

RESOLUTION NO. ZR-2001-004

RESOLUTION APPROVING ZONING PETITION CB2001-007  
CLASS B CONDITIONAL USE  
PETITION OF E. WAYNE LEGUM  
BY BERIL KRUGER, AGENT  
(LEGUM WHOLESALE 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 CB2001-007 was presented to the Zoning Commission at a public hearing conducted on August 2, 2001; 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 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 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 CB2001-007, the petition of E. Wayne Legum, by Beril Kruger, agent, for a Class B Conditional Use (CB) to allow a wholesale nursery 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 August 2, 2001, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kaplan moved for the approval of the Resolution.

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

William Anderson, Chair	-- aye
Frank A. Barbieri, Jr., Vice Chair	-- aye
Kevin Foley	-- aye
Sherry Hyman	-- absent
Allan Kaplan	-- aye
Peter Carney	-- aye
Wayne M. Richards	-- aye

The Chair thereupon declared that the resolution was duly passed and adopted on August 2, 2001.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS ZONING COMMISSIONERS

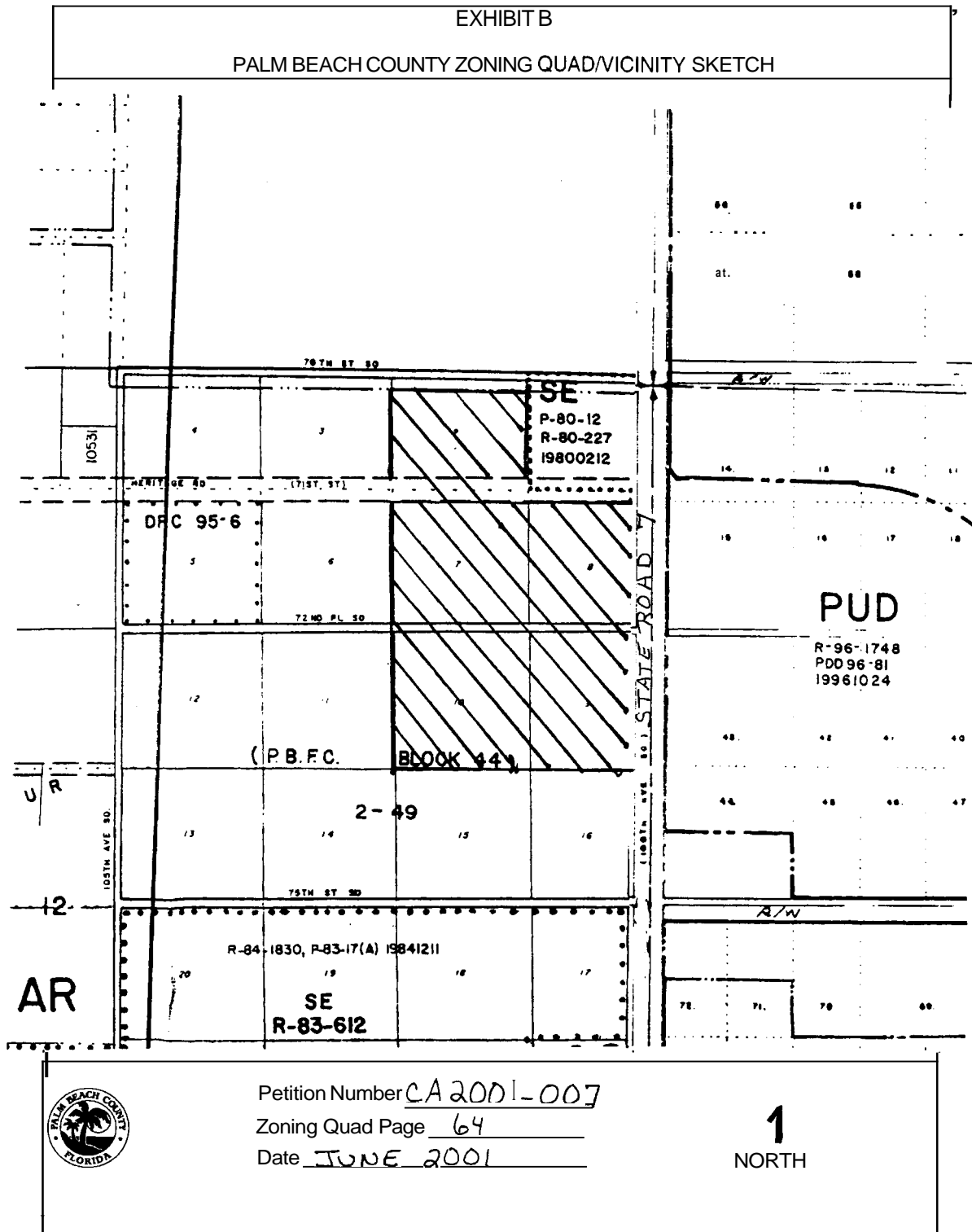
BY:   
COUNTY ATTORNEY


BY:   
CHAIR

EXHIBIT A  
LEGAL DESCRIPTION

TRACTS 2,7,8,9, AND 10, BLOCK 44, PALM BEACH FARMS COMPANY, PLAT N0.3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE R/W FOR STATE ROAD 7 (US 441) AND LESS THE NORTH 30.36 FEET OF SAID TRACT 2 (L.W.D.D. CHANCERY CASE 407).

EXHIBIT B  
VICINITY SKETCH




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**1**  
NORTH

## 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 Zoning Commission. The approved site plan is dated July 10, 2001. All modifications must be approved by the Zoning-Commission 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 office, loading, parking, internal roads and non-growing areas shall be setback a minimum of fifty (50) feet from all property lines. (DRC: ZONING)

#### C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within one hundred (100) feet of any property line and shall be confined to the areas designated on the site plan. (DRC/ ONGOING: ZONING /CODE ENF)

#### D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The 4.8 acre preserve and any incorporated native vegetation shall remain in size and location as depicted on the approved site plan. (DRC: ERM)

#### E. ENGINEERING

##### 1. LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- A. Prior to October 1, 2002, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of SR 7 Right-of-way. 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 latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing 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. (DATE: MONITORING - Eng)
- B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to

the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. 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' 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 April 1, 2003. (DATE: MONITORING-Eng)

- C. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to October 1, 2002. (DATE: MONITORING-Eng)

F. HEALTH

- 1. Application and engineering plans to construct a limited use commercial well in accordance with Rule 64E-8FAC and Palm Beach County ECR-II 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 an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 64E-6 FAC and Palm Beach County ECR-1 must be submitted to the Palm Beach County Health Department prior to the final site plan review. (DRC: HEALTH)
- 3. All necessary precautions shall be taken to prevent leaking 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 impervious surfaces sufficiently bermed to prevent runoff. (ONGOING: HEALTH/CODE ENF)

G. LANDSCAPE BUFFERS

- 1. All buffers shall be consistent with the wholesale nursery requirements adopted by the Board of County Commissioners on July 24, 2001 around all growing areas. (DRC: ZONING)

H. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, 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 fifteen (15) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
- 3. All outdoor lighting shall be extinguished no later than 6:00 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)

I. PARKING

1. Parking and storage of all nursery vehicles/trailers shall be a minimum of one hundred (100) feet from all property lines. (ONGOING: CODE ENF)

J. SIGNS

1. Freestanding point of purchase signs fronting on State Road 7/US 441 shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - four (4) feet;
  - b. Maximum sign face area per side - 40 square feet;
  - c. Maximum number of signs - two (2); and
  - d. Style - monument style only. (CO: BLDG)
  - e. Signage must be located along State Road 7/US 441 frontage **only**.

K. COMPLIANCE

1. In granting this approval, the Zoning Commission 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-Commission 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 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 Code Enforcement Special Master 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)