

RESOLUTION NO. R-89- 2229

RESOLUTION APPROVING ZONING PETITION NO. **89-34**
SPECIAL EXCEPTION PETITION OF MICHAEL BENDE

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. 89-34 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on June 29, 1989; 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 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, 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. 89-34 the petition of MICHAEL BENDE, by Charles Putnam, Agent, for a SPECIAL EXCEPTION TO PERMIT A PLANNED UNIT DEVELOPMENT, CONSISTING EXCLUSIVELY OF A CONGREGATE LIVING FACILITY - TYPE 3 on a parcel of land lying on Tract 1 consisting of the South 393.66 feet thereof, Section 20, Township 46 South, Range 42 East, Palm Beach Farms Company Plat No. 1, Plat Book 2, Pages 26 through 28, being located approximately 300 feet south of Delray West Road (SR 806) and approximately .75 mile east of Florida's Turnpike (Sunshine State Parkway) in a RM-Multiple Family Residential Zoning District (Medium Density), was approved on June 29, 1989, as advertised, subject to the following conditions:

1. Prior to certification, the Master Plan shall be amended to indicate the following:
 - a. A maximum of fifteen (15) dwelling units in the Conversion Data;
 - b. The basis for parking calculations, including the maximum number of employees;
 - c. Indicate the number of resident staff;

- d. A twelve (12) foot utility easement along the west side of the seventy (70) foot Lake Worth Drainage District easement on the east side of the site;
 - e. Relocation of all structures outside of utility and/or drainage easements; and,
 - f. A ten (10) foot utility easement along the south property line.
2. Landscape strip Alternative Number 3 shall be required within the twenty-five (25) foot buffer along the north, west and south perimeter.
3. Use of the site shall be limited to a Congregate Living Facility for a maximum of ninety-three (93) residents.
4. If converted to conventional residential dwelling units, this facility shall be limited to a maximum of five (5) units per acre.
5. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent residential lots and shall not exceed fifteen (15) feet in height.
6. Off premise signs shall not be permitted on site.
7. No outdoor loudspeaker system shall be permitted on site.
8. The dumpsters and trash receptacles shall be screened **from** view from adjacent lots and streets.
9. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site.
10. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
11. 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.

12. The Property owner shall not be issued a Building Permit **until the construction has begun** for a left turn lane, east approach on West Atlantic Avenue at the project's entrance road. This construction was the obligation of Bende Planned Unit Development. No Certificate of **Occupancy shall be issued until this construction has** been completed.
13. Prior to Site Plan Certification the developer shall convey a cross access agreement to the property owner to the north and revise the Site Plan to reflect **this** cross access easement.
14. The petitioner 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 presently is \$8,037.00 (300 trips X \$26.79 per trip).
15. The property owner shall convey to the Lake Wcrth Drainage District that part of Tract 1, Block 20 Palm Beach Farms Company Plat **No. 1** lying within the east 70 feet of Section 20 for the required right-of-way for Equalizing Canal **No. 2E**, by Quit Claim Deed or an Easement Deed in the form provided by said District within ninety (90) days of the approval of the Resolution approving this project.
16. Replat the entrance road to Babcock Planned Unit Development to provide for a minimum of **80** feet of right-of-way (not an access easement) from **West** Atlantic Avenue to the project's south property line, prior to the issuance of a Building Permit.
17. Simultaneous with Site Plan Review Committee application, the petitioner shall submit all developers agreements, subject to approval by the County Attorney, prior to Master Plan Certification.
18. The site plan shall not be approved until the petitioner:
 - a. Submits a recorded access agreement **which permits** access from East Tranquility Lakes Drive to the Congregate Living Facility site, to the east:
 - b. Demonstrates that the necessary improvements to East Tranquility Drive can be designed and constructed; and,
 - c. Obtains appropriate variance for:
 1. Encroachment into the twenty-five (25) foot buffer within Babcock Planned Unit Development: 01,
 2. Relief from siting the Congregate Living Facility **on** a collector roadway **so** that access to the Congregate Living Facility **can be** shared with the adjacent office park to the north. **11'** the variance is granted the developer

shall secure an agreement that if the Congregate Living Facility converts to residential, then access shall be granted from East Tranquility Drive.

19. Failure to comply with any conditions of approval may result in 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. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Commissioner Roberts moved for approval of the Resolution.

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

Carol J. Elmquist, Chair	--	Absent
Ron Howard	--	Aye
Karen T. Marcus	--	Aye
Carole Phillips	--	Aye
Carol Roberts	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 12th day of December, 1989.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

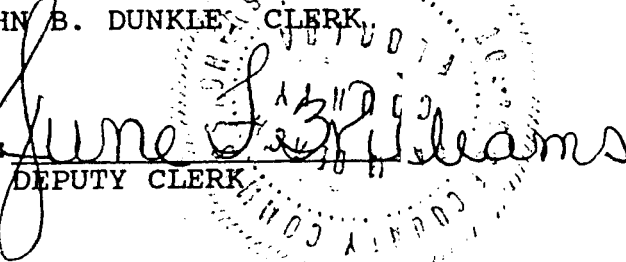
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY :


COUNTY ATTORNEY

BY :


DEPUTY CLERK