

1/7/96

RESOLUTION APPROVING RECOMMENDATION OF
STATUS REPORT NO. CR 94-56/E3
TO AMEND CONDITIONS OF APPROVAL OF RESOLUTION NO. R-95-280
WHICH APPROVED THE SPECIAL EXCEPTION OF
RONALD S. WOODS, TRUSTEE
PETITION NO. 94-56

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, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan.

WHEREAS, the notice and hearing requirements as provided for in Section 5.8 of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, pursuant to Section 5.8, Status Report CR 94-56/E3 was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on September 26, 1996; and

WHEREAS, the Board of County Commissioners has reviewed Status Report CR 94-56/E3 and considered testimony, and the recommendations of the various county review agencies; and

WHEREAS, Section 5.8 of the Palm Beach County Land Development Code authorizes the Board of County Commissioners to add or modify conditions of approval; and

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

1. The amendment to conditions of approval is consistent with the Palm Beach County Comprehensive Plan, and with the Palm Beach County Unified Land Development Code;
2. Condition number E.3. of Resolution R-95-280 limits the number of truckloads leaving the site to a maximum of twelve (12) per day;
3. On May 17, 1996, staff of the Code Enforcement Division observed fifteen (15) truckloads of fill leaving the site from 1:40 P.M. to 4:14 P.M.;
4. On June 6, 1996, the Code Enforcement Board found Wild Palms Development, Inc. in violation of condition number E.3. of Resolution R-95-280, and ordered compliance within twenty-four (24) hours, or a fine of \$250.00 per day would be assessed for every day the violation continued;
5. On July 25, 1996, staff of the Code Enforcement Division observed twenty-four truckloads of fill leaving the site from 12:50 P.M. to 4:40 P.M.;
6. For failure to comply with the conditions of approval, Condition L-1 of Resolution R-95-280 permits the modification or revocation of a development order by the Board of County Commissioners in accordance with Section 5.8 of the Palm Beach County Unified Land Development Code;

7. Amendments to conditions of approval will limit further excavation to only that which is needed to properly slope and plant the existing excavated area. **so** that no further fill can leave the site, thus curing the violation of too many trucks leaving the site.

WHEREAS, Section 5.3 of the Palm Beach County 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 the recommendation of Status Report No. CR **94-56/E3**, to amend Conditions of Approval of Resolution No. R-95-280, the Special Exception of Ronald **S.** Woods, Trustee, Petition No. 94-56, which approved a Class **A** Conditional Use allowing removal of excavated material in excess of 10% in the AR-Agricultural Residential Zoning District, on a parcel of land legally described in Exhibit A, attached hereto and made a part hereof, and located approximately 1.0 of a mile west **of** Jupiter Farms Road on the north side of Randolph Siding Road is approved, as amended, subject to the following conditions:

1. The property owner shall comply with all previous conditions of approval contained in Resolution R-95-280, and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified herein. (ONGOING: MONITORING-Zoning)
2. Condition number A.3. of Resolution R-95-280 which currently states:

When not in operation, access to the site shall be locked and gated. The gate shall be setback a minimum of twenty five (25) feet from the right-of-way. (CODE ENFORCEMENT-Zoning)

Is hereby amended to state:

Access to the site shall be locked and gated except during residential development activity. The gate shall be setback a minimum of twenty five (25) feet from the right-of-way. (CODE ENFORCEMENT-Zoning)

3. Condition number E.2. of Resolution R-95-280 which currently states:

Excavation **of** the site shall occur in a maximum of two (2) phases. (ENGINEERING/ZONING)

Is hereby amended to state:

Residential development of the site shall occur in a maximum of **two** (2) phases. (DRC: ZONING)

4. Condition number E.3. of Resolution R-95-280 which currently states:

The maximum number of truck loads of excavated material leaving the site shall be limited to twelve (12) total truck loads a day. No more than twenty four (24) total truck trips shall be permitted per day. (ENGINEERING)

Is hereby deleted. (Reason: new condition prohibits removal of fill from the site)

5. Condition number **F.1.** of Resolution R-95-280 which currently states:

Development activity, including but not limited to, excavation and land clearing, shall not commence until subdivision, reclamation and phasing plans have been certified by the Development Review Committee. (DRC-Zoning)

Is hereby amended to state:

Residential development activity shall not commence until subdivision, reclamation and phasing plans have been certified by the Development Review Committee. (DRC-Zoning)

6. Condition number **F.4.** of Resolution R-95-280 which currently states:

Phase I shall be reclaimed in accordance with the Reclamation Plan and requirements of the ULDC within **120** days of completion of excavation activity. (DRC-Zoning)

Is hereby amended to state:

Prior to July 1, 1997, a plat shall be recorded for Phase **I** development. (DATE: MONITORING - Eng)

7. Condition number **F.5.** of Resolution R-95-280 which currently states:

Phase **II** excavation activity shall be completed on or before January 31, 1998. Reclamation of the final phase of development shall be completed on or before May 31, 1998. **No** administrative time extensions to this condition shall be granted. (MONITORING/Zoning)

Is hereby amended to state:

Prior to January 31, 1998, a plat shall be recorded for Phase **II** development. (DATE: MONITORING - Eng)

8. Condition number **F.6..** of Resolution R-95-280 which currently states:

Commencing January 26, 1996, the petitioner shall submit an annual report for four (**4**) consecutive years to the Development Review Committee indicating the status of excavation activity on site (including, but not limited, status **of** current phase of excavation, date of completion of each phase of excavation, amount **of** material excavated, amount of material removed from site), compliance with the conditions of approval, compliance with the applicable provisions of the ULDC (General and Specific Criteria for a Type **III** Excavation), the status of reclamation of the site and perimeter landscaping/buffering. **No** administrative time extensions to this condition shall be granted. (MONITORING/Zoning-DRC)

Is hereby deleted. (Reason: new condition limits excavation to sloping of existing excavated area.)

9. Condition number 1.1. of Resolution R-95-280 which currently states:
- No freestanding, point of purchase or identifications signs advertising excavation activity or fill for sale shall be permitted on site.
- Is hereby deleted. (Reason: new condition limits excavation to sloping of existing excavated area.)
10. Condition number K.1. of Resolution R-95-280 which currently states:
- A maximum of 320,000 cubic yards of material shall be excavated on site. (DRC)
- Is hereby deleted. (Reason: new condition limits excavation to sloping of existing excavated area.)
11. Condition number K.2. of Resolution R-95-280 which currently states:
- A maximum of 240,000 cubic yards, or 75% of the material excavated, whichever is less, shall be removed from site. (DRC)
- Is hereby deleted. (Reason: new condition prohibits removal of fill from the site.)
12. Condition number K.3. of Resolution R-95-280 which currently states:
- Total lake surface area shall not exceed sixteen (16) acres. (DRC)
- Is hereby amended deleted. (Reason: new condition limits excavation to sloping of existing excavated area.)
13. Condition number K.4. of Resolution R-95-280 which currently states:
- Vehicles utilized to transport excavated material from the site shall not exceed twenty (20) cubic yards in capacity. (CODE ENFORCEMENT-Zoning)
- Is hereby deleted. (Reason: new condition prohibits removal of fill from the site)
14. Condition number K.7. of Resolution R-95-280 which currently states:
- All excavated material shall be utilized within the Jupiter Farms area only and used solely for the following purposes:
- a. residential construction;
 - b. by the Indian Trails Water Control District; and
 - c. for construction of Indiantown Road between Mack Dairy Road and the Florida Turnpike. (CODE ENFORCEMENT-Engineering/Zoning)
- Is hereby deleted. (Reason: new condition prohibits removal of fill from site)
15. NO excavated material shall be removed from the subject site, (ONGOING: CODE ENF)

16. On or before November 1, 1996, the property owner shall submit a complete variance request to the Department of Environmental Resources Management (EM) to modify the Notice of Intent to Construct for Excavations (NIC) issued on December 7, 1995. No administrative time extension shall be granted for this condition. (DATE: MONITORING - ERM)
17. On or before January 15, 1997, the property owner shall complete all sloping of the existing excavated area as set forth in the NIC of December 7, 1995. No excavated material relating to this condition shall be removed from the subject site. No administrative time extension shall be granted for this condition. (DATE: MONITORING - ERM)
18. On or before January 15, 1997, planting of the littoral zones as set forth in the NIC of December 7, 1995 shall be completed. No excavated material relating to this condition shall be removed from the subject site. No administrative time extension shall be granted for this condition. (DATE: MONITORING - EM)
19. On or before February 15, 1997, the Time Zero monitoring report shall be submitted to ERM. (DATE: MONITORING - ERM)
20. The 90 day, 180 day and 360 day reports shall be submitted at their respective time frame. (ONGOING: ERM)
21. Failure to comply with any condition of approval or ULDC requirement at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist 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 Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - 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;
 - d. Referral to code enforcement;
 - e. Imposition of entitlement density or intensity; and/or
 - f. Review and modification or revocation of the development order by the Board of County Commissioners at an advertised public hearing in accordance with Section 5.8 of the ULDC.

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 Conditional Use, 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. (MONITORING)

Commissioner Marcus 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:

KEN FOSTER, CHAIR	—	Aye
BURT AARONSON	—	Absent
MAUDE FORD LEE	—	Absent
KAREN T. MARCUS	—	Absent
MARY MCCARTY	—	Aye
WARREN H. NEWELL	—	Aye
CAROL ROBERTS	—	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 26 day of September, 1996.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

BY: *Burt Aaronson*

DOROTHY H. WILKEN, CLERK

BY: *Joan Hewley*
DEPUTY CLERK

