

RESOLUTION NO. R-92- 950

RESOLUTION APPROVING ZONING PETITION NO. 91-32
SPECIAL EXCEPTION PETITION OF ROBERT L., SR. & RUTH HOWARD

WHEREAS, the Board of County Commissioners, as the governing body, 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 notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 91-32 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 29, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 91-32, the petition of ROBERT L., SR. AND RUTH HOWARD, BY ROBERT L. HOWARD, JR., AGENT, for a SPECIAL EXCEPTION TO ALLOW A POTTING SOIL MANUFACTURING, CHIPPING AND MULCHING FACILITY on a parcel of land lying in Section 6, Township 41 South, Range 42 East, being more particularly described as follows: COMMENCING at the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section 6; thence S89°45'41"E along the south line of said Section 6, a distance of 999.42 feet, to the POINT OF BEGINNING; thence N01°52'46"E a distance of 1,005.42 feet; thence S89°45'41"E a distance of 100.00 feet; thence N01°52'46"E a distance of 92.02 feet; thence S89°45'41"E a distance of 236.89 feet; thence N01°52'46"E a distance of 253.31 feet; thence S89°47'41"E a distance of 300.85 feet; thence S01°41'28"W a distance of 1,005.77 feet; thence N89°45'41"W a distance of 303.88 feet; thence S01°52'46"W a distance to 335.05 feet, to a point in the south line of said Section 6; thence N89°45'41"W along the south line of said Section 6, a distance of 336.89 feet to the POINT OF BEGINNING; SUBJECT TO a 60.00 foot road easement running adjacent with certain portions of this property as described and recorded in Official Record Book 1698, Page 316, and being located SW CORNER OF INTERSECTION OF 172ND ST. N. AND 94TH TERR. N., APPROX. .5 MILE E

OF JUPITER FARMS RD., was approved on August 29, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. This special exception is granted concurrent with a rezoning. Development of the site **is** limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 26). Any modifications must be approved by the Board of County Commissioners unless the proposed use **or** design changes are permitted pursuant to Zoning Code Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval.

B. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances - fuels, oils, solvents, or other hazardous chemicals - is required. The Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures.
2. Prior to site plan certification the Petitioner shall verify with the Department of Environmental Resources Management (**ERM**) the size, location, and condition of any aboveground tanks used on-site to store regulated substances. No underground tanks shall be permitted on-site without the approval of ERM.

C. HEALTH

1. The application and engineering plans to construct on site potable water supply and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval.
2. All portable sanitary facilities shall be removed from the site prior to site plan approval.

D. LANDSCAPING AND BUFFERING

1. Along all east and south property lines the petitioner shall preserve a twenty-five (25) foot wide native vegetation easement. This easement shall be cleared of all prohibited species and shall be supplemented to ensure a minimum density of one native tree for every 250 square feet of preservation area. The preservation area shall be supplemented with continuous twenty-four (24) inch high native understory plant material. Credit may be given for native plant material in these areas meeting these requirements.
2. Buffering along the west property line from the cypress head indicated on the site plan **to** the south property line shall include the following:
 - a. Required landscaping shall be installed on the exterior side of the fence.

- b. Existing native vegetation meeting this criteria may be counted towards this requirement.
3. A six (6) foot high wooden fence shall be installed along the southern most property line. Native canopy trees planted twenty (20) feet on center shall be installed on the exterior side of the required fence. Existing native vegetation meeting this criteria may be counted towards this requirement.
4. The north and west boundaries of the material and mulch storage areas shall be delineated by a minimum six (6) foot high fence.
5. No mulching, chipping, storage or other outdoor activity shall be permitted within the south three-hundred and fifty (350) feet of the southernmost property line.
6. All landscaping required to be installed on site by this approval shall meet the following minimum standards, except as may be superseded by the Landscape Betterment Plan:
 - a. Tree height - fourteen (14) feet;
 - b. Trunk diameter - 3.5 inches at 4.5 feet above grade; and
 - c. Canopy diameter - Seven (7) feet.

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.
2. Prior to Site Plan approval the property owner shall enter into a perpetual maintenance agreement for the existing truck route from Jupiter Farms Road. This maintenance agreement shall remain in effect as long as the special exception remains active.
3. The Property owner shall re-construct the existing access from Jupiter Farms Road to a minimum of a twenty (20) foot travel lane. Construction of a shellrock road is acceptable. This construction shall be concurrent with the Drainage Permit and shall be completed within 90 days of issuance of this Drainage Permit.
4. The property owner 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 at the time of the Building Permit presently is \$1,595.00 (29 trips x \$55.00 per trip).

5. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney.

F. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets.
2. Lighting fixtures shall not exceed twenty (20) feet in height and shall be for security purposes only.

G. RECYCLE SOLID WASTE

1. The property owner shall participate in a household recycling program when available in the area. Household material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

H. SIGNS

1. The signs on the site shall be limited as follows:
 - a. Maximum sign number - One (1).
 - b. Maximum sign size - Twenty (20) square feet.
 - c. Maximum sign height - Six (6) feet.
2. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted on-site.

I. SITE SPECIFIC

1. Access to the site shall be a minimum of twenty-five (25) feet wide at the right-of-way. The access driveway shall be a minimum of five (5) feet away from the west property line.

J. USE LIMITATIONS

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.
2. Overnight storage or parking of delivery vehicles or trucks over one (1) ton capacity shall not be permitted on site.
3. Incineration shall not be permitted on the site.

4. Operation hours shall be limited to 8:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 12:00 noon on Saturdays. The facility shall be closed on Sundays.
5. **No** additional residential square footage shall be permitted on the site.
6. The use of the facility shall be limited to chipping and mulching of only organic vegetative material.
7. The maximum height of stock-piled material shall not exceed twelve (12) feet.
8. Grinding or the operation of grinding equipment shall not be permitted on weekends and holidays.
9. Storage of material shall be limited to only the areas indicated for storage on the certified site plan.
10. Grinding activity (mulching) shall be placed at a minimum distance of 300 feet from the south property line and at a minimum of 100 feet from all other property lines.
11. The property owner shall not operate any machinery or use which exceeds 50 decibels at any property line at any time.
12. There shall be no operation or storage within 250 feet of the southernmost property boundary running adjacent to the south Indian River Water Control District canal.
13. Petitioner shall file a list of equipment with the Code Enforcement Division, which may be updated from time to time.
14. Petitioner shall maintain property damage and liability insurance coverage in the minimum of \$500,000 total coverage.
15. Petitioner shall accept vegetative yard debris from Jupiter Farms residents on Saturday mornings at 1/2 the normal cost for the first 3 cubic yards of debris.

K. VEGETATION PROTECTION AND PRESERVATION

1. Native vegetation not located within buffer areas for removal, and deemed relocatable by the Zoning Division, shall be relocated to perimeter buffers or other open space areas on site.
2. Prior to removal of any vegetation on site, the petitioner shall schedule a Preclearing Inspection with the Zoning Division. All transplantable native vegetation shall be identified, numbered, tagged and incorporated into the landscape plan.
3. **No** Vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas.
4. **All** prohibited species shall be removed from the subject property prior to October 1, 1992.

L. COMPLIANCE

1. **As** provided in Zoning Code Sections **400.2** and **402.6**, failure to comply with any **of** these condition;; of approval at any time may result in:
 - a. 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; and/or
 - b. The revocation **of** the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously **granted** certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any **departmental-administrative** actions hereunder may be taken to the Palm Beach County Board **of** Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals **of** any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ **of** certiorari to the Fifteenth Judicial Circuit.

2. The Code Enforcement Division shall annually inspect the subject property to ensure compliance with all conditions of approval and all applicable codes and regulations, commencing August **29, 1992**.

Commissioner Elmquist moved for approval of the Resolution.

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


Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	ABSENT
Ken Foster	--	AYE
Maude Ford Lee	--	AYE


The Chair thereupon declared the resolution was duly passed and adopted this 7th day of July, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

MILTON T. BAUER, CLERK
Board of County Commissioners

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK