

RESOLUTION NO. R-89- 346

RESOLUTION APPROVING ZONING PETITION NO. 88-19
SPECIAL EXCEPTION PETITION OF ROBERT MARKS, JR.

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 Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 88-19, was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 2, 1988; and

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 88-19, the petition of ROBERT MARKS, JR., Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT PUBLIC AND PRIVATE UTILITY SERVICES AND ACCESSORY BUILDINGS AND STRUCTURES (CONSISTING OF AN AIR CURTAIN BURNER TO INCINERATE TREE STUMPS, WASTE VEGETATION AND SIMILAR LANDSCAPE DEBRIS) on a parcel of land lying in the North 494.58 feet of Tract 12, Block 7, as in Section 32, Township 43 south, Range 42 east according to the Plat of THE PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Page 46, Less the East 80.00 feet thereof, for Right-of-Way of Benoist Farms Road, located on the west side of Benoist Farms Road approximately .2 mile south of Belvedere Road (S.R. 704), in an AR-Agricultural Residential Zoning District, was approved as advertised, subject to the following conditions:

1. Prior to certification the site plan shall be amended to indicate the following:
 - a. Dimensions and height of the stockpiling area.
 - b. Height of the air curtain burner.
 - c. Required 25 foot access dimension.
 - d. 5 foot limited access easement along the north, south and west property lines.
 - e. The required landscape strip width along the right-of-way.
2. The petitioner shall landscape the site as indicated on exhibit 3, this shall include canopy trees 10-12 feet high, 30 feet on center and hedge material 24 inches high spaced 24 inches on center.
3. Use of the site shall be limited to a landscape nursery and paving business with an associated special exception to allow the incineration of vegetative material.
4. The petitioner shall preserve the cypress on site.
5. 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 development shall retain onsite three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. 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.
6. The developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site.
7. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Benoist Farms Road, 80 feet west of the west right-of-way line of the Lake Worth Drainage District E-2 Canal, as determined by the County Engineer, free of all encumbrances and encroachments. Petitioner shall provide Palm Beach

County with sufficient documentation acceptable to the Land Acquisition Division to ensure that the property is free of all encumbrances and encroachments.

8. 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 presently is \$1,607.00 (60 trips X \$26.79 per trip).
9. Failure to comply with the conditions herein 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. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.
10. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval (or prior to issuance of Building Permit for straight rezoning).
11. An application must be submitted to the F.D.E.R. for a permit to construct an air pollution source in accordance with 17-5, F.A.C.
12. Stockpiling shall not exceed ten (10) feet in height and shall not take place within twenty-five (25) feet of the north, west, or south property lines. No stockpiling shall take place within the eastern three-hundred (300) feet of the property.

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

Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Absent
Kenneth M. Adams	--	Absent

The foregoing resolution was declared duly passed and adopted this 28th day of February, 1989 confirming action of March 2, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:

Susan Lubet
COUNTY ATTORNEY

BY:

James J. Hardy
DEPUTY CLERK