

RESOLUTION NO. R-2020-0930

RESOLUTION APPROVING ZONING APPLICATION CA-2019-01130
(CONTROL NO. 2006-00372)
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF EC Development, LLC
BY Brahm Development, Arc Development Global, LLC, AGENT
(Pine Bay)

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 zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application CA-2019-01130 was presented to the Board of County Commissioners at a public hearing conducted on July 30, 2020;

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, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Class A Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 CA-2019-01130, the Application of EC Development, LLC, by Brahm Development, Arc Development Global, LLC, Agent, for a Class A Conditional Use to allow a Transfer of Development Rights (TDR) of more than 2 units per acre to a residential subdivision, on a parcel of land generally described as shown on the legal description in EXHIBIT A, 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 July 30, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Dave Kerner, Mayor	- Aye
Commissioner Robert S. Weinroth, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on July 30, 2020.

Filed with the Clerk of the Board of County Commissioners on July 30th, 2020

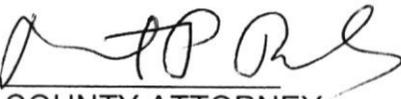
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

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

PARCEL A

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY OF PURDY LANE, AS PER PALM BEACH COUNTY R/W MAP NO 3-66-060 SHEET 1 OF 2, AND THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL E-3 (LWDD E-3 CANAL) SAID LINE LYING 40.00 FEET EAST OF AND PARALLEL TO THE NORTH-SOUTH QUARTER LINE OF SECTION 14, TOWNSHIP 44 SOUTH, RANGE 42 EAST THENCE WITH A BEARING OF SOUTH 88 30' 03" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF PURDY LANE, A DISTANCE OF 134.28 FEET TO A POINT; THENCE WITH A BEARING OF SOUTH 07 20' 48" WEST A DISTANCE OF 200.48 FEET; THENCE NORTH 62 21' 28" WEST A DISTANCE OF 128.60 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF LWDD E-3 CANAL, THENCE WITH A BEARING OF NORTH 02 08' 03" EAST, ALONG THE AFOREDESCRIBED EAST LINE OF LWDD E-3 CANAL, A DISTANCE OF 142.78 FEET MORE OR LESS TO THE POINT OF BEGINNING. LESS AND EXCEPT THAT PORTION OF THE AFOREDESCRIBED PROPERTY LYING WITHIN TWENTY FEET OF THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL E-3 (LWDD E-3 CANAL)

PARCEL B

COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY OF PURDY LANE, AS PER PALM BEACH COUNTY R/W MAP NO 3-66-060 SHEET 1 OF 2, AND THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL E-3 (LWDD E-3 CANAL) SAID LINE LYING 40.00 FEET EAST OF AND PARALLEL TO THE NORTH-SOUTH QUARTER LINE OF SECTION 14, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE WITH A BEARING OF SOUTH 88 30' 03" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF PURDY LANE, A DISTANCE OF 134.28 FEET TO A POINT BEGINNING; THENCE CONTINUE ALONG THE SOUTH RIGHT OF WAY LINE OF PURDY LANE A DISTANCE OF 259.65 FEET TO A POINT; THENCE SOUTH 30 33' 52" WEST A DISTANCE OF 474.89 FEET TO A POINT; THENCE WITH A BEARING OF SOUTH 46 44' 42" WEST A DISTANCE OF 238.92 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF LWDD E-3 CANAL, THENCE WITH A BEARING OF NORTH 02 08' 03" EAST, ALONG THE EAST RIGHT OF WAY OF LWDD E-3 CANAL, A DISTANCE OF 440.54 FEET TO A POINT; THENCE WITH A BEARING OF SOUTH 62 21' 28" EAST A DISTANCE OF OF 128.60 FEET TO A POINT; THENCE WITH A A BEARING OF NORTH 07 20' 48" EAST, A DISTANCE OF 200.48 FEET MORE OR LESS TO THE POINT OF BEGINNING LESS AND EXCEPT THAT PORTION OF THE AFOREDESCRIBED PROPERTY LYING WITHIN TWENTY FEET OF THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL E-3 (LWDD E-3 CANAL)

PARCEL C

COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY OF PURDY LANE, AS PER PALM BEACH COUNTY R/W MAP NO 3-66-060 SHEET 1 OF 2, AND THE EAST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL E-3 (LWDD E-3 CANAL) SAID LINE LYING 40.00 FEET EAST OF AND PARALLEL TO THE NORTH-SOUTH QUARTER LINE OF SECTION 14, TOWNSHIP 44 SOUTH, RANGE 42 EAST; THENCE WITH A BEARING OF SOUTH 88 30' 03" EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF PURDY LANE, A DISTANCE OF 393.93 FEET TO A POINT; SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SOUTH RIGHT OF WAY LINE ON PURDY LANE A DISTANCE OF 173.34 FEET TO A POINT; THENCE THE BEARING OF SOUTH 02 03' 23" WEST 415.12 FEET; THENCE NORTH 88 29' 53" WEST, 400.00 FEET; THENCE NORTH 30 33' 52" EAST, A DISTANCE OF 474.89 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 5.67 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

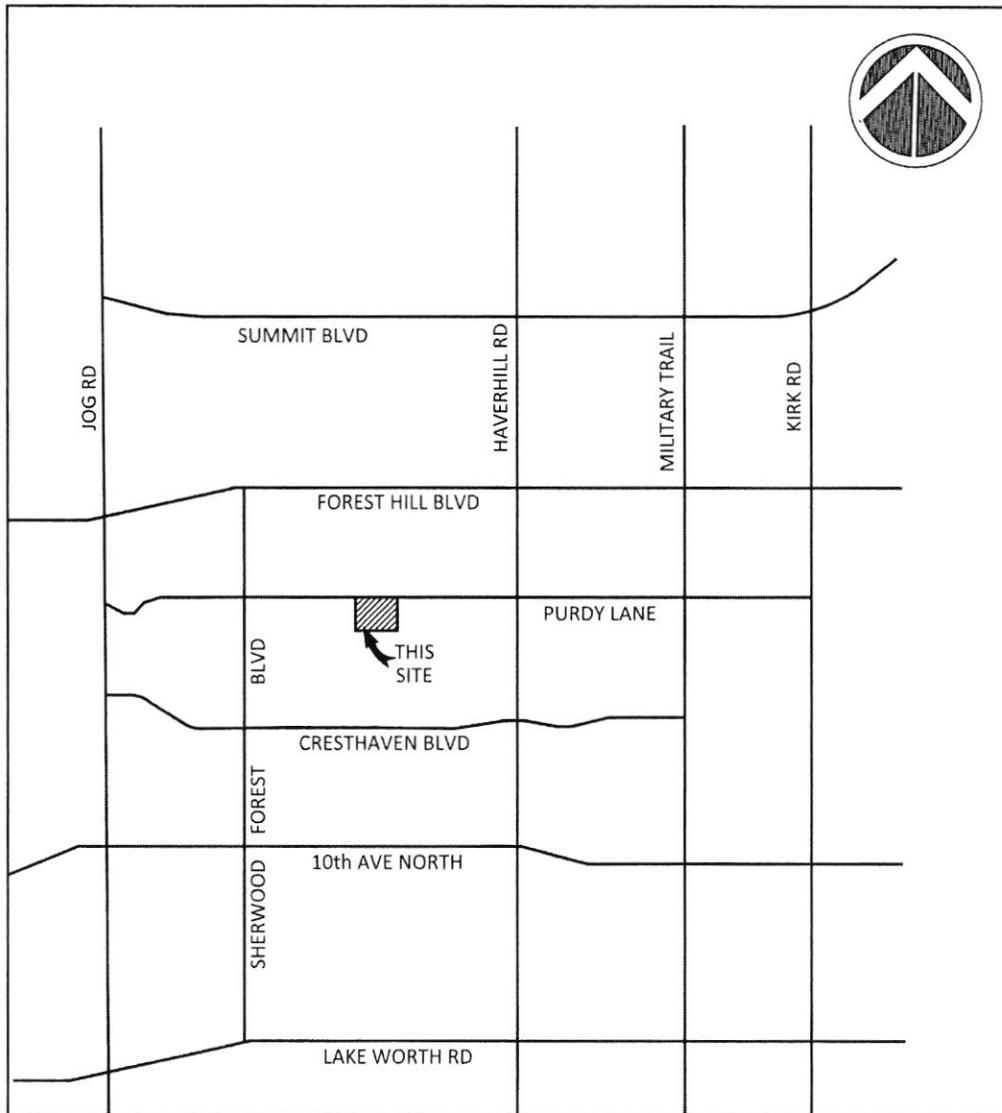


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use - Transfer of Development Rights

ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 9, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2021, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Purdy Lane along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s), with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering)

3. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, the permanent easement shown in conflict with the proposed improvements as approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

PLANNING

1. Prior to the issuance of the first Building Permit, the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per ULDC Article 5.G. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in ULDC Article 5.G. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning.

(BLDGPMPT: MONITORING - Planning)

2. The developer shall notify Planning and DHES when the project starts the commencement of sales. (ONGOING: PLANNING - Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 12' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall perform the following:

a. Execute a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building Department. The Contract shall accommodate a maximum of 23 TDR units at a selling price of \$67,377 (8 WHP TDR units at \$219.00 per unit; and, 15 TDR units at \$4,375.00 per unit). (DRO: COUNTY ATTORNEY - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall perform the following:

a. Execute the Transfer of Development Rights Deed in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building Department. (DRO: ZONING - Zoning)

3. Prior to subdivision approval or issuance of the first Building Permit, whichever occurs first, the Property Owner shall pay one hundred (100) percent of the Transfer of Development Rights (TDR) Funds to the Zoning Division. Upon payment of the funds, the TDR Deed shall be recorded by the Property Owner, and a copy shall be provided to the Zoning Division. (BLDGPMPT/DRO: MONITORING - Zoning)

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)

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)

DISCLOSURE

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