

RESOLUTION NO. R-2018-1477

RESOLUTION APPROVING ZONING APPLICATION ABN/CA-2017-01812
(CONTROL NO. 2003-00093)
Class A Conditional Use
TRANSFER OF DEVELOPMENT RIGHTS (TDR)
APPLICATION OF Sunco TH LLC
BY WGINC, AGENT
(Aviera Green)

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, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ABN/CA-2017-01812 was presented to the Board of County Commissioners at a public hearing conducted on September 24, 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 (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 ABN/CA-2017-01812, the Application of Sunco TH LLC, by WGINC, Agent, for a Class A Conditional Use to allow a Transfer of Development Rights (TDR) of more than two dwelling units per acre, for a total of 13 TDR units, 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 September 24, 2018,

subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

The motion was seconded by Commissioner Abrams 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	-	Aye
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 September 24, 2018.


Filed with the Clerk of the Board of County Commissioners on October 1st, 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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER
BY: 
DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

THE SOUTH 1/2 OF THE EAST 1/3 OF TRACT 1, LESS THE EAST 15 FEET FOR ROAD RIGHT-OF-WAY, AND THE EAST 1/3 OF TRACT 2, LESS THE SOUTH 247.5 FEET THEREOF AND LESS THE EAST 15 FEET FOR THE ROAD RIGHT-OF-WAY, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 14, TOWNSHIP 44 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 78, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

N.T.S.

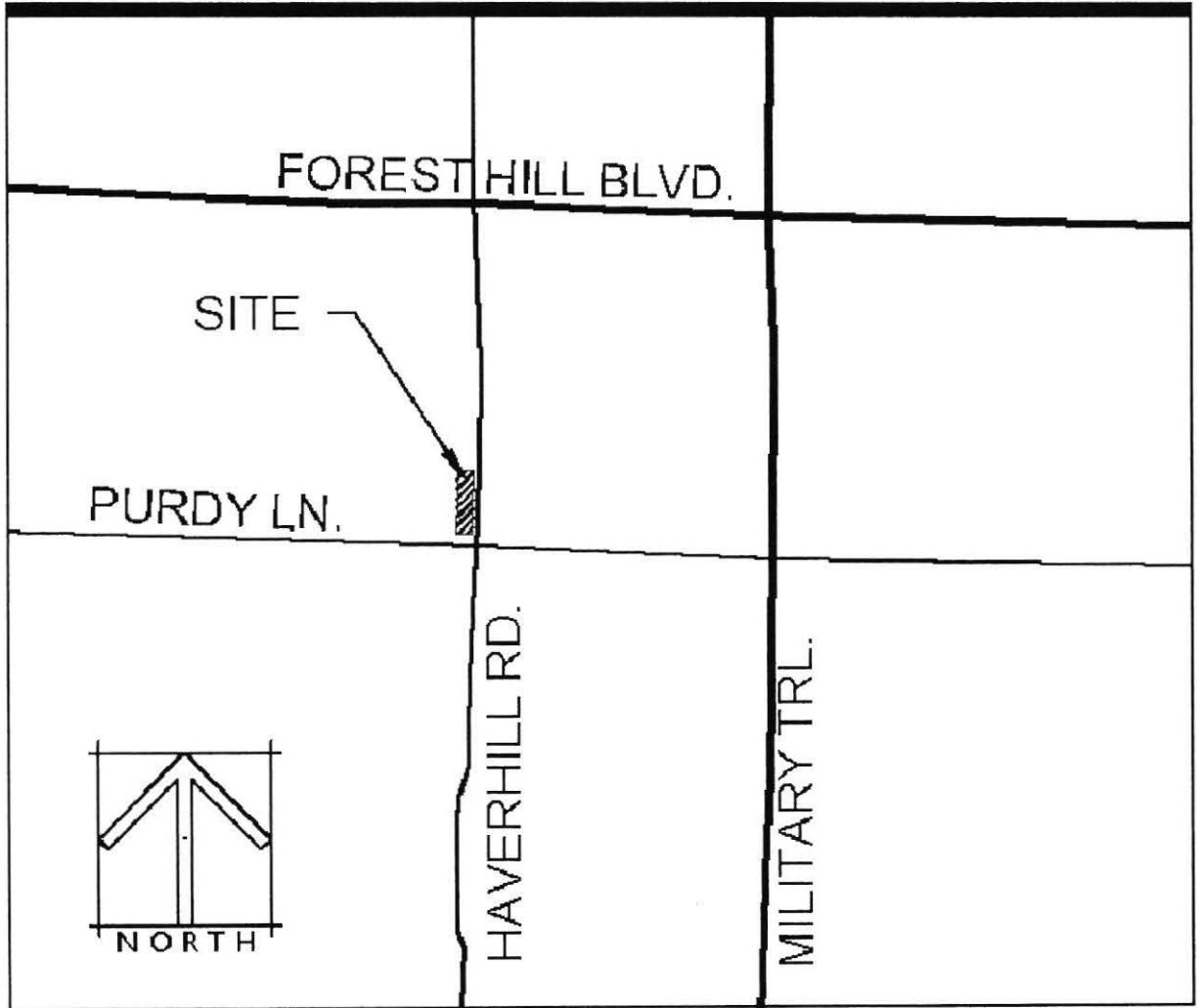


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A - Transfer of Development Rights

ALL PETITIONS

1. The approved Site Plan is dated May 29, 2018. 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)

LANDSCAPE - GENERAL-PERIMETER LANDSCAPING ALONG ALL PROPERTY LINES

1. No easement encroachment or width reduction shall be permitted for all perimeter Landscape Buffers, with the exception of a maximum of five (5) foot encroachment for Utility Easements, or five (5) foot for the drainage retention area along the north Property Line. (ONGOING: ZONING - Zoning)

LANDSCAPE - GENERAL-PERIMETER LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. In addition to Code requirements, landscaping and buffering along the west property line shall be upgraded to include the following:

- a. width of the buffer shall be a minimum of eight (8) feet except areas where the buffer abuts Residential Buildings 1 and 2. Width of the buffer adjacent to the west side of Residential Building 1 shall be expanded to fifteen (15) feet for a minimum length of 200 feet. Width of the buffer adjacent to the west side of Residential Building 2 shall be expanded to fifteen (15) feet for a minimum length of 100 feet;
- b. a continuous opaque wood fence with a minimum height of six (6) feet for the entire length of the west property line. Gate opening shall be provided for the maintenance access of the buffer;
- c. One (1) large palm for each thirty (30) linear feet of the length of the west property line. Palms shall be planted in clusters of three (3) to five (5);
- d. One (1) large shrub for each four (4) lineal feet of the length of the expanded buffer.
- e. Prior to Final Approval by the Development Review Officer, the Site Plan shall be revised to indicate the expanded buffer areas. (DRO/ONGOING: ZONING - Zoning)

LANDSCAPE - GENERAL-PERIMETER LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. In addition to Code requirements, landscaping and buffering along the south property line shall be upgraded to include the following:

- a. width of the buffer shall be a minimum of eight (8) feet;
- b. a continuous opaque wood fence with a minimum height of six (6) feet for the entire length of the west property line. Gate opening shall be provided for the maintenance access of the buffer; and,
- c. One (1) small palm for each thirty (30) linear feet of the length of the west property line. Palms shall be planted in clusters of three (3) to five (5). (DRO/ONGOING: ZONING - Zoning)

LIGHTING

1. In addition to Code Requirements, security lighting shall be installed in all pedestrian breezeways or corridors within each building and on all floors. (BLDGPMT/ONGOING: ZONING - Zoning)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall 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 13 TDR units at a selling price of \$810.00 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)

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.