

RESOLUTION NO. R-2020- 0718

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/CA-2019-01031
(CONTROL NO. 1985-00013)
a Class A Conditional Use
APPLICATION OF Daszkal Bros Properties, LLC
BY Miller Land Planning, AGENT
(Hypoluxo Trail Center PCD)

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 (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application ABN/DOA/CA-2019-01031 was presented to the Board of County Commissioners at a public hearing conducted on June 25, 2020;

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/DOA/CA-2019-01031, the Application of Daszkal Bros Properties, LLC, by Miller Land Planning, Agent, for a Class A Conditional Use to allow a Type 1 Restaurant with a drive-through, 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 June 25, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on June 25, 2020.

Filed with the Clerk of the Board of County Commissioners on June 29th, 2020.

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

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 12; THENCE SOUTH 89°54'03" EAST ALONG THE NORTH SECTION LINE OF SAID SECTION 12, A DISTANCE OF 342.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°54'03" EAST, ALONG SAID SECTION LINE A DISTANCE OF 181.50 FEET; THENCE SOUTH 00°05'57" WEST, A DISTANCE OF 240.00 FEET; THENCE NORTH 89°54'03" WEST, A DISTANCE OF 181.50 FEET; THENCE NORTH 00°05'57" EAST, A DISTANCE OF 240.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING TWO PARCELS:

THAT PART OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 12; THENCE SOUTH 89°54'03" EAST ALONG THE NORTH SECTION LINE OF SAID SECTION 12, 342.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°54'03" EAST, ALONG SAID SECTION LINE, 181.50 FEET; THENCE SOUTH 00°05'57" WEST, 4.00 FEET; THENCE NORTH 89°54'03" WEST, 181.50 FEET; THENCE NORTH 00°05'57" EAST, 4.00 FEET TO THE POINT OF BEGINNING.

AND

A PORTION OF LOT 6 AND THE 15 FOOT WIDE ROAD RIGHT OF WAY LYING NORTH OF SAID LOT 6, OF THE NORTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, AS SHOWN ON THE AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN ET AL., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ONE-QUARTER CORNER OF SAID SECTION 12; THENCE NORTH 89°40'51" EAST, ALONG THE NORTH LINE OF SAID SECTION 12, A DISTANCE OF 342.11 FEET; THENCE SOUTH 00°19'09" EAST, 4.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°40'51" EAST, ALONG THE EXISTING SOUTH RIGHT OF WAY LINE OF HYPOLUXO ROAD (PER OFFICIAL RECORDS BOOK 6949, PAGE 1374 OF SAID PUBLIC RECORDS), A DISTANCE OF 181.50 FEET; THENCE SOUTH 00°19'09" EAST, 4.00 FEET; THENCE SOUTH 89°40'51" WEST, ALONG A LINE 4.00 FEET SOUTH OF AND PARALLEL WITH SAID EXISTING SOUTH RIGHT OF WAY LINE, 181.50 FEET; THENCE NORTH 00°19'09" WEST, 4.00 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS:

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 12; THENCE SOUTH 89°54'03" EAST ALONG THE NORTH SECTION LINE OF SAID SECTION 12, A DISTANCE OF 342.11 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 12; THENCE SOUTH 00°05'57" WEST, A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°54'03" EAST, ALONG A LINE PARALLEL TO AS MEASURED AT RIGHT ANGLES TO SAID NORTH SECTION LINE, A DISTANCE OF 181.50 FEET; THENCE SOUTH 00°05'57" WEST, A DISTANCE OF 232.00 FEET; THENCE NORTH 89°54'03" WEST, A DISTANCE OF 181.50 FEET; THENCE NORTH 00°05'57" EAST, A DISTANCE OF 232.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 42,108 SQUARE FEET OR 0.97 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use (Type 1 Restaurant with a Drive-through)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated April 13, 2020. 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)

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.