County Commissioners at a public hearing conducted on June 25, 2015;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County review agencies and the recommendation of the Zoning Commission;

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Transfer of Development Rights and Article 5.G.2.K; and

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that 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 DOA/TDR-2014-02516 the application of Windsor Place Acquisition LLC by CMS Engineering, LLC, Agent, for a Transfer of Development Rights to modify Conditions of Approval (Transfer of Development Rights) 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 June 25, 2015, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Taylor moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Mayor	-	Absent
Commissioner Mary Lou Berger, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 25, 2015.

Filed with the Clerk of the Board of County Commissioners on June 29th, 2015.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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

DESCRIPTION: GRID AND SURVEY DESCRIPTION

A PARCEL OF LAND LYING IN BLOCK 43, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT PRM 12, TOWNE PARK TRACT F, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 98, PAGES 95 THROUGH 101 OF SAID PUBLIC RECORDS; THENCE ON A GRID BEARING SOUTH 00° 58' 10" EAST, A DISTANCE OF 530.50 FEET; THENCE SOUTH 02° 48' 24" WEST, A DISTANCE OF 250.54 FEET; THENCE SOUTH 00° 58' 10" EAST, A DISTANCE OF 300.00 FEET, THE PREVIOUS THREE COURSES AND DISTANCES ARE ALONG THE WEST RIGHT-OF-WAY OF LYONS ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 9745, PAGE 1416 OF SAID PUBLIC RECORDS; THENCE SOUTH 44° 01' 50" WEST, A DISTANCE OF 56.57 FEET; THENCE SOUTH 89° 01' 50" WEST, A DISTANCE OF 289.00 FEET; THENCE SOUTH 87° 46' 13" WEST, A DISTANCE OF 250.06 FEET; THENCE SOUTH 89° 01' 50" WEST, A DISTANCE OF 1144.50 FEET, THE PREVIOUS FOUR COURSES AND DISTANCES ARE ALONG THE NORTH RIGHT-OF-WAY OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 10031, PAGE 692 OF SAID PUBLIC RECORDS TO PRM 15 OF SAID TOWNE PARK TRACT F; THENCE NORTH 00° 58' 10" WEST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 570.00 FEET TO PRM 14 OF SAID TOWNE PARK TRACT F; THENCE NORTH 52° 06' 40" EAST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 925.60 FEET TO PRM 13 OF SAID TOWNE PARK TRACT F; THENCE NORTH 89° 01' 50" EAST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 1000.00 FEET TO PRM 12 OF TOWNE PARK TRACT F TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES, MORE OR LESS.
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

ALSO KNOWN AS IN LOCAL BEARING DATUM

DESCRIPTION:

A PARCEL OF LAND LYING IN BLOCK 43, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LEXINGTON 1 OF SHERBROOKE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 32, PAGES 195 THROUGH 198, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE, NORTH 89° 26' 07" EAST, ALONG THE SOUTH LINE OF SAID PLAT OF LEXINGTON 1 OF SHERBROOKE, A DISTANCE OF 2610.00 FEET; THENCE, SOUTH 00° 33' 53" EAST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 725.61 FEET, FOR A POINT OF BEGINNING; THENCE, CONTINUE SOUTH 00° 33' 53" EAST, A DISTANCE OF 530.50 FEET; THENCE, SOUTH 03° 12' 41" WEST, A DISTANCE OF 250.54 FEET; THENCE, SOUTH 00° 33' 53" EAST, A DISTANCE OF 300.00 FEET; THENCE, SOUTH 44° 26' 07" WEST, A DISTANCE OF 56.57 FEET; THENCE, SOUTH 89° 26' 07" WEST, A DISTANCE OF 289.00 FEET; THENCE SOUTH 88° 10' 30" WEST, A DISTANCE OF 250.06 FEET; THENCE, SOUTH 89° 26' 07" WEST, A DISTANCE OF 1144.50 FEET; THENCE, NORTH 00° 33' 53" WEST, A DISTANCE OF 570.00 FEET; THENCE, NORTH 52° 30' 57" EAST, A DISTANCE OF 925.60 FEET; THENCE, NORTH 89° 26' 07" EAST, A DISTANCE OF 1000.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES, MORE OR LESS.
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Transfer of Development Rights

TRANSFER OF DEVELOPMENT RIGHTS

1. At time of submittal for final approval by the Development Review Officer (DRO), an official "Contract for Sale and Purchase of Transfer of Development Rights (TDR) Units", "TDR Escrow Agreement", and "TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning) (Previous TRANSFER OF DEVELOPMENT RIGHTS condition 1 of Resolution R-2010-683, Control No.2003-00079)

2. Previous TRANSFER OF DEVELOPMENT RIGHTS condition 2 of Resolution R-2010-683, Control No.2003-00079, which currently states:

Prior to final approval by the Development Review Officer (DRO), the Property Owner/Applicant shall perform the following:

- a. Execute a Contract for Sale and Purchase of Transfer of Development of Right (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building. The Contract shall accommodate a maximum of 28 TDR units at a selling price of \$1.00 per unit.
- b. Monies representing 28 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County or the non-refundable fees shall be paid to Palm Beach County.

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Property Owner/Applicant shall perform the following:

- a. Execute a Contract for Sale and Purchase of Transfer of Development of Right (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building. The Contract shall accommodate a maximum of 28 TDR units at a selling price of 10 units at \$610.00 per unit; and 18 units at \$12,200 per unit.
- b. Monies representing 28 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County or the non-refundable fees shall be paid to Palm Beach County. (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 Transfer of Development Rights (TDRs)" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning) (Previous TRANSFER OF DEVELOPMENT RIGHTS condition 3 of Resolution R-2010-683, Control No.2003-00079)

4. Prior to the issuance of the first building permit, the Property Owner shall release the escrow monies to Palm Beach County. (BLDGPM: MONITORING - Zoning) (Previous TRANSFER OF DEVELOPMENT RIGHTS condition 4 of Resolution R-2010-683, Control No.2003-00079)

5. Prior to the issuance of the first building permit, a deed conveying the applicable Transfer of Development Rights (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. (Note: 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.) (BLDGPM: MONITORING - Zoning) (Previous TRANSFER OF DEVELOPMENT RIGHTS condition 5 of Resolution R-2010-683, Control No.2003-00079)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral

and written representations of the Property Owner/Applicant 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) (Previous COMPLIANCE condition 1 of Resolution R-2010-683, Control No.2003-00079)

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; the 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 Unified Land Development Code 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 of Approval; 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning) (Previous COMPLIANCE condition 2 of Resolution R-2010-683, Control No.2003-00079)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.