

RESOLUTION NO. R-99- 968

RESOLUTION APPROVING ZONING PETITION CA99-019  
CLASS A CONDITIONAL USE  
PETITION OF ELBERT & MELODYE ABELL  
BY ROBERT BASEHART, AGENT  
(ABELL'S 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 CA99-019 was presented to the Board of County Commissioners at a public hearing conducted on May 27, 1999; 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 CA99-019, the petition of Elbert & Melodye Abell, by Robert Basehart, agent, for a Class A Conditional Use (CA) to allow a retail nursery in the Residential Transition Suburban (RTS) 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 May 27, 1999, 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 Masilotti and, upon being put to a vote, the vote was as follows:

|                           |   |        |
|---------------------------|---|--------|
| Maude Ford Lee, Chair     |   | Aye    |
| Warren Newell, Vice Chair | — | Absent |
| Karen T. Marcus           | — | Aye    |
| Carol A. Roberts          | — | Aye    |
| Mary McCarty              | — | Absent |
| Burt Aaronson             | — | Aye    |
| Tony Masilotti            | — | Aye    |

The Chair thereupon declared that the resolution was duly passed and adopted on May 27, 1999.

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

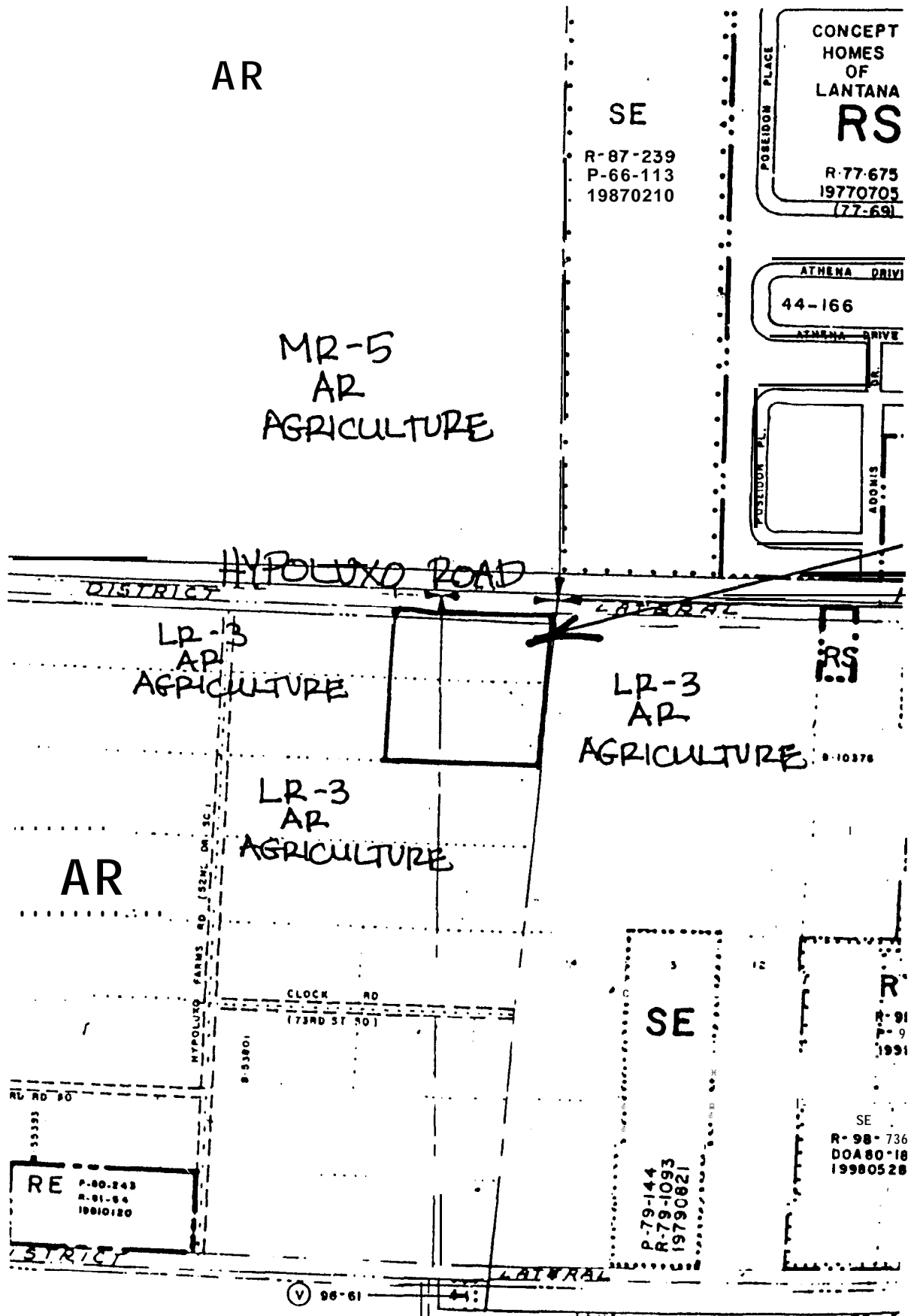


EXHIBIT A  
LEGAL DESCRIPTION

THE EAST HALF OF TRACT 15 AND 16 OF HYPOLUXO FARMS, ACCORDING TO THE UNRECORDED PLAT THEREOF PREPARED BY E. ELLIOTT GROSS AND ASSOC., ENG., WEST PALM BEACH, FL, JUNE 1954, BEING A SUB-DIVISION OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, WHICH NORTHEAST CORNER IS 2,652.23 FEET WESTERLY FROM THE CENTERLINE OF MILITARY TRAIL; THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 11, A DISTANCE OF 678.52 FEET; THENCE WESTERLY MAKING AN ANGLE OF 97°37'24" WITH THE PRECEDING COURSE, MEASURED FROM NORTH TO WEST, A DISTANCE OF 649.89 FEET; THENCE NORTHERLY MAKING AN ANGLE OF 87°45'54", MEASURED FROM EAST TO NORTH, A DISTANCE A DISTANCE OF 679.52 FEET TO A POINT IN THE NORTH LINE OF SAID SECTION 11; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 11 A DISTANCE OF 666.295 FEET TO A POINT OF BEGINNING, EXCEPTING THEREFROM, THE NORTH 56 FEET AS CANAL RIGHT-OF-WAY.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved revised site plan is dated March 25, 1999. 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)
2. Prior to DRC final site plan approval, the petitioner shall revise the site plan to indicate a fifteen (15) foot landscape buffer along the north property line and the proposed landscaping shall be consistent with Conditions C.1, C.2 and F1. (DRC: ZONING)

#### B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 7,500 square feet. Expansion shall be limited to five (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)
2. The maximum height for the proposed structure measured from finished grade to highest point, shall not exceed twenty five (25)feet. (BLDG PERMIT: BLDG - Zoning)
3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

#### C. LANDSCAPING - STANDARD

1. All canopy trees required to be planted at the perimeter of the site by this approval 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 at the perimeter of the site by this approval 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)

D. HEALTH

1. Application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 64E-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)
2. Application and engineering plans to construct a limited use commercial well in accordance with Rule 64E-8 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)
3. 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)

E. ENGINEERING

1. Prior to the issuance of the first Building Permit the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed right of way for Haverhill Road, a total of 80 feet on an alignment approval by the County Engineering plus the expanded intersection right of way as identified on Palm Beach County's typical expanded intersection details. This additional right of way shall be free of all encumbrances and encroachments and on an alignment approved by the County Engineer. Property owners shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. The Property owner may request the use of the Haverhill right-of-way through an approved License Agreement with the Board of County Commissioners. Use of the Haverhill Road right-of-way shall be for the purpose of growing containerized plants on a temporary basis until the Haverhill Road is required for roadway purposes. (DATE/BLDG PERMIT: MONITORING-Eng)
2. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along the Haverhill Road right of way to be conveyed 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)
3. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS
  - A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Hypoluxo Road right-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. When permitted by Palm Beach County Department of Engineering and Public Works, 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 assignees 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 on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation, prior to issuance of a building permit to reflect this obligation. (BLDG.PERMIT: MONITORING - Eng)

F. LANDSCAPING ALONG NORTH PROPERTYLINE (ABUTTING HYPOLUXO ROAD)

- 1. Landscaping and buffering along the north property line shall include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip; and
  - b. One (1) canopy tree spaced no more than twenty (20) feet on center;
  - c. One (1) palm or pine tree for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
  - d. Twenty (24) 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 thirty six (36) inches. (CO: LANDSCAPE)

G. LANDSCAPING ALONG THE SOUTH, EAST AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the south, east and west property lines shall include:
  - a. A minimum ten (10) foot wide landscape buffer strip;
  - b. One (1) canopy tree spaced no more than twenty (20) feet on center;
  - c. 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 seventy two (72) inches. (CO: LANDSCAPE)

H. SIGNS

1. Freestanding signs fronting Hypoluxo Road shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
  - b. Maximum sign face area per side - one hundred (100) square feet;
  - c. Style - monument style only. (CO: BLDG)
  - d. Maximum number - one (1). (BLDG. PERMIT: BLDG. -Zoning)
2. Wall signs shall be limited to the north facade of the proposed building only. (BLDG. PERMIT: BLDG. -Zoning)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, 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)

J. USE LIMITATIONS

1. Hours of operation and loading activities shall be limited from 7:00 a.m. to 7:00 p.m. daily. (ONGOING: CODE ENF)
2. The operation of heavy machinery or refrigerated vehicles on site 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. No overnight parking of trucks and oversized vehicles in the parking area along the (Hypoluxo Road) northern property line.(ONGOING: CODE ENF)

K. COMPLIANCE

1. 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)