

RESOLUTION NO. R-2002-0833

RESOLUTION APPROVING ZONING PETITION CA2002-002  
CLASS A CONDITIONAL USE  
PETITION OF LANCE S. UHLEY, TRUSTEE  
BY BASEHART PLANNING INC, AGENT  
(DUNKIN DONUTS)

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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2002-002 was presented to the Board of County Commissioners at a public hearing conducted on May 23, 2002; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.
7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Class A Conditional Use has a concurrency determination and complies with Article 1 ■ Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code 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 Petition CA2002-002, the petition of Lance S. Uhley, Trustee, by Basehart Planning Inc, agent, for a Class A Conditional Use to allow a fast food restaurant in the Community Commercial Zoning District, on a parcel of land legally described 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 May 23, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution

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

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on May 23, 2002.

Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2002.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: [Signature]  
COUNTY ATTORNEY

BY: [Signature]  
DEPUTY CLERK

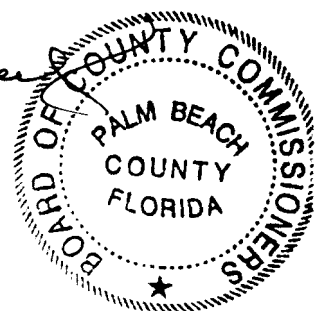


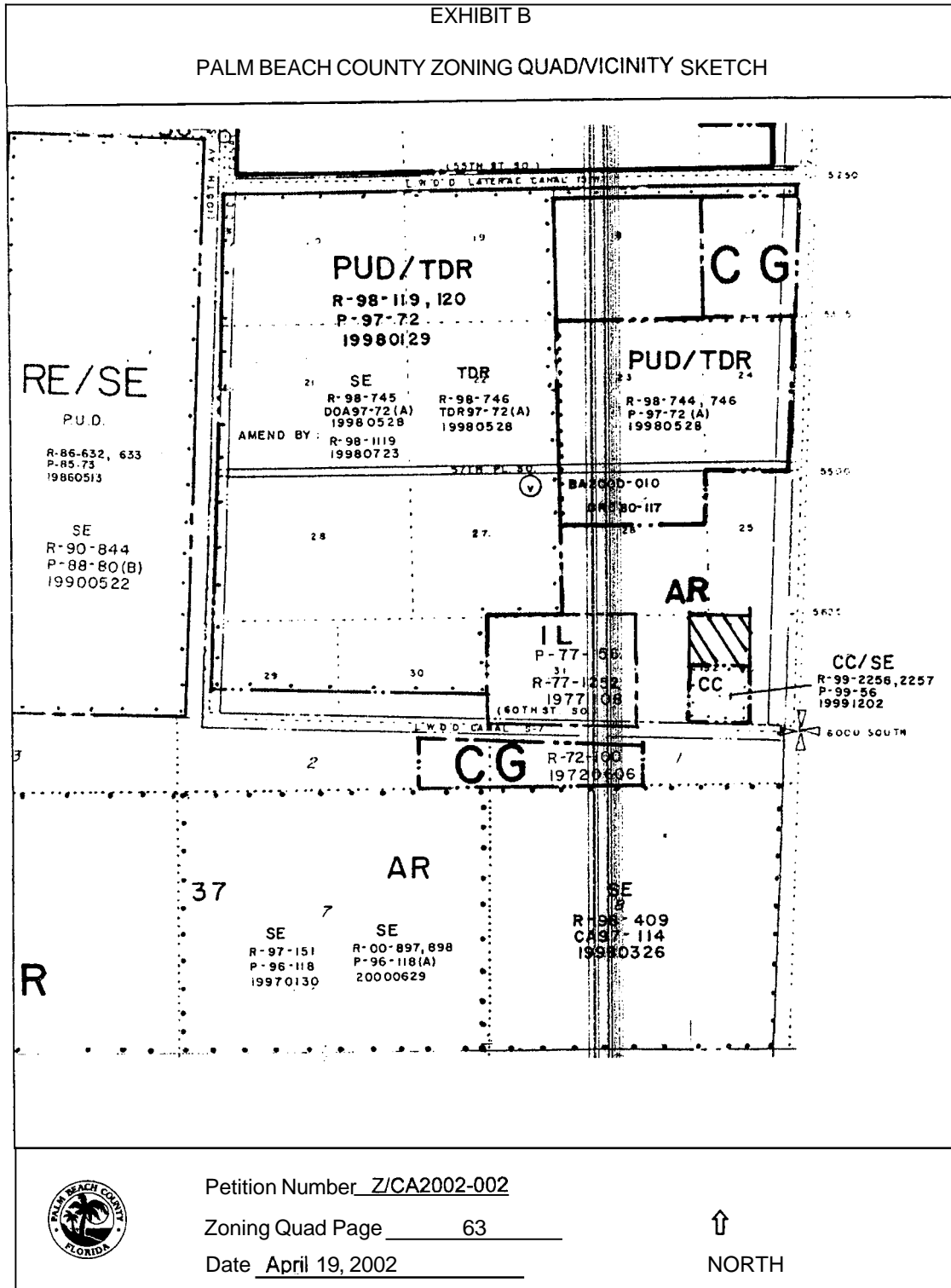
EXHIBIT A  
LEGAL DESCRIPTION

A portion of that certain parcel of land as described in Official Records Book 3589 at Page 688 of the Public Records of Palm Beach County, Florida. Said Parcel LESS the right-of-way of State Road No. 7, as shown on the State of Florida's Department of Transportation Right-Of-Way Map No. 93210-2525, described as follows:

COMMENCING at the northwest corner of said parcel; thence North 89'32'49" East (basis of bearings) along the north line of said parcel 884.87 feet to the right-of-way of State Road No. 7; thence South 01'28'04" West along said right-of-way 486.31 feet to the POINT OF BEGINNING; thence continue along said right-of-way South 01'28'04" West, 162.00 feet; thence North 88'33'35" West, 270.00 feet; thence North 01°28'04" East, 162.00 feet; thence South 88'33'35" East, 270.00 feet to the POINT OF BEGINNING.

Said lands situate, lying and being in Palm Beach County, Florida, and containing 1.004 acres, more or less.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated March 18, 2002. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

#### B. ARCHITECTURAL REVIEW

1. At time of submittal for final DRC certification of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001. Development shall be consistent with the approved architectural elevations. (DRC: ZONING/BLDG PERMIT - Zoning)
2. The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-five (25) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
3. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

#### C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. All existing native vegetation depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation has been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (DRC: ERM - Erm)

#### D. LANDSCAPE – STANDARD

1. Fifty-percent of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
  - a. tree height: Fourteen (14) feet;
  - b. trunk diameter: 3.5 inches measured at 4.5 feet above grade;
  - c. canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
  - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval, shall meet the following minimum standards at installation:
  - a. Palm heights: twelve (12) feet clear trunk;
  - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,

- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE -Zoning) (CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
    - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
    - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
    - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
    - d. this condition does not apply to the five (5) foot wide compatibility buffer. (CO: LANDSCAPE - Zoning)
  4. All trees, palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

1. Prior to DRC approval the property owner shall convey a cross access easement to the property owner(s) to the north, south and west. The location and width shall be approved by the County Engineer, the form for the easement shall be approved by the County Attorney. (DRC: ENG - Eng)
2. Prior to the issuance of a Building Permit the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG. PERMIT: MONITORING-Eng)

3. LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of SR 7 to consist of:

- 1) Median Landscaping
- 2) Concrete Median cutouts.

This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)

- B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. **All** landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or

maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)

- C. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owner's documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

F. LANDSCAPE – INTERIOR

- 1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING – Zoning)

G. LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF SR 7/US441)

- 1. Landscaping and buffering along the east property line shall be upgraded to include:
  - a. a minimum twenty (20) foot wide landscape buffer strip;
  - b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
  - c. one (1) native canopy tree for each thirty (30) feet of the property line;
  - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
  - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
  - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
  - g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

H. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the west property line shall be upgraded to include:
  - a. a minimum of ten (10) foot wide landscape buffer strip; and one (1) canopy tree for each twenty (20) linear feet of the property line;
  - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
  - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
  - e. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty six (36) inches at installation. (CO: LANDSCAPE-Zoning)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor, freestanding lighting fixtures be setback thirty (30) feet from the west property line. (CO: BLDG - Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning)

J. PLANNING

1. Prior to the issuance of the certificate of occupancy, the petitioner shall pave a pedestrian pathway and vehicular driveway on the property to the edge of the northern, southern, and western property lines at the locations shown on the site plan that read "cross access". (CO: MONITORING -Planning)

K. USE LIMITATIONS

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within

L. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 ULDC 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; 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 a 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)