

RESOLUTION NO. R-2018- 0195

RESOLUTION APPROVING ZONING APPLICATION CB/CA/TDR-2017-01727
(CONTROL NO. 2003-00083)
a Transfer of Development Rights
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 Transfer of Development Rights;

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 Transfer of Development Rights to designate the site as a receiving area and to allow TDR's of more than two dwelling units per acre (du/ac), 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	- Aye
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



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

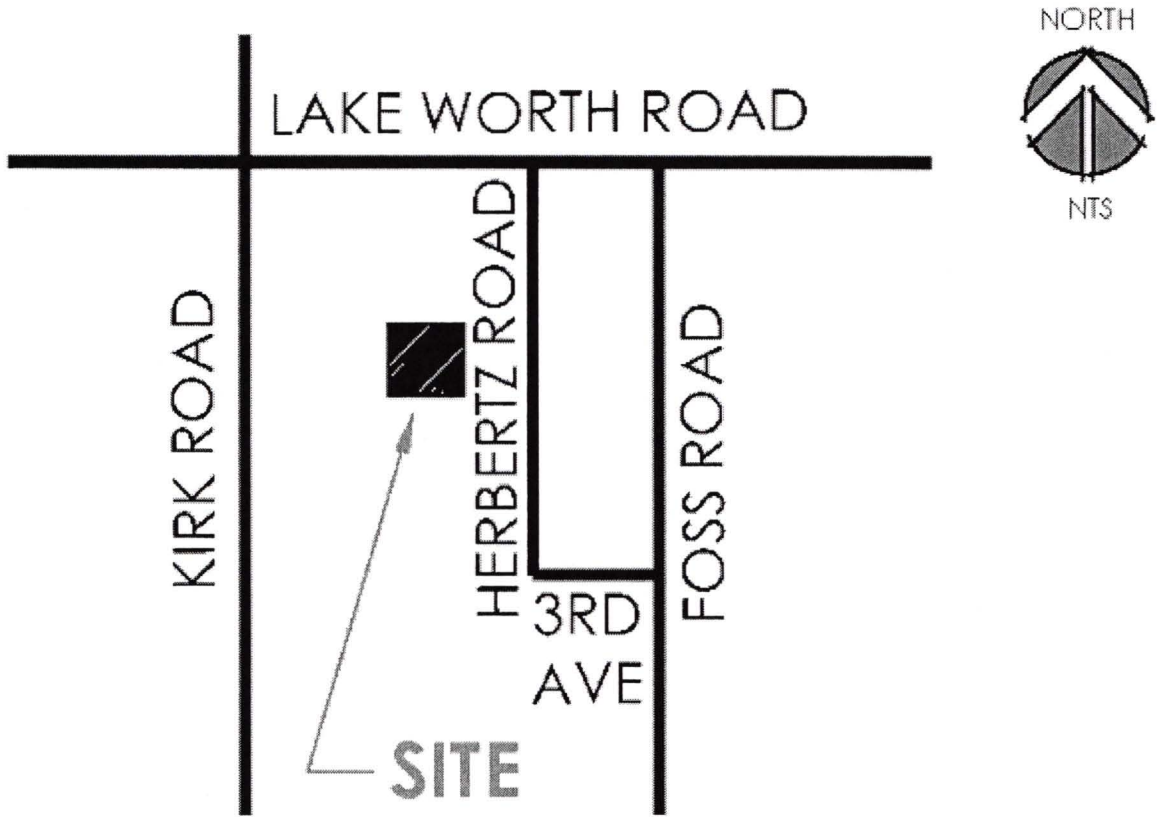


EXHIBIT C

CONDITIONS OF APPROVAL

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 5 TDR units at a selling price of \$203.00 per unit. (ONGOING: ZONING - County Attorney)
2. 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. (ONGOING: ZONING - Zoning)
3. Prior to final approval by the Development Review Officer (DRO), 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. (ONGOING: ZONING - Zoning)
4. 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 and TDR Deed shall be submitted for final review and execution. (ONGOING: ZONING - Zoning)
5. Prior to final approval by the Development Review Officer (DRO), 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. (DRO: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners 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 Board of County Commissioners for review under the Voluntary Commitments of this Approval. (ONGOING: MONITORING - Zoning) (ONGOING: ZONING - 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: ZONING - Zoning)

DISCLOSURE

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