

RESOLUTION NO. R-98- 4

RESOLUTION APPROVING ZONING PETITION DOA85-149(C)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF ALLAN MURRAY NURSERY, INC.  
BY KERIAN KILDAY, AGENT  
(LITTLE RIVER GLEN PUD)

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 DOA85-149(C) was presented to the Board of County Commissioners at a public hearing conducted on December 4, 1997; 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 DOA85-149(C), the petition of Allan Murray Nursery, Inc., by Kerian Kilday, agent, for a Development Order Amendment (DOA) to allow a Temporary wholesale nursery on 12.53 acres (requested use) within a Planned Unit Development 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 December 4, 1997, 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 Foster and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 8, 1998.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

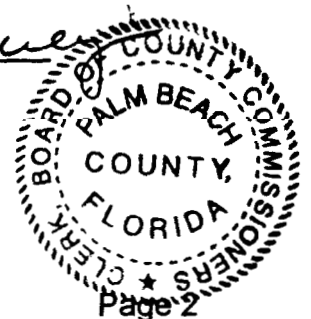
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



Petition DOA85-149(C)  
Project No.

**EXHIBIT A**

**LEGAL DESCRIPTION**

COMMENCING AT A POINT **IN** THE WEST LINE OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, **904.25 FEET NORTH OF THE** SOUTHWEST CORNER OF SECTION 12, THENCE **GO IN AN** EASTERLY DIRECTLY AT AN ANGLE OF 90 DEGREES, A DISTANCE OF APPROXIMATELY **653 FEET**, TO A POINT; THENCE IN A SOUTHERLY DIRECTLY THAT INTERSECTS TO A POINT **ON THE SOUTH LINE OF SAID** SECTION 12, WHICH IS A DISTANCE OF **653.16 FEET EAST OF THE** SOUTHWEST CORNER OF SAID SECTION 12, TO A POINT; THENCE WESTERLY **ALONG THE SOUTH LINE OF SAID** SECTION, TO THE **POINT** OF BEGINNING, SAID DESCRIPTION BEING THE SOUTH 904 FEET OF THE PREMISES THAT WERE CONVEYED BY FLOR-ELAN, INC., TO NELSON A. MORTON AND HELEN I. MORTON, HIS WIFE, **BY DEED DATED JUNE 27, 1963 AND FILED AUGUST 9, 1963 IN** OFFICIAL RECORDS BOOK 911, PAGE 13 **OF THE** PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, **LESS** THE EXISTING RIGHT-OF-WAY FOR HAVERHILL ROAD.

**IS THE SAME** PROPERTY DESCRIBED AS FOLLOWS:

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

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, THENCE NORTH **00 DEGREES 55 MINUTES 11 SECONDS** WEST, **ALONG THE WEST LINE OF THE** SOUTHWEST ONE-QUARTER (**SW1/4**) OF SAID SECTION 12 AND THE CENTERLINE OF HAVERHILL ROAD RIGHT OF WAY AS RECORDED IN ROAD PLAT BOOK 7, PAGES 39 THROUGH 47, INCLUSIVE, **OF THE** PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF **904.25 FEET**; THENCE NORTH **89 DEGREES 04 MINUTES 49 SECONDS** EAST, A DISTANCE OF **653.00 FEET** TO AN INTERSECTION WITH A LINE **653.00 FEET** EAST OF AND PARALLEL WITH SAID WEST LINE OF **THE** SOUTHWEST ONE-QUARTER (**SW1/4**) OF SAID SECTION 12; THENCE **SOUTH 00 DEGREES 55 MINUTES 48 SECONDS** EAST, **ALONG SAID** PARALLEL LINE, A DISTANCE OF **902.85 FEET** TO AN INTERSECTION WITH **THE** SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (**SW1/4**) OF SAID SECTION 12 AND **THE** SOUTH LINE OF **THE** AMENDED PLAT OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A LYMAN, ET AL, AS RECORDED **IN** PLAT BOOK 9, PAGE 74 **OF THE** PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH **88 DEGREES 57 MINUTES 27 SECONDS** WEST **ALONG THE SOUTH LINE OF THE** SOUTHWEST ONE-QUART (**SW1/4**) OF SAID SECTION 12, A DISTANCE OF **653.16 FEET** TO THE POINT OF BEGINNING.

**LESS THE WEST 40.00 FEET** THEREOF FOR HAVERHILL ROAD RIGHT OF WAY AS RECORDED **IN** ROAD PLAT BOOK 7, PAGES 39 THROUGH 47, INCLUSIVE **AND** OFFICIAL RECORDS BOOK 6370, PAGE 1333 THROUGH 1350, INCLUSIVE **OF THE** PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, **AND LESS THAT PARCEL DESCRIBED IN** OFFICIAL RECORD BOOK 2535, PAGE 1507.

EXHIBIT B

VICINITY SKETCH

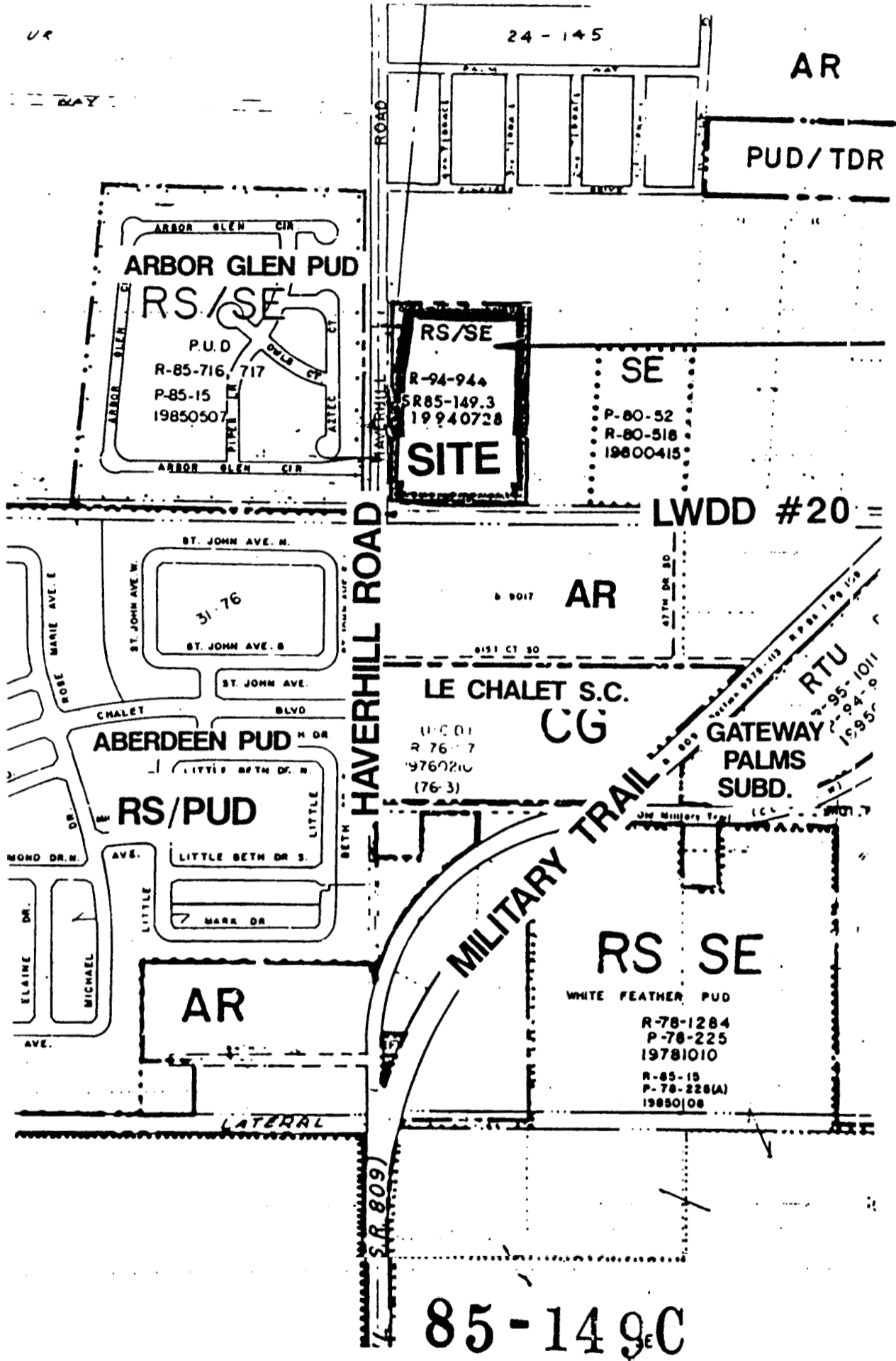


EXHIBIT C

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. Condition 1 of Resolutions ~~R-89-1039~~, R-93-145, and R-94-944, Petitions ~~85-149(A)~~, SR85-149, and SR85-149.3, ~~which~~ currently states:

**The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.**

Are hereby deleted. [Reason: **New** conditions]

2. **All** previous conditions of approval applicable to the subject ~~prop~~erty, as contained in Resolutions R-86-132 (Petition ~~85-149~~), R-89-1039 (Petition ~~85-149(A)~~), 93-145 (~~SR85-149~~), and R-94-944 (~~SR85-149.3~~) have been consolidated **as** contained herein. The petitioner shall comply **with** all previous conditions of approval and deadlines previously ~~establis~~hed by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
3. 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 **October 1, 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. Condition 1 of Resolution R-86-132, Petition 85-149, which currently states:

**Prior to site plan certification, the Master Plan will be revised to correspond to the designated housing categories of Section 402.13.2 of the Zoning Code.**

~~Is~~ hereby deleted. [Reason: Code requirement]

2. Prior to December ~~4, 2002~~, the temporary access for the wholesale nursery shall **be** removed. (DATE: MONITORING - Zoning)
3. All shadehouses ~~shall be setback~~ a minimum of twenty-five (25) feet from the north and east property lines. (DRC: ZONING)
4. The existing pond shall **be** limited to a maximum area of .8 acre. (ONGOING: CODE **ENF**)
5. The maximum height for all enclosed or partially enclosed accessory structures of the temporary wholesale nursery (i.e. shadehouses, **stuppyhouses**, greenhouses, etc.) **shall** be fifteen (15) feet, measured from finish grade to the highest point. (DRC/BLDG PERMIT: ZONING/BLDG - Zoning)

6. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier. (BLDG PERMIT: BLDG-Zoning)
7. 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. (DRC/BLDG PERMIT: ZONING/BLDG - Zoning)

C. HEALTH

1. Reasonable precautions shall be exercised during the site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (Previously Condition 2 of Resolution R-86-132, Petition 85-149) (ONGOING: CODE ENF)

2. Condition 3 of Resolution R-86-132, Petition 85-149, which currently states:

Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

~~Is~~ hereby deleted. [Reason: Code requirement]

3. Condition 7 of Resolution R-89-1039, Petition 85-149(A), which currently states:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.

Is hereby amended to read:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site for the PUD. (ONGOING: CODE ENF/HEALTH)

4. Condition 8 of Resolution R-89-1039, Petition 85-149(A), which currently states:

Water service is available to the property. Therefore no well shall be permitted on the site to provide potable water.

~~Is~~ hereby amended to read:

Water service is available to the property. Therefore no well shall be permitted on the site to provide potable water for the PUD. (ONGOING: CODE ENF/HEALTH)

5. For the temporary wholesale nursery operation, application and engineering plans to construct an onsite sewage treatment and disposal system (OSDS) in accordance with Rule 10D-6FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Health Department prior to final site plan review. (DRC: HEALTH)

6. For the temporary wholesale nursery operation, application and engineering plans to construct a limited use commercial well in accordance with Rule 10D-4 FAC and Palm Beach County ECR-II must be submitted to the Palm Beach County Health Department prior to final site plan review. (DRC: HEALTH)

7. For the temporary wholesale nursery operation, all necessary precautions will **be** taken to prevent leaching into the soil or ground water of any toxic or hazardous materials such as pesticides, fertilizers and herbicides. Any such materials shall be stored on an impervious surface sufficiently bermed to prevent runoff. (ONGOING: HEALTH/CODE ENF)

D. LANDSCAPING - STANDARD

1. Condition 20 of Resolution R-86-132, Petition 85-149, which currently states:

**The petitioner shall comply with prospective amendments to the Palm Beach County Landscape Code, shall those amendments be enacted prior to the issuance of a building permit for this project.**

Is hereby amended to read:

All canopy trees required to be planted on site by this approval, except on individual residential lots, 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.
  - d. Credit may **be** given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to **be** planted on site by this approval, except on individual residential lots, 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)
  3. A group of three or more palm or pine trees may not **supersede** the requirement for a perimeter canopy tree in that location. (CO: LANDSCAPE - Zoning)
  4. **All native vegetation within the common open space areas and buffers shall be preserved and incorporated into the project design.** (Previously Condition 3 of Resolution R-89-1039, Petition 85-149(A)) (DRC: ZONING)
  5. Condition 4 of Resolution R-89-1039, Petition 85-149(A), which currently states:

**All prohibited species located onsite shall be removed prior to the issuance of any building permits.**

Is hereby deleted. [Reason: Code requirement]

E. ENGINEERING

1. Condition 4 of Resolution R-86-132, Petition 85-149, which currently states:

This development shall retain on-site the first one inch of the stormwater runoff per Palm Beach County Subdivision and Flattening Ordinance 73-4, as amended.

Is hereby deleted. [Reason: Code Requirement]

2. The property owner shall convey for the ultimate right of way of Haverhill Road, 40 feet from centerline within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first building permit. (Previously Condition 5 of Resolution R-86-132, Petition 85-149) [Completed]

3. Condition 6 of Resolution R-86-132, Petition 85-149, which currently states:

The property owner shall construct a left turn lane north approach and a right turn lane south approach on Haverhill Road at the project's entrance road, concurrent with the construction of the project's entrance road onto Haverhill Road.

Is hereby amended to read:

The property owner shall construct a left turn lane north approach and a right turn lane south approach on Haverhill Road at the project's entrance road, concurrent with the construction of the project's entrance road onto Haverhill Road for the PUD. (ENG)

4. The developer shall construct a pedestrian pathway along Haverhill Road from this project's south property line to the project's north property line subject to approval by the County Engineer. Construction shall commence concurrent with the construction of the paving and drainage improvements for the first plat and shall be completed prior to the issuance of the first building permit for the PUD. (Previously Condition 7 of Resolution 94-944, SR85-149.3) (BLDG PERMIT: MONITORING - Eng).
5. The Developer 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 \$44,944.00 (559 trips x \$80.40 per trip) (Previously Condition 8 of Resolution R-86-132, Petition 85-149) (IMPACT FEE COORDINATOR)
6. Based on the Traffic Performance Standards (Category "B"), the Developer shall contribute an additional \$23,055.00 plus the impact fee of \$33,125.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of (\$56,180.00) to be paid prior to December 1, 1988 or prior to certification of the Master Plan whichever shall first occur.

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$23,055.00 shall be credited toward Fair Share Fee. (Previously Condition 9 of Resolution R-89-1039, Petition 89-1039(A)) (DRC: ENG)



7. The project entrance road shall be aligned with Arbor Glen PUD concurrent with the Master Plan approved for the PUD. (Previously Condition 11 of Resolution R-86-132, Petition 85-149) (DRC: ENG)

8. Condition 18 of Resolution R-86-132, Petition 85-149, which currently states:

The property owner shall construct an eight (8) foot wide bike path from Le Chalet Boulevard to the project's north property line.

Is hereby deleted.

9. Condition 12 of Resolution R-86-132, Petition 85-149, was deleted by Resolution R-94-944, SR85-149.3.

10. Condition 13 of Resolution R-86-132, Petition 85-149, was deleted by Resolution R-94-944, SR85-149.3.

11. Condition 14 of Resolution R-86-132, Petition 85-149, was deleted by Resolution R-94-944, SR85-149.3.

12. Condition 15 of Resolution R-86-132, Petition 85-149, was deleted by Resolution R-94-944, SR85-149.3.

13. The property owner shall install signalization if warranted as determined by the County Engineer at Haverhill Road and Le Chalet Boulevard. Should signalization not be warranted after 12 months of the final Certificate of Occupancy, this property owner shall be relieved from this condition. (Previously Condition 16 of Resolution R-86-132, Petition 85-149) (CO: MONITORING - Eng)

14. Condition 16 of Resolution R-86-132, Petition 85-149, which currently states:

Petitioner shall revise the proposed Master Plan to provide for a minimum of:

- a) 30 foot for the proposed parking tracts;
- b) 95 foot center line radius on all right of way curves.

Is hereby deleted.

15. If required by the County Engineer, the property owner shall convey to Palm Beach County, an adequate road drainage easement through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Haverhill Road along the property frontage and for maximum 400 foot Haverhill Road. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Sections (s) of the included segment. If required and approved by the County Engineer, the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation

by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (Previously Condition 6 of Resolution 94-944, SR85-149.3 (ENG)

16. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Haverhill Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County standards and codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING Eng)

F. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING HAVERHILL ROAD)

1. Condition 21 of Resolution R-86-132, Petition 85-149, which currently states:

**The developer shall construct a combination of berming and landscaping within the twenty-five (25) foot landscape strip along Haverhill Road.**

Is hereby amended to state:

Prior to the issuance of the first Certificate of Occupancy for the temporary wholesale nursery operation, landscaping and buffering along the west property line shall be upgraded to include:

- a. A minimum twenty (20) foot wide landscape buffer strip;
- b. One (1) canopy tree planted every thirty (30) feet on center;
- c. One (1) palm or pine tree for each thirty (30) linear feet of frontage with a maximum spacing of sixty (60) feet on center between clusters;
- d. A minimum one (1) to three (3) foot high undulating berm, with an average height of two (2) feet, measured from the top of the curb; and
- d. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE)

G. LANDSCAPING ALONG NORTH, SOUTH, AND EAST PROPERTY LINE (ABUTTING RESIDENTIAL AND CANAL)

1. Condition 6 of Resolution R-89-1039, Petition 85-149(A), which currently states:

**The developer shall install a combination of a berm and a hedge, to reach a height of six (6) feet within one (1) year, supplemented with canopy trees spaced thirty (30) feet on center, within the required twenty-five (25) foot buffer.**

Is hereby amended to read:

Prior to the issuance of the first Certificate of Occupancy for the PLID or January 1, 2008, whichever comes first, 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 continuous two (2) foot high berm measured from top of curb;
- c. One (1) canopy tree planted every thirty (30) feet on center;
- d. One (1) palm for each twenty-five (20) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters; and,

- e. Thirty (30) inch high shrub or hedge material installed at the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty six (36) inches. (CO/DATE: LANDSCAPE/MONITORING - Zoning)
2. Prior to the issuance of the first building permit for the nursery operation, the property owner shall post surety for the cost and installation of the landscaping contained in Condition G.1 for the east buffer. The surety shall be posted until December 31, 2008 or the eradication of the existing Australian pines to the east of the property and the installation of the required buffer, whichever comes first. (BLDG PERMIT: ZONING)
  3. Prior to the issuance of the first Certificate of Occupancy for the PUD, landscaping and buffering along the north property line shall be upgraded to include:
    - a. A minimum twenty **(20)** foot wide **landscape** buffer strip;
    - b. A continuous **two (2)** foot high **berm** measured from top of curb;
    - c. One (1) canopy tree planted every thirty (30) feet on center;
    - d. **One (1) palm** for each **twenty-five (20)** linear feet of property line with a maximum spacing of **sixty (60)** feet on center between clusters; and,
    - e. Thirty (30) inch high shrub or hedge material installed at the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty **six (36)** inches. (CO: LANDSCAPE)
  4. Prior to the issuance of the first Certificate of Occupancy for the PUD, landscaping and buffering along the **south** property line shall be upgraded to include:
    - a. A minimum **fifteen (15)** foot wide **landscape** buffer strip, no reductions shall be permitted;
    - b. One **(1)** canopy tree planted every thirty (30) feet on center;
    - c. **One (1) palm** for each **twenty-five (20)** linear feet of property line with a maximum spacing of **sixty (60)** feet on center between clusters; and,
    - d. Thirty (30) **inch** high shrub or hedge material installed at the plateau of the **berm**. Shrub or **hedge** material shall be spaced no more than twenty four **(24) inches** on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

H. LWDD

1. **The petitioner shall convey to the Lake Worth Drainage District the south thirty-five (35) feet of the subject property for the required right of way of Lateral Canal No. 20, by Quit Claim Deed or an Easement Deed in the form provided by said District, within ninety (90) days of approval of the resolution by the Board of County Commissioners. (Previously Condition 10 of Resolution R-86-132 and R-89-1039, Petitions 85-149 and 85-139(A)) [Completed by ORB 7433, Page 1221]**

I. LIGHTING FOR TEMPORARY WHOLESALE NURSERY

1. All **outdoor** lighting used to illuminate the **subject** property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)

2. All outdoor lighting fixtures shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 7:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)
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)

**J. MASS TRANSIT REQUIREMENTS FOR THE PUD**

1. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or Palm Tran. (DRC: ZONING)
2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to the issuance of the ~~triten~~ (13th) unit. The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

**K. PARKS AND RECREATION REQUIREMENTS FOR THE PUD**

1. Condition 2 of Resolution R-89-1039, Petition 85-149(A), which currently states:

Prior to certification, the site plan shall be amended to indicate the following:

- a) required .67 acres of recreation or reference to provisions of the recreation regulations as provided in the Subdivision Ordinance, Article IX, Section VIII.B.2: and,
- b) Open Space calculations in accordance with Section 500.21.J. of the Zoning Code. The master plan shall clearly identify a minimum of 4.3 acres of bona fide open space.

~~Is~~ hereby deleted. [Reason: Code requirement]

2. Condition 5 of Resolution R-89-1039, Petition 85-149(A), which currently states:

The petitioner shall provide the equivalent value of .013 acres of land per dwelling unit for recreational uses and provide guarantee for all proposed recreational facilities in a form acceptable to the County Engineer at time of plat as required under Article IX of the Palm Beach County Subdivision and Platting Regulations Ordinance 734.

~~Is~~ hereby deleted. [Reason: Code requirement]

3. Any parcel of land used to satisfy minimum recreation requirements shall adhere to the following dimensions:
  - a. Minimum parcel size shall **be** seven thousand five hundred **(7,500)** square feet exclusive of easements.
  - b. Minimum parcel width shall average seventy five (75) feet **with** no dimension less than fifty **(50)**feet.
  - c. Minimum parcel depth shall average one hundred (100) feet **with** no dimension less than seventy five **(75)** feet.
  - d. The Parks and Recreation Department may waive this condition when considering location, abutting land uses, accessibility, recreation facilities to be offered and the recreation parcels' function in the overall recreation and open space network of the development. (DRC: PARKS)

L PLANNED UNIT DEVELOPMENT

1. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
2. Street trees shall be planted in or adjacent to all rights-of-way, pursuant to Section 6.8.A.23.d(3) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Bike lanes shall **be** provided in or adjacent to all rights-of-way over fifty **(50)** feet in width, pursuant to Section 6.8.A.23.d(4) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (PLAT: **ENG** - Zoning)
5. **All** property included in the legal description of the petition shall be **subject** to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office **which** shall, among other things, provide for: formation of a single "master" property **owner's** association, automatic voting membership in the master association by any party holding title to any portion **of** the subject property, and assessment of all members of the master **association** for the cost of maintaining all common areas.

The property shall not be subjected to the Declaration of **Restrictions** in phases. Approval **of** the Declaration must be obtained from the County Attorney's office prior to the issuance of the first building **permit**, **or** recordation of the first plat for any portion of the planned **development**, whichever occurs first. (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

M. SCHOOL BOARD

1. The petitioner **shall** post in a clear and visible location in all sales offices and model homes a sign provided by the School Board of Palm Beach County which indicates that **school** age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

N. SIGNS

1. Freestanding point of purchase signs for the temporary wholesale nursery use fronting on Haverhill Road shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - six (**8**) feet;
  - b. Maximum sign face area per side - **40** square feet;
  - c. Maximum number of signs - one (**1**);
  - d. Location - within twenty (20) feet of the temporary access for the wholesale nursery; and,
  - e. Style - monument style only. (CO: BLDG)

O. USE LIMITATION FOR TEMPORARY WHOLESALE NURSERY

1. The gross building area for the wholesale nursery shall be limited to a 5,000 square foot storage building, inclusive of a 720 square foot office. (DRC: ZONING)
2. The use of the site as a wholesale nursery operation shall **cease** on December 4, 2002. All structures associated with the nursery use shall be removed from the site. A maximum of one (1) two (2) year time extension will be allowed for the temporary wholesale nursery operation. (DATE: MONITORING - Code ENF)
3. The hours of operation and loading activities shall be limited from 7:00 a.m. to 7:00 p.m. daily. (ONGOING: CODE ENF)
4. The operation of heavy machinery or refrigerated vehicles shall be prohibited. (ONGOING: CODE ENF)
5. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF)
6. The following shall not be permitted on the site:
  - a. Retail sales;
  - b. Chipping and mulching;
  - c. Log cutting; and,
  - d. Mobile home, RV or trailer as an office or residence. (ONGOING: CODE ENF)
7. Prior to final site plan approval by the Development Review Committee, a water use permit shall be obtained from the South Florida Water Management District. (DRC: ZONING)

P. COMPLIANCE

1. Condition 11 of Resolution 89-1039, Petition 85-149(A), which currently states:

**Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.**

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; 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 noncompliance, 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)