

RESOLUTION NO. R-94-940

RESOLUTION APPROVING ZONING PETITION DOA80-89(C)
REQUESTED (R) USE
PETITION OF CHECKERS DRIVE IN RESTAURANTS, INC.

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 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Land Development Code (Ordinance 92-20) is authorized and empowered to approve, approve with conditions or deny Requested Uses within a Planned Development District; and

WHEREAS, the notice and hearing requirements, as provided for in Article 6, Section 6.8, of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, Zoning Petition DOA80-89(C) was presented to the Board of County Commissioners at a public hearing conducted on July 28, 1994; 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 Land Development Code 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use is consistent with the requirements of the Palm Beach County Land Development Code.
3. This Requested Use is consistent with all requirements of Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Land Development Code, Ordinance 92-20.
4. This Requested Use is consistent with all other applicable local land development regulations.

WHEREAS, Article 6, Section 6.8, of the Palm Beach County 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 DOA80-89(C), the petition of Checkers Drive In Restaurants, Inc., for a REQUESTED USE allowing a restaurant, fast food, in the General Commercial (CG) 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 July 28, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

| | | |
|---------------------|----|--------|
| Mary McCarty, Chair | -- | Aye |
| Burt Aaronson | -- | Aye |
| Ken Foster | -- | Aye |
| Maude Ford Lee | -- | Aye |
| Karen T. Marcus | -- | Aye |
| Warren Newell | -- | Absent |
| Carol A. Roberts | -- | Aye |

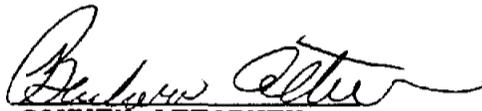
The Chair thereupon declared that the resolution was duly passed and adopted this 28th day of July, 1994.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

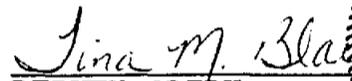
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

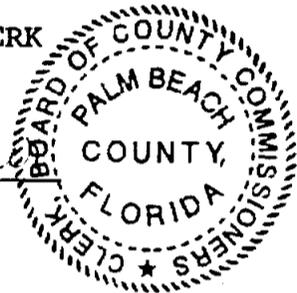


EXHIBIT A
LEGAL DESCRIPTION

A PORTION OF LOT 3, TRACT 39 OF THE HIATUS BETWEEN TOWNSHIP 44 SOUTH AND TOWNSHIP 45 SOUTH, RANGE 42 EAST OF "THE PALM BEACH FARMS COMPANY PLAT NO. 13" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6 AT PAGES 98 AND 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 3 (ALSO BEING THE SOUTH 1/4 CORNER OF SECTION 34, TOWNSHIP 44 SOUTH, RANGE 42 EAST); THENCE RUN SOUTH 27 DEGREES 39 MINUTES 55 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 3 FOR A DISTANCE OF 76.30 FEET TO A POINT; THENCE RUN NORTH 87 DEGREES 33 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 46.24 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 27 DEGREES 39 MINUTES 55 SECONDS EAST ALONG THE WEST RIGHT-OF-WAY LINE OF JOG ROAD FOR A DISTANCE OF 619.93 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1577.02 FEET, THRU A CENTRAL ANGLE OF 13 DEGREES 03 MINUTES 50 SECONDS FOR AN ARC DISTANCE OF 359.57 FEET TO A POINT; THENCE RUN NORTH 89 DEGREES 53 MINUTES 05 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 3 FOR A DISTANCE OF 809.36 FEET TO A POINT; THENCE RUN NORTH 27 DEGREES 39 MINUTES 55 SECONDS WEST FOR A DISTANCE OF 620.74 FEET TO A POINT; THENCE RUN NORTH 25 DEGREES 34 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 422.61 FEET TO A POINT; THENCE RUN SOUTH 87 DEGREES 33 MINUTES 09 SECONDS EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD FOR A DISTANCE OF 484.07 FEET TO A POINT; THENCE RUN SOUTH 83 DEGREES 44 MINUTES 15 SECONDS EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD FOR A DISTANCE OF 180.41 FEET TO A POINT; THENCE RUN SOUTH 87 DEGREES 33 MINUTES 09 SECONDS EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF LANTANA ROAD FOR A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. Condition No. 1 of Resolution No. R-87-93, Petition No. 80-89(B), which states:

The conditions of all previous approvals shall remain in effect unless expressly modified herein.

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-80-912-A, R-86-627 and R-87-93, have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval unless expressly modified. (MONITORING)

B. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC., and Palm Beach County ECR-I. (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

C. LANDSCAPING - GENERAL

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BUILDING-Zoning)

D. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINE (ABUTTING RIGHTS-OF-WAY)

1. Condition No. 2 of Resolution No. R-87-93, Petition No. 80-89(B), which states:

Prior to site plan certification the site plan shall be revised to reflect the following:

- a. A 15 foot wide perimeter buffer in those places where a vehicular use area abuts the right-of-way of Jog Road.
- b. One (1) tree for each 30 linear feet of a perimeter landscape strip separating the vehicular use area from the right-of-way of Jog Road.

Is hereby amended to state:

Landscaping within the required buffer along the north and east property lines of the affected site, adjacent to Lantana Road and Jog Road rights-of-ways shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) native canopy tree planted every twenty (20) feet on center;
- c. One (1) native palm tree for each thirty (30) linear feet of frontage;
- d. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (BUILDING-Zoning)

E. ENGINEERING

1. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County fifty-four (54) feet from centerline for the ultimate right-of-way for Lantana Road. (Previously Condition No. 1 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING-Monitoring)
2. The property owner shall construct:
 - a) Jog Road as 4 lane median divided section from a STA 105 + 30 to STA 129 +70 plus the appropriate paved tapers per the existing approved construction plans.
 - b) Lantana Road as a 4 lane median divided section from STA 17 + 32 to STA 30 + 42 plus the appropriate paved tapers per the existing approved construction plans. (Previously Condition No. 2 of Resolution No. R-86-627, Petition No. 80-89)(A) (ENGINEERING)
3. Property owner shall construct the following temporary turn lanes prior to the issuance of a Certificate of Occupancy per the County Engineer's approval:
 - a) Left turn lane, east approach, on Lantana Road at the project's entrance road.
 - b) Left turn lane, north, south, east and west approaches at the intersection of Lantana Road and Jog Road.
 - c) Left turn lane, south approach on Jog Road at project entrance road.

Note these turn lanes shall be temporary until construction of the 4 laning of Jog Road and Lantana Road has been completed. These turn lanes shall not be credited toward any Fair Share Impact Fees.
(Previously Condition No. 3 of Resolution No. R-86-627 Petition No. 80-89(A) (ENGINEERING)
4. Property owner shall construct the following turn lanes concurrent with the 4 laning of Jog Road and Lantana Road:
 - a) Left turn lane, east approach on Lantana Road at the project's middle entrance on Lantana Road.

- b) Left turn lane, south approach on Jog Road at the project's north entrance.
 - c) Left turn lane, south approach on Jog Road at the project's south entrance. (Previously Condition No. 4 of Resolution No. R-86-627, Petition No. 80-89(A) (ENGINEERING))
5. Petitioner shall contribute the pro-rata share of the cost of signal modifications of the intersection of jog Road and Lantana Road when warranted by the County Engineer. (Previously Condition No. 5 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING)
 6. The geometrics for the entrances nearest the Jog Road/Lantana Road intersection are to be approved by the Traffic Engineering Division of the County Engineer's office. (Previously Condition No. 6 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING)
 7. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended.

Credit for the impact fee pursuant to said ordinance shall be given for the road construction as outlined in Condition No. 2, if permitted by said ordinance.

Property owner shall post performance security acceptable to the County Engineer and County Attorney's office prior to the issuance of a Certificate of Occupancy required for the construction of Condition No. 2. (Previously Condition No. 7 of Resolution No. R-86-627, Petition No. 80-89(A) (ENGINEERING))
 8. The Lake Worth Drainage District will required the South 25.00 feet of the subject parcel for the right of way for Lateral Canal No. 16. We will accept a Quit Claim Deed or an Easement (on our form), whichever the owner prefers. (Previously Condition No. 8 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING)
 9. The developer will take reasonable precautions during the development of this project to insure that fugitive particulates (dust particles) from the project do not become a nuisance to neighboring properties. (Previously Condition No. 9 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING)
 10. The subject property shall be limited to the curb cuts shown on the site plan submitted. Access to the restaurant shall be kept internally. (Previously Condition No. 10 of Resolution No. R-80-912-A, Petition No. 80-89) (ENGINEERING)
 11. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$16,690.00 (623 trips X \$26.79 per trip). Credit for construction of the four (4) laning of the intersection of Jog Road and Lantana Road will be given based upon a Certified Cost Estimate from the developer's engineer. (Previously Condition No. 3 of Resolution No. R-87-93, Petition No. 80-89(B) (ENGINEERING))

12. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for the proposed Checkers Fast Food Restaurant presently is \$22,248.00 (809 trips X \$27.50 per trip). (BUILDING)

F. SIGNS

1. The subject parcel shall be limited to one (1) monument style point of purchase sign. (BUILDING)

G. SITE DESIGN

1. The maximum height, from grade to roof line, for any flag pole shall not exceed twenty five (25) feet. (BUILDING)

H. USE LIMITATION

1. No loading or deliveries shall be permitted during hours of operation. (CODE ENFORCEMENT)

I. COMPLIANCE

1. Failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - c. A requirement of the development to conform with updated standards of development, applicable 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;
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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 Conditional Use, Rezoning, 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)