

RESOLUTION NO. ZR-98-01

RESOLUTION APPROVING ZONING PETITION CB97-08
CLASS B CONDITIONAL USE
PETITION OF CASHMAN PARTNERSHIP II AND RORABECKS PLANTS &
PRODUCE, INC.
BY BERIL KRUGER, AGENT
(RORABECKS WHOLESALE PLANT NURSERY)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class B 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 CB97-08 was presented to the Zoning Commission at a public hearing conducted on March 5, 1998; and

WHEREAS, the Zoning Commission 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 Zoning Commission made the following findings of fact:

1. This Class **B** Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class B 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 B Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class B Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach county 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 B 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 **B** Conditional Use meets applicable local land development regulations.
7. This Class B Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Class B Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards.
9. This Class B 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 B Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
11. This Class B Conditional Use, with conditions as adopted, is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CB97-08, the petition of Cashman Partnership II and Rorabeck's Plants & Produce, Inc., by Beril Kruger, agent, for a Class B Conditional Use (CB) to allow a Wholesale plant nursery with accessory Type II Excavation (.93 acre) 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 March 5, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Hyman moved for the approval of the Resolution.

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

Kevin Foley, Chair	--	Aye
Mikel Jones, Vice Chair	--	Aye
Frank A. Barbieri, Jr.	--	Aye
Sherry Hyman	--	Aye
Peter Carney	--	Aye
Allan Kaplan	--	Aye
William Anderson	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on April 2, 1998.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY


BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

That South Half (S 1/2) of Tract Sixteen (16) in the Northwest Quarter of Section 36, Township 44 South, Range 42 East, according to the Plat thereof recorded in Plat Book 3, page 10, Palm Beach County, Florida, Public Records. (Less the East 67.00 feet thereof for S.R. 809)

and:

Tract 10, of the NW 1/4 of Section 36, Township 44 South, Range 42 East, 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 3, page 10; together with all improvements thereon. (Containing 15.290 acres)

PARCEL 2

The West 190 feet of the East 240 feet of the North 1/2 of the North 1/2 of Tract 16, a subdivision of the Northwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plat thereof recorded in Plat Book 3, page 10 of the Public Records of Palm Beach County, Florida subject to a 10 foot easement along the North side and a 15 foot easement on the South side and also the West 190 feet of the East 240 feet of the South 1/2 of the North 1/2 of tract 16, a subdivision of the Northwest 1/4 of Section 36, Township 44 South, Range 42 East, according to the plot thereof recorded in Plat Book 3, page 10 of the Public Records of Palm Beach County, Florida subject to an 10 foot easement, along the South side and a 15 foot easement on the North side and less that property conveyed in deed recorded in Official Record Book 5990, Page 694, Public Records of Palm Beach County, Florida. (Containing 1.359 acres)

TOTAL ACREAGE: 16.649 ACRES (PARCELS 1 AND 2 COMBINED)

EXHIBIT B
VICINITY SKETCH

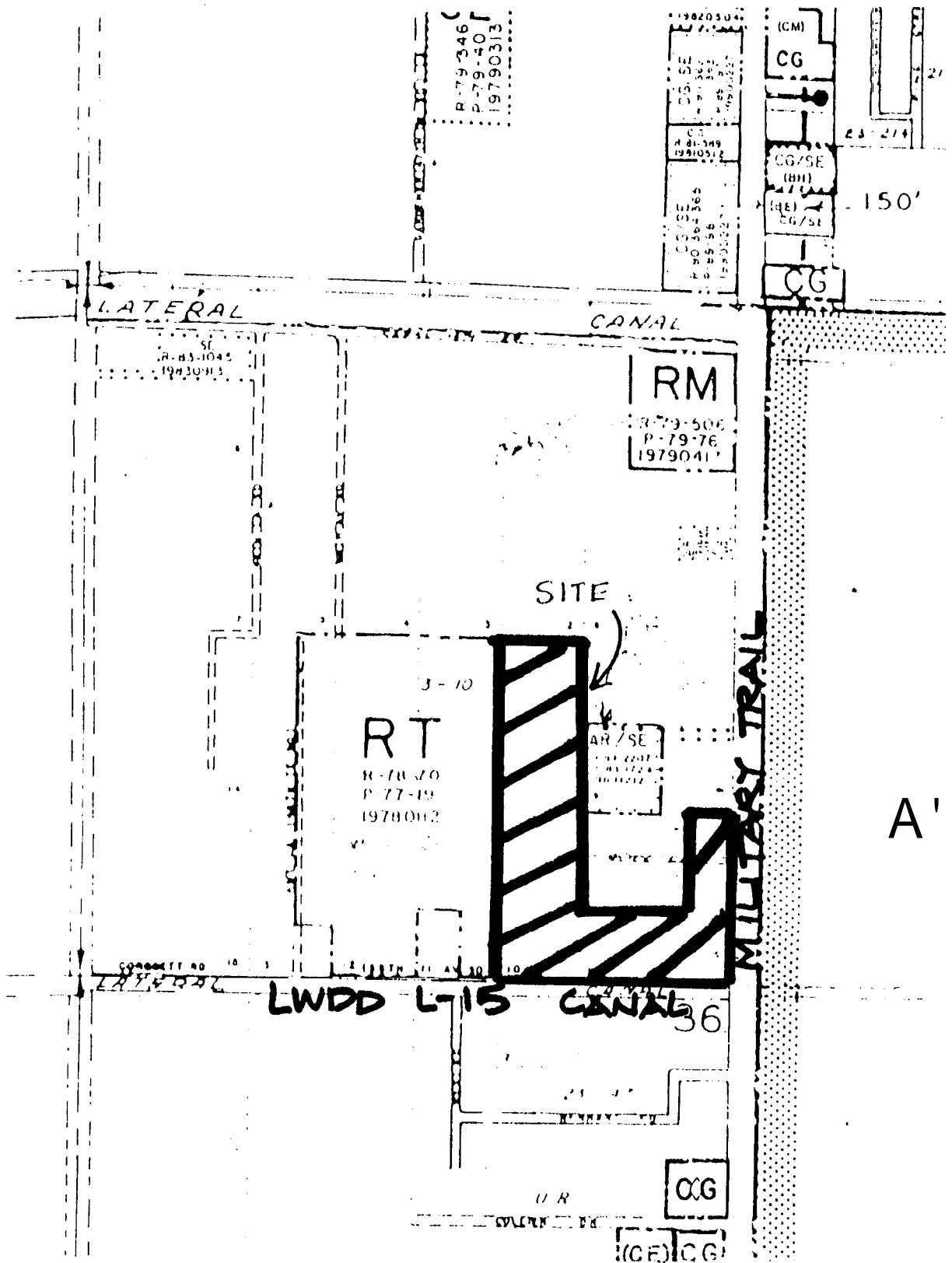


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses, structures, and site design as approved by the Zoning Commissioners. The approved site plan is dated September 10, 1997. All modifications must be approved by the Zoning 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 shadehouses shall be setback a minimum of fifteen (15) feet from the north, south and west property lines and a minimum twenty-five (25) feet from the east property line. (DRC: ZONING)
2. The proposed pond shall be limited to a maximum area of 0.93 acre and shall remain in the location indicated on the site plan approved by the Zoning Commission dated September 10, 1997. (ONGOING: CODE ENF)
3. The maximum height for all enclosed or partially enclosed accessory storage structures of the 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)
4. The petitioner shall submit an application to the Development Review Committee (DRC) on or before May 26, 1998 for the certification of the site plan approved by the Zoning Commissioners dated September 10 1998. (DATE: MONITORING - Zoning)

C. 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. (ONGOING: HEALTH/CODE ENF)

E. ENGINEERING

1. 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 all adjacent median of Military Trail right-of-way. 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 Owners' 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, prior to issuance of a building permit to reflect this obligation. (BLDG.PERMIT: MONITORING - Eng.)

F. LANDSCAPE - STANDARD

- 1. All canopy trees required to be planted on 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; and,
 - 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 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. Prior to August 26, 1998, the petitioner shall submit a minimum of two (2) sets of signed and sealed landscaping plans for all perimeter buffer plantings to the Landscape Section for review prior to installation. (MONITORING: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINE (ADJACENT TO RESIDENTIAL)

1. Prior to September 26, 1998 or the issuance of the first building permit, whichever comes first, landscaping and buffering along the north and west property lines shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. A six (6) foot high black or green vinyl coated chain link fence setback a minimum of ten (10) feet from the property line. Privacy slats may be used to meet the opacity requirements at time of installation;
 - c. One (1) canopy tree planted every thirty (30) feet on center, with a maximum spacing of sixty (60) feet on center between clusters;
 - d. One (1) palm for each twenty-five (25) 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 spaced no more than twenty four (24) inches on center and maintained at a minimum height of seventy-two (72) inches. (DATE/BLDG PERMIT: MONITORING - Landscape/Zoning)

H. LANDSCAPING ALONG EAST PROPERTY LINE (ALONG MILITARY TRAIL)

1. Prior to September 26, 1998 or the issuance of the building permit, whichever comes first, landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum fifteen (15) 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; 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 thirty-six (36) inches. (DATE/BLDG PERMIT: MONITORING - Landscape/Zoning)
2. If a fence or wall is to be used within the buffer, it shall meet the following requirements:
 - a. The barrier shall be setback a minimum of ten (10) feet from the base building line or property line, whichever is greater, and must not encroach into any safe sight triangles;
 - b. If a chain link fence is used, it must match the fencing required on the north and east buffers;
 - c. All queuing distances for gates along the barrier approved by the Zoning Division and the Engineering Department; and,
 - d. All planting materials shall be on the exterior side of the fence or wall. (DATE/BLDG PERMIT: MONITORING - Zoning/bldg)

I. LIGHTING

1. All outdoor lighting shall be extinguished no later than 7:00 p.m. Monday through Friday, and 5:00 p.m. on Saturday, excluding security lighting only. (ONGOING: CODE ENF)

J. SIGNS

1. All signage, including wall mounted, freestanding, and directional or the property shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. Maximum sign face area per side - fifteen (15) square feet;
 - c. Maximum number of signs - one (1) along Military Trail;
 - d. Copy - Company's name and "Wholesale entrance only";
 - e. Style - monument style only; and,
 - f. Location - within twenty-five (25) feet of the Dow Road entrance. (CO: BLDG)
2. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)

K. UNITY

1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of control for the subject property, the area within the cross access agreement and the 6.1 acre wholesale nursery south of LWDD L-15 canal (Rorabeck Farms, Petition 97-66, Project # 5384-000). The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director and shall include the recorded LWDD Cross Access Agreement and Piping License Agreement (O.R.B. 10207, Pages 1865-1877). (DRC: ZONING - Co Att)
2. Prior to the release of the Unity of Control, the property owner shall do the following:
 - a. Obtain written approvals from the Zoning Director and the County Attorney; and,
 - b. Compliance to all applicable code requirements for all facilities and improvements for a wholesale nursery operation, including but not limited to, an office, bathrooms, and parking and loading areas for employees and customers. Compliance shall mean obtaining all required approvals and permits. (ONGOING/BUILDING PERMITS: CODE ENF/ZONING - Health)

L. USE LIMITATION

1. Use of the site shall be limited to cultivation on and growing area for the wholesale of horticultural specialties such as flowers, shrubs, sod, and trees, intended for ornamental or landscaping purposes. (ONGOING/DRC: CODE ENF/ZONING)
2. Business activity shall not be allowed on site, including loading and deliveries, prior to 7:00 a.m. nor continue later than 7:00 p.m. Monday through Friday and 12:00 p.m. to 5:00 p.m. on Saturday, with no business activity permitted on Sunday. (ONGOING: CODE ENF)
3. The following uses shall not be permitted on the site:
 - a. Retail sales;
 - b. Chipping and mulching;

- c. Log cutting;
 - d. Repair and maintenance of vehicles;
 - e. Operation of refrigerated vehicles; and,
 - e. Mobile home, RV or trailer as an office or residence. (ONGOING: CODE ENF)
4. 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)
 5. The operation heavy machinery and equipment shall be prohibited from 7:00 p.m. to 7:00 a.m. daily. (ONGOING: CODE ENF)

M. COMPLIANCE

1. In granting this approval, the Zoning 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 Zoning Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. 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 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)