

RESOLUTION NO. R-98- 569

RESOLUTION APPROVING ZONING PETITION CA97-63  
CLASS A CONDITIONAL USE  
PETITION OF JULIE WIESNER  
(FARMERS DAUGHTER RETAIL 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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA97-63 was presented to the Board of County Commissioners at a public hearing conducted on April 23, 1998; 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 Unified Land Development Code (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA97-63, the petition of Julie Wiesner, for a Conditional Use Class A (CA) to allow a Nursery, retail in the Agricultural Residential (AR) 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 April 23, 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 McCarty and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on April 23, 1998.

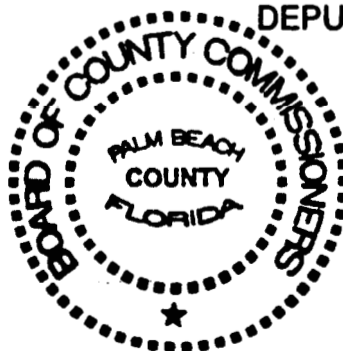
APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



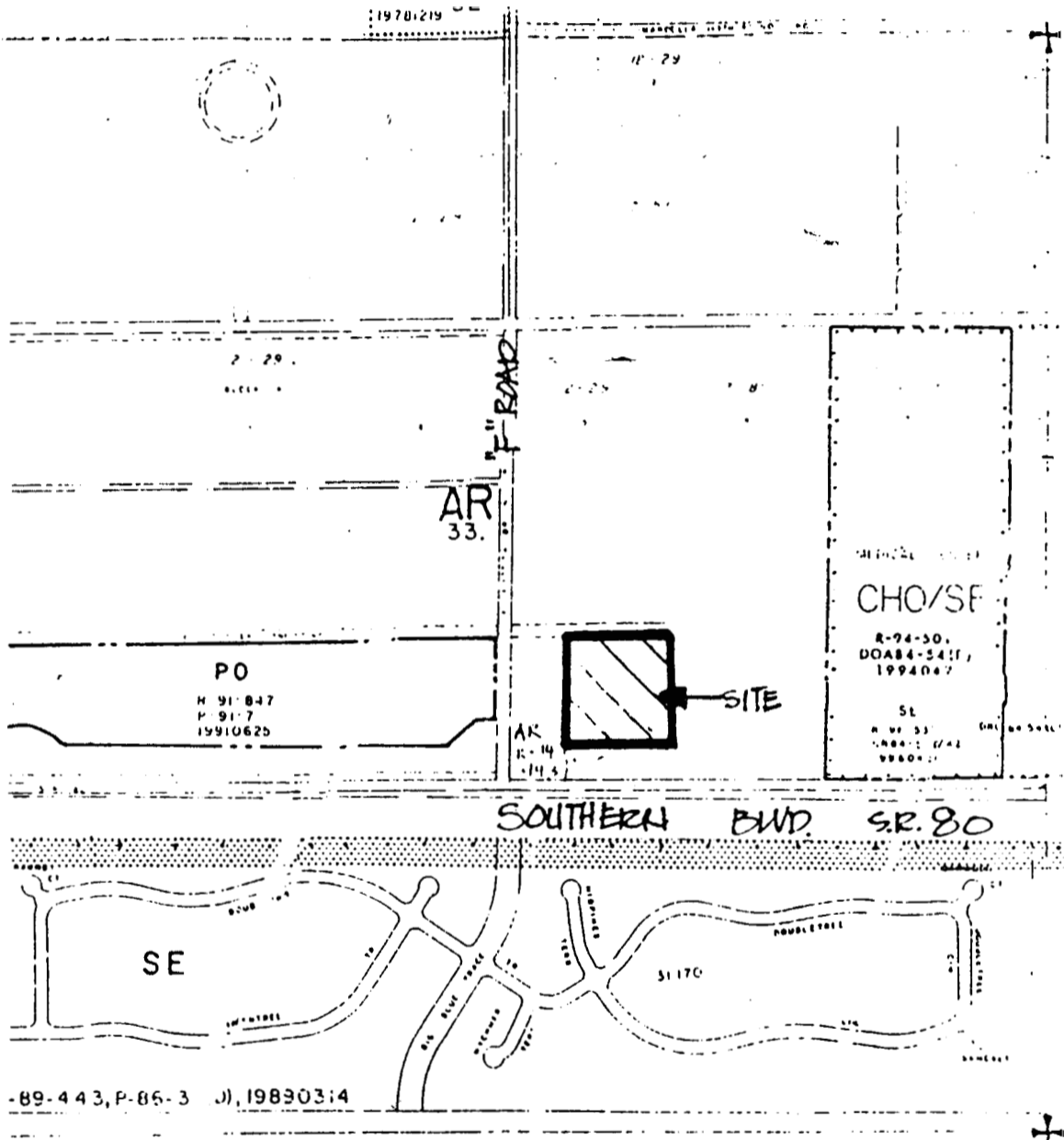
**EXHIBIT A**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

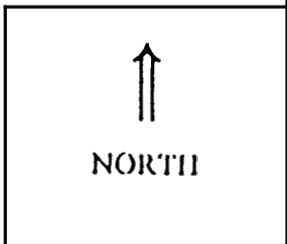
The East 479.5 feet of South 700 feet of Tract 5 (Less South 160 feet State Road 80 Right of Way) Block K LOXAHATCHEE GROVES, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 12, Page 29.

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH/ZONING



Petition Number: 97-63  
Zoning Quad Page \_\_\_\_\_  
Date: \_\_\_\_\_



## EXHIBIT e

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated January 27, 1998. 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. (DRC: ZONING)

#### B. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Existing native vegetation is located within the north fifty (50) feet of depth of the property line and meets the ULDC minimum requirements. This shall be preserved as landscape buffer. (CO: LANDSCAPE)

#### C. LANDSCAPING ALONG SOUTH PROPERTY LINE (SOUTHERN BOULEVARD FRONTAGE)

1. Landscaping and buffering along the south property line shall include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip;
  - b. One (1) native tree spaced no more than thirty (30) feet on center; and
  - c. Twenty ~~four~~ (24) high native shrub ~~or~~ hedge material, spaced no more than twenty four (24) inches ~~on~~ center at installation, ~~to be~~ maintained at a minimum height of thirty six (~~36~~) inches.
  - d. Credit may ~~be~~ given ~~for~~ existing ~~or~~ relocated ~~trees~~ provided they meet current ULDC requirements. (CO: LANDSCAPE)

#### D. LANDSCAPING ALONG THE SOUTH 140 FEET (OUTSIDE THE 220 FEET ULTIMATE R.O.W. OF SOUTHERN BOULEVARD) OF THE EAST AND THE WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property lines shall include:
  - a. A minimum ten (10) foot wide landscape ~~buffer~~ strip;
  - b. ~~One~~ (1) native tree spaced no more than twenty (20) feet on center; and
  - c. Twenty four (24) high native shrub ~~or~~ hedge material, spaced no more ~~than~~ twenty ~~four~~ (24) inches ~~on~~ center at installation, to be maintained at a minimum height of seventy two (72) inches.
  - d. Credit may ~~be~~ given ~~for~~ ~~existing~~ ~~or~~ relocated ~~trees~~ provided they meet current ULDC requirements. (CO: LANDSCAPE)

#### E. ENGINEERING

1. The property owner shall pay a Fair Share Fee in the amount ~~of~~ \$10,709 prior to site plan approval by the Development Review Committee. (177 Total trips ~~X~~ \$60.50 per trip) (DRC APPROVAL: ENG)

2. There shall be no temporary retail structures, shade houses, drainage retention/detention areas, or landscaping permitted located within the ultimate right of way of Southern Boulevard except one freestanding sign to be permitted as outlined in Conditions H1 and H2. The ultimate right of way for Southern Boulevard shall be 220 feet north of the existing south right-of-way line. The site plan to be approved by the DRC shall reflect this requirement. (ONGOING: CODE ENF - Eng)
  
3. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
  - A. Prior to January 15, 1999, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting Florida Department of Transportation Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
  
  - B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to July 15, 1998. (CODE MONITORING - Eng)
  
  - C. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to January 15, 1999. (BLDG PERMIT- DATE: MONITORING - Eng)
  
4. No wholesale or retail nursery activity shall be permitted on this site until the contract has been let for the following improvements at the intersection of Big Blue Trace and Southern Boulevard:
  - a) east approach dual left turn lanes
  - b) widening of the bridge on the south approach.
 (BLDG PERMIT/OCCUPATION LIC: MONITORING-Eng)

F. HEALTH

1. 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)

G. LIGHTING

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 five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 8:00 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)

H. SIGNS

1. Freestanding signs fronting on Southern Boulevard shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet; and
  - b. Maximum sign face area per side - sixty (60) square feet;
  - c. Maximum number of signs - one (1). (CO: BLDG)
2. One freestanding sign may be located within the 220 foot wide ultimate right-of-way of Southern Boulevard subject to a removal agreement and approval of the County Engineer. (CO: BLDG/ENG - Zoning)

I. USE LIMITATIONS

1. Hours of operation and loading activities shall be limited from 7:00 a.m. to 7:00 p.m. Monday to Saturday and 12:00 p.m. to 5:00 p.m. Sunday. (ONGOING: CODE ENF)
2. On-site operation of heavy machinery or refrigerated vehicles shall be prohibited from 7:00 p.m. to 7:00 a.m. daily. (ONGOING: CODE ENF)
3. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF)
4. Outdoor retail sales for the retail nursery shall be limited to horticultural related products/specialties. No temporary amusements or special events (i.e. carnivals, circuses, auctions, tent revivals, flea markets, etc.) are permitted on the site. (ONGOING/SPECIAL PERMIT: CODE ENF/ZONING-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. Failure to comply with any of the conditions of approval or violation of any condition of approval for the subject property at any time shall result in the petition being brought back to the Board of County Commissioners to consider the following:
  - 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. (MONITORING)