

RESOLUTION NO. R- 93 -1030

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA REINSTATING PETITION NO. 87-23, THE PETITION OF WILEY R. REYNOLDS, III FOR A SPECIAL EXCEPTION TO ALLOW EXCAVATION AND REMOVAL OF MUCK, SAND, ROCK, SHELL, SOIL OR OTHER EXTRACTION MATERIAL.

WHEREAS, on April 23, 1987, the Board of County Commissioners held a public hearing and approved Petition No. 87-23, the petition of Wiley R. Reynolds, III for a Special Exception; and

WHEREAS, this approval was affirmed by Resolution No. R-87-1182, dated August 11, 1987; and

WHEREAS, the petition and resolution were approved subject to thirteen (13) conditions; and

WHEREAS, the petitioner requested an administrative abandonment of the special exception because it was alleged that certain conditions of approval could not be met; and

WHEREAS, on May 24, 1989, the special exception was administratively abandoned, by letter of the Zoning Director; and

WHEREAS, the resolution approving the Special Exception was never revoked; and

WHEREAS, on July 29, 1993, the Board of County Commissioners heard an Administrative Inquiry recommending the reinstatement of the Special exception in order to allow the excavation to be properly completed and require the final build-out to be in compliance with County ordinances and conditions of approval; and

WHEREAS, representatives of the owners of lots 188-199, which are the subject of the excavation, appeared at the Administrative Inquiry and agreed to allow additional conditions to be placed on the Special Exception in order to protect the public health, safety and welfare; and

WHEREAS, on August 30, 1993, the Board of County Commissioners conducted a public hearing and heard evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various County review agencies; and

WHEREAS, this reinstatement is subject to all ULDC requirements, including Section 5.8; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This reinstatement, with the amended conditions, is consistent with the Comprehensive Plan and all other local land development regulations.

2. This reinstatement, with the amended conditions, will ensure that all time certain conditions of approval have been complied with and the excavation will proceed in accordance with an approved site plan.

3. This reinstatement, with amended conditions, will require that guarantees are in place to ensure that the excavation and final build-out will be in compliance with all County ordinances and Board imposed conditions of approval.

4. The conditions of approval ensure that the excavation will be closely monitored and brought back to the Board of County Commissioners for review every six (6) months or for code violations.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that Petition No. 87-23, the Petition of Wiley R. Reynolds, III for a Special Exception to allow excavation and removal of muck, sand, rock, shell, soil or other extractive materials on Lots 188-199, Homeland, in Section 2, Township 45 South, Range 41 East, as recorded in Plat Book 33, pages 111-116. The property **is** located on the south side of Bald Cypress Lane, approximately 1.4 miles west of **SR 7 (U. S. 441)** in an AR-Agricultural Residential Zoning District, was reinstated as amended subject to the following conditions:

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for Section 5.8 of the ULDC compliance, as amended, unless expressly modified. (MONITORING)

2. Condition No.1, **of** Resolution No. R-87-1182, which presently states:

Prior to site plan certification, the site plan shall be amended to indicate the following:

a. A buffer strip of a minimum twenty-five (25) feet in width between any excavation operations and property lines.

Is hereby amended to state:

The Reclamation Plan shall delineate the following standards for buffering and setbacks pursuant to Article 7.6.G.4.a. (1),(2),(3), (4) & (6) of the ULDC. (ZONING)

3. **The developer shall retain the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this proposed excavation shall retain onsite 100% of the stormwater runoff, per requirements of the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer.**

(Condition No. 2, of Resolution No. R-87-1182)
(Engineering)

4. **Prior to site plan certification, petitioner shall revise the proposed cross section to reflect a minimum of 25 foot set back from the proposed property lines for the existing excavated lakes and 50 foot for all proposed excavation. Condition No. 3, of Resolution No. R-87-1182.**

Is hereby deleted.

5. **Prior to site plan certification, petitioner shall submit evidence of authorization from the State of Florida Department of Transportation to use roadways under their jurisdiction, if necessary. (Previously Condition No. 4, of Resolution No. 87-1182) (ENGINEERING)**

6. Condition No. 5, of Resolution No. 87-1182 which presently states:

Prior to site plan certification, petitioner shall submit a revised engineering drawings required by Zoning Code Section 500.3, which bear the seal of a Florida licensed engineer. At a minimum, the revised drawings shall demonstrate a cross-section of the proposed excavation of lake areas. In those instances where petitioner demonstrates that he is designating the lake to meet State or Federal permit requirements, he may deviate from the design standards in Zoning Code Section 500.3. Surety shall be posted for this development as provided in Zoning Code Section 500.3.

Is hereby amended to state:

Prior to DRC certification, petitioner shall submit the following drawings: an "As-Built Survey", a Site Plan and a Master Reclamation Plan that comply with Article 7, Section 7.6.F (General Criteria For Excavation). The "As-Built" Survey shall include all land within the boundaries of the Special Exception and clearly indicate all lake boundaries, slopes, depth and elevations. In addition the survey shall indicate elevation drawings scaled every 100 feet across the existing lakes. The Site Plan shall clearly indicate the proposed lots, streets, and all existing or proposed easements. The Master Reclamation Plan shall comply with the minimum requirement Article 7.6.F.13.f. The Master Reclamation Plan shall clearly label those areas, determined by staff, where reclamation can begin immediately. (ZONING/ERM)

7. Prior to DRC certification the applicant shall guarantee performance of the project by submitting surety for upland reclamation and littoral planting requirements. The upland reclamation surety shall be posted in the amount of four thousand dollars (\$4,000) per acre, the bond shall cover the total acreage of the Special Excavation. Littoral planting requirements and surety shall comply with the requirements pursuant to Article 7, Section 7.6.F.4 & 12. (ZONING/ERM)
8. Condition No. 6, of Resolution No. R-87-1182, which presently states:

Petitioner shall submit signed and sealed record drawings at the completion of the excavation or prior to the release of surety, as provided in Zoning Code Section 500.3.

Is hereby amended to state:

The petition shall submit, prior to DRC certification a Master Reclamation Plan for the entire site. (ZONING)

9. Condition No. 7, of Resolution No. R-87-1182, which presently states:

Prior to site plan certification, petitioner shall submit a plan acceptable to the County Engineer providing a haul route for the removal of fill materials excavated from the project site. Within the Homeland Subdivision, the haul route selected by petitioner shall be confined to an area bounded on the west by Audubon Trail and on the north by a line

extended west from the Lake Worth Drainage District's Homeland Canal. The petitioner shall utilize easement roads to transport fill materials from the Homeland Subdivision east to State Road 7, per agreement with the Lake Worth Drainage District, Florida Power and Light, and/or any other public or private entity having jurisdiction or control over such easement roads. The petitioner shall employ standard measures to protect haul route crossings over paved roads within the Homeland Subdivision, including the placement of dirt pads, use of cones and on site signalmen. After all hauling activities are completed, petitioner shall restore any and all of Homeland's internal roads used as haul routes to their previous, "as built" condition, as certified by a Florida licensed engineer. Such certification to as-built conditions, bearing the seal of a Florida licensed engineer, shall be submitted to the County Engineer prior to site plan certification. Record drawings shall be submitted to the County Engineer after restoration. Restoration shall be completed within six (6) months of the termination of excavation and hauling. Excavation and hauling shall be completed within one (1) year from the date that all required approvals are issued. Performance security shall be posted in a form and with such terms as are acceptable to the County Engineer and County Attorney. It shall be released only upon compliance with this condition. Turn lanes shall be installed at the proposed haul route and SR7 subject to approval by the County Engineer and Florida Department of Transportation. Appropriate surety shall be posted with the County Engineers if any of these turn lanes are to be constructed as temporary for their removal.

Is hereby amended to state:

Prior to site plan certification, petitioner shall submit a plan acceptable to the County Engineer providing a haul route for the removal of fill materials from Homeland Subdivision east to State Road 7, per agreement with the Lake Worth Drainage District, Florida Power and Light, and/or any other public or private entity having jurisdiction or control over such canal easements. After all hauling activities are completed, petitioner shall restore any and all of Homeland's canal easements used as haul routes to their previous, "as-built" condition, as certified by a Florida licensed engineer. Such certification to as-built conditions, bearing the seal of a Florida licensed engineer, shall be submitted to the County Engineer. Excavation and hauling shall be completed within two (2) years from the date that this petition is reinstated by the Board of County Commissioners. Internal streets in Homeland shall not be utilized as a haul route for the excavation operation. (ENGINEERING)

10. **Prior to site plan certification, the developer shall abandon and replat those areas affected by the proposed lake.** (Condition No. 8, of Resolution No. R-87-1182) (ZONING)
11. **Prior to certification, the site plan shall be amended to reflect the boundaries of conservation easements required in the South Florida Water Management District's surface water management permit.** (Condition No. 9, of Resolution No. R-87-1182) (ZONING)

12. Condition No.10, of Resolution No. R-87-1182, which presently states:

Prior to site plan certification, the petitioner shall amend the site plan to indicate creation of a littoral zone with an average depth of one to two feet along the Southern perimeter of the lots with a four (4) to one (1) landward slope and eight (8) to one (1) waterside slope.

Is hereby deleted.

13. Condition No. 11, of Resolution R-87-1182, which presently states:

The littoral zone shall be established and maintained by petitioner in accordance with the standards set forth in the Palm Beach County Subdivision and platting regulation ordinance (No. 86-21) as amended. Maintenance responsible for the littoral zone shall be set forth in a deed restriction, or other appropriate documents recorded in the official records of the clerk of the circuit court in and for Palm Beach County, Florida and shall run with the land. (ERM)

Is hereby amended be consistent with ULDC:

The required planted and unplanted littoral zones shall be established and maintained by petitioner in accordance with the standards pursuant to Article 7.6.F.4. of the ULDC. Maintenance responsibility for the littoral zones shall be set forth in a deed restriction, or other appropriate documents recorded in the official records of the clerk of the circuit court in and for Palm Beach County, Florida and shall run with the land. (ERM)

14. Condition No. 12, of Resolution No. R-87-1182, which presently states:

Prior to site plan certification, petitioner shall include in its required excavation reclamation plan an aquatic species planting plan, for the required lake littoral zone. This plan shall be approved by the Zoning Division.

Is hereby amended:

Prior to DRC certification, the petitioner shall include in the required Master Reclamation plan an aquatic species planting plan, for the required lake(s) planted littoral zones. This plan shall be approved by the Department of Environmental Resources Management. (ERM)

15. **Prior to site plan certification, petitioner shall meet with representatives of the Zoning Division, ERM, Engineering Department and South Florida Water Management District for a conceptual review of all applicable requirements for a design of the lake system. (Condition No. 13, of Resolution No. R-87-1182. (ZONING/ERM)**

16. The Site and Master Reclamation Plan shall clearly label the 100' foot Equestrian Easement along the west, east and south boundaries of the Special Exception. (ZONING)

17. All excavation activity, including rehabilitation and reclamation shall be completed by August 31 1995. Excluding delays as the result of government actions or from an officially declared natural disaster, there shall be no Administrative Time Extension granted by the Monitoring Section. The Code Enforcement Board shall take immediate action for failure by the applicant to comply with this condition. No delays or postponements shall be granted by the Code Enforcement Board. (MONITORING/CODE ENFORCEMENT)
18. Within 30 days of DRC certification or prior to commencing any excavation activities, whichever shall occur first, the applicant shall comply with the following requirements and contact the Zoning Division and ERM for a site inspection to verify compliance:
 - a. Install a six foot high chain link fence with security gate, locked during non-business hours, along the entire perimeter of the Special Excavation area to restrict access to only authorized personnel.
 - b. All abandoned vehicles (including those in the excavated lakes), debris, fuel tanks, pipes and other solid waste shall be removed from the site and properly disposed. (ZONING/ERM)
19. There shall be no excavation activity or hauling on-site or off-site on Sunday. (CODE ENFORCEMENT)
20. Hours of Operation for excavation activity shall occur between the hours of 7:00 a.m to 6:00 p.m. Monday to Friday and on Saturday between the hours of 9:00 a.m. to 4:00 p.m.. (CODE ENFORCEMENT)
21. The Board of County Commission shall receive a semi-annual report by County staff on the status of the project. (ZONING/ERM/CODE ENFORCEMENT)
22. The applicant shall submit an complete application to the DRC within 90 days of the Board approval.
24. Violation of these conditions will result in the return of this petition to the Board of County Commissioners for further review pursuant the ULDC Article 5, Section 5.8. (MONITORING)
25. Prior to DRC certification the petitioner shall record in the public records, a covenant, subject to the County Attorney's approval, which:
 1. Sets forth maintenance responsibility for the littoral areas; and
 2. Completion date as set forth in Condition No. 17. (COUNTY ATTORNEY)

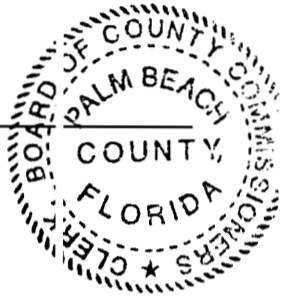
Commissioner Foster, moved for approval of the petition. The motion was seconded by Commissioner Newell, and upon being put to a vote, the vote was as follows:

MARY MCCARTY	Aye
KAREN MARCUS	Aye
CAROL A. ROBERTS	Aye
WARREN H. NEWELL	Aye
BURT AARONSON	Aye
KEN FOSTER	Aye
MAUDE FORD LEE	Aye

The Chair thereupon declared the resolution duly passed and adopted this 30th day of August 1993, confirming action of April 23, 1987.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

BY: Lore M. Blair
Deputy Clerk



APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: [Signature]
County Attorney