

RESOLUTION NO. R-2018- 0194

RESOLUTION APPROVING ZONING APPLICATION CB/CA/TDR-2017-01727  
(CONTROL NO. 2003-00083)  
a Class A Conditional Use  
APPLICATION OF M For Sun Inc  
BY Miller Land Planning, AGENT  
(Herbertz Apartments)

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 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application CB/CA/TDR-2017-01727 was presented to the Board of County Commissioners at a public hearing conducted on February 22, 2018;

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 (Development Review 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 Process) 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.A.1.K.3.b (Action by BCC) 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 CB/CA/TDR-2017-01727, the Application of M For Sun Inc, by Miller Land Planning, Agent, for a Class A Conditional Use to allow a Transfer of Development Rights (TDR), 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 February 22, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

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

- Commissioner Melissa McKinlay, Mayor - Aye
- Commissioner Mack Bernard, Vice Mayor - Aye
- Commissioner Hal R. Valeche - Aye
- Commissioner Paulette Burdick - Absent
- Commissioner Dave Kerner -
- Commissioner Steven L. Abrams - Aye
- Commissioner Mary Lou Berger - Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on February 22, 2018.

Filed with the Clerk of the Board of County Commissioners on March 5th, 2018.

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

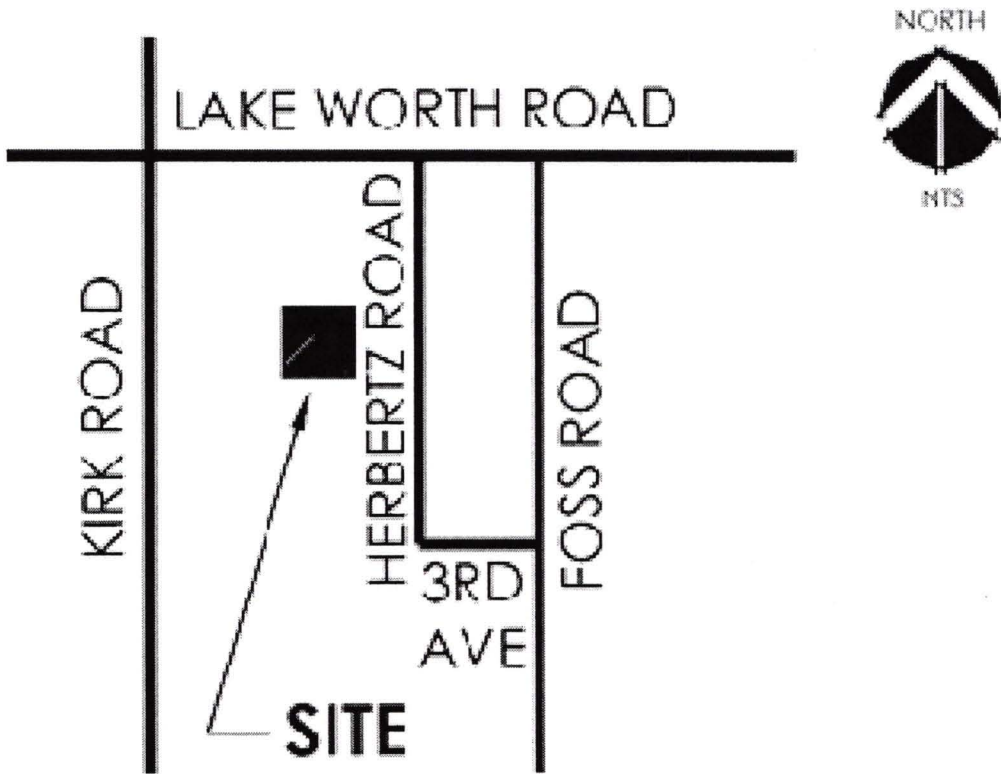
BY:   
DEPUTY CLERK & COMPTROLLER  


## EXHIBIT A

### LEGAL DESCRIPTION

LOTS A AND B, LESS THE SOUTH 99.21 FEET OF LOT B (AS MEASURED ALONG THE EAST LINE OF SAID LOT), BLOCK 18, THE PALM BEACH FARMS COMPANY, PLAT NO. 7, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 72, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS A PARCEL OF LAND IN LOT A, BLOCK 18, PALM BEACH COUNTY FARMS COMPANY, PLAT NO. 7, AS RECORDED IN PLAT BOOK 5, PAGE 72, PALM BEACH COUNTY, PUBLIC RECORDS, SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE NORTHEAST CORNER OF SAID LOT A, RUN SOUTH ALONG THE WEST LINE OF SAID LOT A, FOR 35 FEET; THENCE RUN NORTHEASTERLY TO A POINT ON THE NORTH OF SAID LOT A, 80 FEET EAST OF THE NORTHWEST CORNER; THENCE RUN WESTERLY ALONG THE NORTH LINE OF LOT A, 80 FEET TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Conditional Use Class A

##### ALL PETITIONS

1. The approved Preliminary Site Plan and Preliminary Regulating plan are dated December 14, 2017. 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. (ONGOING: ZONING - Zoning)

##### ARCHITECTURAL REVIEW

1. The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes shall not exceed 35 feet. Heights shall be measured from finished grade to highest point of the structure. (ONGOING: ZONING - Zoning)

2. Prior to the issuance of the first Building Permit, the Architectural Elevations shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.G.3.K.4.c of the Unified Land Development Code (ULDC). Development shall be consistent with the approved Architectural Elevations, approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (BLDGPMT/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, 2019. 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 the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering)

##### ENVIRONMENTAL

1. Prior to Final Plan approval by the Development Review Officer, the Property Owner shall submit an application for the Preservation of Native Vegetation to the Department of Environmental Resources Management (ERM). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to Final Plan Approval by the Development Review Officer (DRO), the Property Owner shall submit a Site Plan with a Tree Disposition Chart for review and approval. All vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show:

- a) the temporary location for the relocated vegetation and identify what type of tree barricades will be utilized;
- b) the location of all preserved vegetation and identify what type of the permanent tree barricades/ protection devices will be utilized;
- c) a Justification Statement describing the maintenance of the relocated vegetation prior to the installation of the vegetation to a new location, and the length of time associated with the temporary storage of the relocated vegetation; and
- d) the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. No vegetation shall be removed or relocated and no Preservation of Native Vegetation permit; pursuant to ULDC Article 14.C, shall be issued until ERM conditions 1 and 2 are satisfied. (ONGOING: ERM-ERM)

#### **LANDSCAPE - PRESERVATION OF VEGETATION**

1. Prior to Final Plan approval by the Development Review Officer, the Property Owner shall submit with a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show:

- a) the temporary location for the relocated Vegetation and identify what type of tree barricades will be utilized;
- b) the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;
- c) a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation; and,
- d) the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO/ONGOING: ZONING - Zoning)

2. Prior to the issuance of any Building Permit(s) the Property Owner shall:

- a. submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions;
- b. include the approved DRO plan(s) with the approved Disposition Chart with the barricade permit application;
- c. complete the installation of all vegetation protection barricades and tagging; and,
- d. schedule inspections and receive a "Pass" status with Zoning Landscape Inspectors prior to any tree removal activity. (BLDG/PMT/ONGOING: ZONING - Zoning)

3. No vegetation shall be removed or relocated and no Building Permit(s) shall be issued until Landscape Conditions 1 and 2 are satisfied. (ONGOING: ZONING Zoning)

4. Failure to comply with the Landscape Preservation of Vegetation, conditions 1 thru 3 may result in a Stop Work Order being placed on the site and applicable fines assessed. (ONGOING: ZONING Zoning)

#### **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. (BLDG/PMT: MONITORING - Planning)

2. On an annual basis, beginning February 1, 2021, or as otherwise stipulated in the Declaration of Restrictive Covenants, the owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. (DATE/ONGOING: MONITORING - 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 be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s).

### **COMPLIANCE**

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the 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 Zoning Commission for review under the Voluntary Commitments of this Approval.

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.

### **DISCLOSURE**

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