

RESOLUTION NO. R-98- 416

**RESOLUTION APPROVING ZONING PETITION DOA95-21(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF C. BRUCE PEARSON
BY ROBERT BENTZ, AGENT
(TROPICAL WORLD NURSERY)**

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; 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 DOA95-21(A) was presented to the Board of County Commissioners at a public hearing conducted on March 26, 1998; and

WHEREAS, ~~the~~ Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; 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 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development ~~Order~~ Amendment has a ~~concurrency~~ determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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 Development Order Amendment, 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 DOA95-21(A), the petition of C. Bruce Pearson, by Robert Bentz, agent, for a Development Order Amendment to Delete Condition E.1 (left turn lane) of R-96-130 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on March 26, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair ~~thereupon~~ declared that the resolution ~~was~~ duly passed and adopted on March 26, 1998.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY **ITS** BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

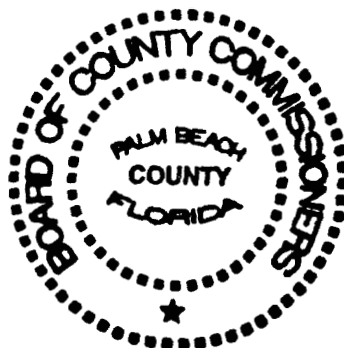
BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

Petition DOA95-21(A)
Project No.



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EXHIBIT A
LEGAL DESCRIPTION

TROPICAL WORLD NURSEY
LEGAL DESCRIPTION

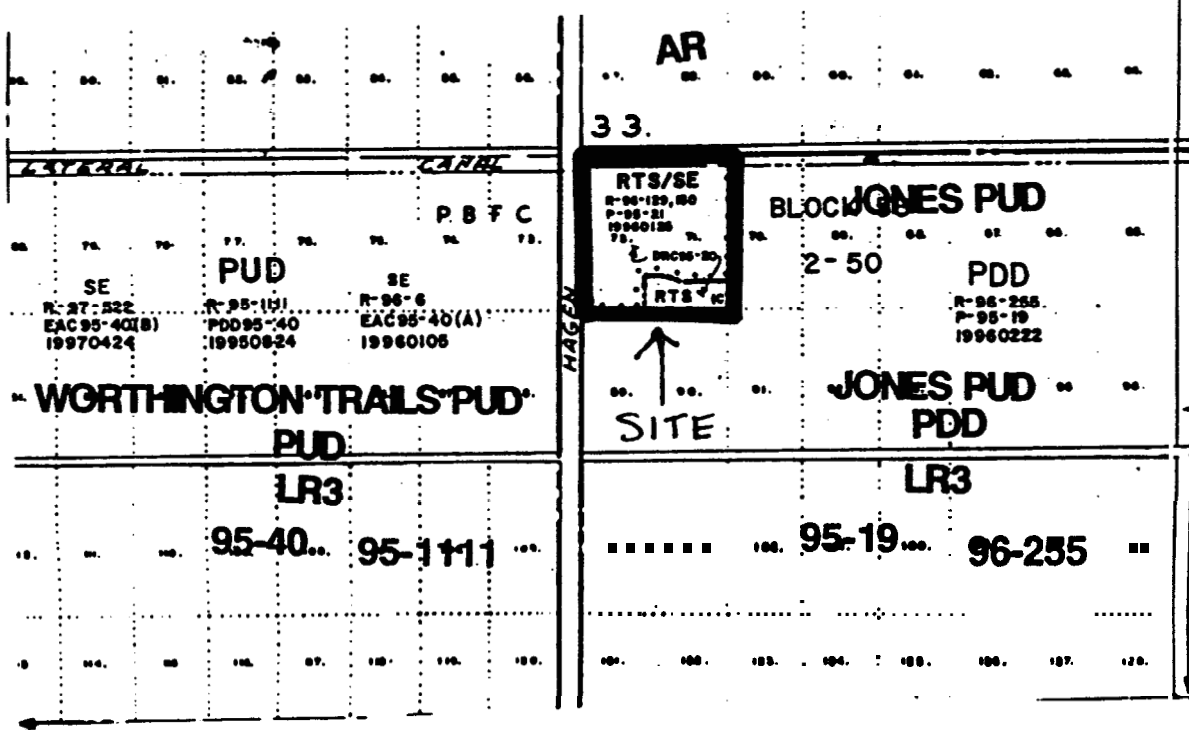
TRACTS 72, 71 AND THE WEST 30 FEET OF TRACT 70, INCLUSIVE, BLOCK 58, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN THE PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PLAM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE NORTH 70 FEET THEREOF, AND THE WEST 30 FEET OF SAID TRACT 72, BLOCK 58.

SAID LANDS LYING IN THE COUNTY OF PALM BEACH, FLORIDA.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ZONING



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↑
NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: **All** previous conditions of approval are *shown* in BOLD and will **be** carried forward with this petition **unless** expressly **modified**.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in **Resolutions R-96-130** (Petition **95-21**), have been consolidated as **contained herein**. The petitioner shall comply with all previous conditions of approval and deadlines previously established by **Section 5.8** of the ULDC and *the* Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. 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 December 17, 1997. 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)

B. BUILDING AND SITE DESIGN

1. **All air conditioning and** mechanical equipment shall **be** screened from view on **all sides** by a visually opaque **barrier**. (Previous Condition B 1 of Resolution R-96-130) (DRC: BUILDING-Zoning)
2. **All areas or** receptacles for the storage and disposal of trash, **garbage**, recyclable material or cut vegetation, such as dumpsters and trash compactors, shall not be located within one-hundred (**100**) feet of the east **property line**. (Previous Condition 8.2 of Resolution **R-96-130**) (DRC: BUILDING-Zoning)
3. Prior to final site plan certification by the Development **Review** Committee (DRC), the site plan shall **be** revised to reflect the **overall** one **hundred (100)** feet LWDD **L-27** Canal on the **north** property line and the abandonment or removal agreement for the existing **12'** FPL easement. (Previous Condition B.3 of Resolution R-96-130) (DRC: LWDD-Zoning)
4. Prior to **final** site plan certification by the Development Review Committee (**DRC**), the petitioner shall amend the **concurrency** reservation to indicate the maximum square footage of retail and accessory uses approved by the Board of County Commissioners on January **25, 1996**. (Previous Condition B.4 of Resolution R-96-130) (DRC: ZONING)

C. LANDSCAPING

1. **All trees** within the Hagen Ranch Road ten (**10**) foot Landscape Buffer **shall be installed at a minimum fourteen (14)** foot height and planted at an equivalent of one tree per twenty (**20**) linear feet of property **line**. (Previous Condition C.1 of Resolution R-96-130) (CO: LANDSCAPE-Zoning)

D. LWDD

1. Prior to final site plan certification, the Developer shall record an Easement **or** Quit Claim Deed, whichever the owner prefers, for the North **70** feet ~~of~~ Tracts **71** and **72**, Block **58** and the North **70** feet of the West **30** feet of Tract **70**, Block **58** Palm **Beach Farms** Company Plat **No. 3**, recorded in Plat Book 2 Pages 45 to 54 for the right of way for LW/DD L-27 ~~canal~~. (Previous Condition A. 1 of Resolution R-96-130) (DRC:LW 3D)

E. ENGINEERING

Previous Conditions E.1.a and E 1.b of Resolution R-96-130, Petition 95-21 which currently states:

1. The Property owner shall construct a left **turn** lane, north **approach** on Hagen Ranch Road at the project's entrance road. This construction shall **be** concurrent **with** the paving and drainage improvements **for** the site. Any and all costs associated with the construction shall be **paid** by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
 - a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first **Building Permit**.
 - b. **Construction shall be** completed **prior** to the issuance **of** the **first** Certificate of Occupancy.

~~is~~ hereby deleted. [Reason: No longer needed]

2. 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, **Zoning** Petition 95-21, to **be** paid at the time of issuance of the Building Permit presently **is** **\$1,980.00** (36 additional trips X **\$55.00** per trip). (Previous Condition **E.2** of Resolution R-96-130) (BLDG PERMIT:IMPACT FEE COORD)
3. The Developer shall plat the subject property in accordance **with** provisions of Article **8** of the Unified Land Development Code. The platting of this property may be phased in accordance with a **phasing** plan acceptable to the **Office** of the County Engineer and **approved** by the Development Review Committee. (Previous Condition **E.3** of Resolution R-96-130) (PLAT:ENG)

F. HEALTH

1. All necessary precautions will **be** taken to prevent leaching into the **soil** **or** ground water **of** any toxic **or** hazardous material such as pesticides, **fertilizers** and herbicides. Any such materials shall be stored on an impervious **surface** sufficiently **bermed** to prevent runoff. (ONGO NG: HEALTH/CODE ENF)

G. LIGHTING

1. **All outdoor** lighting used to illuminate the subject property shall be of low intensity, shielded and directed down **and** away from adjacent properties and streets. (Previous Condition G. 1 **of** Resolution R-96-130) (BLDG PERMIT: CODE ENF - Zoning)
2. All **outdoor** lighting fixtures shall not exceed twenty **(20)** feet in height, **measured** from finished grade to highest point. (Previous Condition **G.2 of** Resolution R-96-130) (BLDG PERMIT: BLDG - Zoning)

H. SIGN

1. **Signage** shall be limited to one **(1)** sign on Hagen Ranch Road with a maximum height of ten **(10)** feet measured from finished grade to highest point and a maximum sign face area of **100** square feet per side. (Previous Condition F.1 **of** Resolution R-96-130) (BLDG PERMIT: BLDG - Zoning)

I. USE LIMITATION

1. Retail **hours of** operation and loading activities **shall** be limited to **7:00** am. to **7:00 p.m.** daily. This condition shall not restrict **evening** organizational **or** educational meetings being conducted in the **retail** center. (Previous Condition D.1 **of** Resolution R-96-130) (ONGOING: CODE ENF - Zoning)
2. The operation of heavy machinery **or** refrigerated vehicles shall be prohibited from **7:00 p.m.** to **7:00 am.** daily. (Previous Condition D.2 of Resolution R-96-130) (ONGOING: CODE ENF - Zoning)
3. Repair **or** maintenance of vehicles shall not **be** permitted on **site.** (Previous Condition D.3 **of** Resolution R-96-130) (ONGOING: CODE ENF - Zoning)

J. 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. Condition **H.1 of** Resolution R-96-130 **which** currently states:

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; 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.

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.

Is hereby amended to read:

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 standard~~s~~ 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 majority vote of the Code Enforcement Board 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)