

OK

RESOLUTION NO. R-74- 422 .

RESOLUTION APPROVING ZONING PETITION

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and Chapter 70-863, Laws of Florida, Special Acts of 1970, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements as provided for in Chapter 402.5 of the Palm Beach County Zoning Code Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 74-5 was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on 23 May 1974.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this 23rd day of May, 1974, that petition No. 74-5, the petition of JOSEPH F. KERN for a SPECIAL EXCEPTION TO ALLOW THE EXCAVATION AND REMOVAL OF EARTHY MATERIALS on that part of the West 1/2 of the Southwest 1/4 of Section 20, Township 47 South, Range 41 East lying North of the Hillsboro Canal; and also, that part of the West 1/2 of the Northwest 1/4 of said Section 20 lying South of the South right-of-way line of Levee L-40; and also, Tracts 3,4, 5 and 25 of Section 19, Township 47 South, Range 41 East, according to the Florida Fruit Lands Company's Subdivision No. 2 recorded in Plat Book 1, page 102; and also, that part of Tracts 1, 2, 6, 7, 11, 12 and 13 of said Section 19, lying South of the Southerly right-of-way line of Levee L-40, in said Florida Fruit Lands Company's Subdivision No. 2. Said property-located on the north side of State Road No. 827, approximately 4 1/2 miles west of State Road No. 7 in an AG-Agricultural District, was approved as advertised subject to the following special conditions:

- 1) Developer shall construct a right turn lane on the east approach at the entrance of the development and State Road 827;
- 2) Covenants shall be submitted in the form of a contract insuring the administration of the public area by Palm Beach County and insuring perpetual use by the public subject to the further stated conditions;
- 3) All boat and vehicle use shall be restricted to governmental agencies for maintenance or observation purposes;
- 4) Developer shall coordinate with the Florida Fresh Water Fish and Game Commission and any other appropriate governmental agency pertaining to the depth of the lake;
- 5) The twenty-six (26) acre area on the north and northwest side of the subject property is to allow a pedestrian system as legally described in Exhibit D of the letter from Raymond Royce, dated May 8, 1974;
- 6) The residential area shall be fenced off from the area reserved for public use;
- 7) A survey of the area to be rezoned to RE-Residential Estate shall be submitted before the Board of County Commissioners meeting to be held May 23, 1974;
- 8) Petition #74-5 for a Special Exception to allow the excavation and removal of earthy materials shall be granted, said excavation to be in accordance with the revised site plan submitted to the staff. The excavation site will be rehabilitated in accordance with the appropriate ordinances of the County and the site plan. The excavation and rehabilitation shall be completed within five (5) years;
- 9) The southern portion of the property, consisting of approximately one hundred twenty-five (125) acres, bounded on the south by the Hillsboro Canal, shall be rezoned from agriculture to residential estate. This rezoning will allow the construction of one (1) dwelling unit per two and one half (2 1/2) acres on these one hundred twenty-five (125) acres;
- 10) The northern portion of the property, consisting of approximately one hundred forty-six (146) acres, bounded along the northwest side by Levee L-40, shall be retained by Mr. Kern, but shall be the subject of written covenants and conditions which are to be executed and recorded in the public records of Palm Beach County, Florida. A legal description of which is at the Department of Planning, Zoning and Building. The covenants shall be in form and substance satisfactory to counsel for the County and Mr. Kern and shall generally provide as follows:

- a) A portion of the aforescribed property referred to as a vehicular access area, consisting of approximately twenty-six (26) acres, a legal description of which is at the Department of Planning, Zoning and Building, shall be made available to the general public subsequent to the excavation and rehabilitation. Within this area Palm Beach County may construct picnic areas, rest room facilities, roads, parking lots and other amenities. This property shall be used for access to other parcels of property and for picnicking and other general park purposes;
- b) An area shown on the map as a pedestrian area and consisting of approximately twenty-six (26) acres, a legal description a copy of which is at the Department of Planning, Zoning and Building, shall be made available to the general public subsequent to the excavation and rehabilitation. This area shall be used for walks, catwalks, observation towers and other similar facilities for the study and observation of plant life, birds, and other forms of wildlife. This area shall be used for no other purposes. In no event shall any motor vehicles of any kind be allowed on this property except as provided for in Condition #3, and no highway, roads or parking lots shall be constructed thereon. No athletic fields, picnic areas or other such improvements shall be constructed thereon;
- c) An area shown on the map for public use, consisting of a six hundred (600) foot strip along the northwest and north side of the property, consisting of approximately twenty-six (26) acres, a legal description of which is at the Department of Planning, Zoning and Building, shall be made available to the general public subsequent to the excavation and rehabilitation. This area shall be improved or with the same improvements and for the same use as allowed in the pedestrian area referred to in the prior paragraph. In no event will the use of this area be more active or more intense than that of the pedestrian area;
- d) The balance of the property contained in the one hundred forty-six (146) acres shall be utilized for general conservation purposes and to encourage the nesting of waterfowl or other animals and shall not be generally accessible or open for ingress and egress by the public. It is the intent hereof that the balance of the property be in the nature of a wildlife preserve or wilderness for conservation purposes;
- e) Any and all improvements to the property subsequent to the excavation and rehabilitation shall be constructed by the County at County expense;
- f) As a part of the rehabilitation plan, the petitioner will construct the marsh areas shown on the site plan at a slope of approximately 20:1;

- g) No boats of any kind, including motor boats, rafts or canoes, shall be allowed on the lake except as provided for in Condition #3;
- h) It is the intent hereof that the most intense use in the vehicular area and that the pedestrian area and/or third areas have less intense use, as indicated above, with a view toward encouraging the study of nature and conservation, said uses to be of a passive nature, as opposed to a more active use of the vehicular area;
- i) The covenants shall contain such further provisions as shall be necessary to further express the general intent of the parties, and specifically said covenants shall provide that they shall not be amended or rescinded without the prior written consent of the County. The covenants shall further provide for their enforcement by specific performance and the awarding of court costs and attorney's fees to any party in violation thereof. The covenants shall be written so as to be fully and completely enforceable by the County and Mr. Kern.

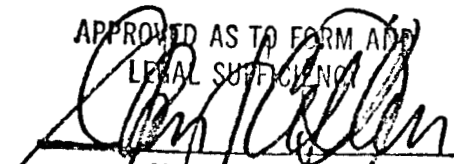
The foregoing resolution was offered by Commissioner Warren , who moved its adoption. The motion was seconded by Commissioner Johnson , and upon being put to a vote, the vote was as follows:

Robert F. Culpepper	-	aye
Lake Lytal	-	aye
E. W. Weaver	-	vacation
Robert C. Johnson	-	aye
George V. Warren	-	aye

The Chairman thereupon declared the resolution duly passed and adopted this 4th day of June , 1974, confirming action of 23 May 1974.

PALM BEACH COUNTY, FLORIDA
 BY ITS BOARD OF COUNTY
 COMMISSIONERS

JOHN B. DUNKLE, Clerk

APPROVED AS TO FORM AND
 LEGAL SUFFICIENCY

 Michael B. Small
 County Attorney

By 
 Deputy Clerk