

RESOLUTION NO. R-2019- 0166

RESOLUTION APPROVING ZONING APPLICATION DOA/CA-2018-01907
(CONTROL NO. 1975-00068)
a Class A Conditional Use
APPLICATION OF TMT Properties Loggers Run, LLC
BY iPlan and Design, LLC, Saul Erwing Arnstein & Lehr, LLP, AGENT
(Loggers Run Commercial Center)

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 DOA/CA-2018-01907 was presented to the Board of County Commissioners at a public hearing conducted on January 24, 2019;

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 DOA/CA-2018-01907, the Application of TMT Properties Loggers Run, LLC, by iPlan and Design, LLC, Saul Erwing Arnstein & Lehr, LLP, Agent, for a Class A Conditional Use to allow Indoor Entertainment, 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 January 24, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Mayor thereupon declared that the resolution was duly passed and adopted on January 24, 2019.

Filed with the Clerk of the Board of County Commissioners on February 4th, 2019

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



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a star. The inner circle contains 'PALM BEACH COUNTY' at the top and 'FLORIDA' at the bottom, also separated by a star.

EXHIBIT A

LEGAL DESCRIPTION

**LOGGERS' RUN COMMERCIAL REPLAT
LEGAL DESCRIPTION**

PARCEL A:

ALL OF TRACT 1, **LOGGERS' RUN COMMERCIAL REPLAT**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 49, PAGES 56 AND 57, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE RESERVED PARCEL DESCRIBED AS:

A PORTION OF TRACT 1, **LOGGERS' RUN COMMERCIAL REPLAT**, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 49, PAGES 56 AND 57, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF TRACT 1, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF TRACT 2, OF THE AFOREMENTIONED LOGGERS' RUN COMMERCIAL REPLAT; THENCE SOUTH 79°02'59" EAST, A DISTANCE OF 69.91 FEET; THENCE NORTH 00°14'22" WEST, A DISTANCE OF 51.73 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°14'22" WEST, A DISTANCE OF EAST, A DISTANCE OF 114.00 FEET; THENCE SOUTH 89°45'38" WEST, A DISTANCE OF 131.58 FEET TO THE POINT OF BEGINNING.

CONTAINING: 547,158 SQUARE FEET (12.56 ACRES) MORE OR LESS GROSS AND 532,158 SQUARE FEET (12.22 ACRES) EXCLUDING RESERVED PARCEL.

PARCEL B:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL A HEREINABOVE, FOR ACCESS AND PASSAGE FOR THE PURPOSE OF INGRESS AND EGRESS IN, TO, UPON AND ACROSS THE SIDEWALKS, ENTRANCE, DRIVES AND LANES OF THE FOLLOWING LANDS, AS CREATED AND GRANTED IN THAT DECLARATION OF EASEMENT RECORDED IN OFFICIAL RECORD BOOK 4397, PAGE 387;

TRACTS 2 AND 3 OF **LOGGERS' RUN COMMERCIAL REPLAT**, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 49, PAGE 56.

PARCEL C:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL A HEREINABOVE, FOR ACCESS AND PASSAGE FOR THE PURPOSE OF INGRESS AND EGRESS IN, TO, UPON AND ACROSS THE SIDEWALKS, ENTRANCE, DRIVES AND LANES OF THE FOLLOWING LANDS, AS CREATED AND GRANTED IN THAT DECLARATION OF EASEMENT RECORDED IN OFFICIAL RECORD BOOK 9983, PAGE 330:

TRACT 3 OF **LOGGERS' RUN COMMERCIAL REPLAT**, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 49, PAGE 56.

PARCEL ID NO. 00-41-47-23-14-001-0000

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 26, 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)

SITE DESIGN

1. Prior to July 1, 2020, the Applicant shall submit a revised site plan to correct inconsistencies with the survey and site plan or request a Type II Variance as applicable. (DATE/ONGOING: ZONING - Zoning)

USE LIMITATIONS

1. No Indoor Entertainment Use in Building E, Bay 3, shall exceed fifty (50) video or coin-operated games. (ONGOING: ZONING - Zoning)

2. The Entertainment, Indoor use in Building E, Bay 3, shall be limited to a maximum of 14,871 square feet. (ONGOING: ZONING - Zoning)

UTILITIES

1. Prior to July 1, 2020 the Property Owner will verify the location of all existing utilities and provide easements over all existing utilities for the 12.56 acre commercial parcel shown for Tract 1 in PB 49 PG 56. A Type II Variance shall be required if the easements overlap required landscaping in excess of code requirements. Existing encroachments i.e. dumpsters etc. will be relocated out of the easement. (DATE: PBC WATER UTILITIES - Monitoring)

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.