

RESOLUTION NO. R-89- 362

RESOLUTION APPROVING ZONING PETITION NO. 88-28
SPECIAL EXCEPTION PETITION OF DANIEL AND PATRICIA ROGERS

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. 88-28, was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on March 24, 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. 88-28, the petition of DANIEL AND PATRICIA ROGERS, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT EXCAVATION AND REMOVAL OF MUCK, SAND, ROCK, SHELL, SOIL, OR OTHER EXTRACTIVE MATERIALS on a parcel of land lying in the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 36, Township 43 South, Range 41 East, subject to a road and canal Right-of-Way over and across the South 55.00 feet thereof; together with a road and canal Right-of-Way over and across the East 55.00 feet of the Southwest 1/4 of the Southeast 1/4 of the Northwest 1/4 of said Section 36, and a canal Right-of-Way over the East 25.00 feet of the Northwest 1/4 of the Southeast 1/4 of the Northwest 1/4 of said Section 36, Township 43 South, Range 41 East, located on the west side of 105th Avenue North, approximately .3 mile north of Southern Boulevard (S.R. 80), 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. Minimum tree planting requirement.
 - b. Proposed haul routes.
 - c. Revised excavation depth that matches the proposed section.
 - d. Nature of extractive materials.
2. Prior to Site Plan Review Committee, the petitioner shall submit a site rehabilitation and reclamation plan or seek variance relief from the Board of Adjustment.
 3. Within ninety (90) days of approval of this proposal, the petitioner shall submit a mitigation proposal which will outline the transfer of landscape requirements to the southern center development site. The landscape plan for southern center shall indicate an increase in the size and number of plant materials to be installed on site. The betterment transfer plan shall be acceptable to the Zoning Division.
 4. All fill materials shall be hydraulically pumped, no materials shall be transported by way of trucks. If this is not possible, no fill material may be transported via Southern Boulevard. If 105th Avenue North is used for hauling of fill material, this petitioner shall maintain 105th Avenue North during hauling operation and shall restore 105th Avenue North after all hauling has ceased. Surety shall be posted with the County Engineer to ensure this restoration and maintenance.
 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, this development shall retain onsite 100% of the stormwater runoff.
 6. 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 105th Avenue North, 25 feet from centerline 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.
 7. During site development, it shall be required to stabilize soil on slopes susceptible to erosion within thirty (30) days of initial clearing and grading.
 8. If the retention lake is excavated in the "dry", the applicant must provide suitable retention area for the dewatering operation.
 9. If water from the project connects waters of the State,

the applicant will be responsible for utilizing turbidity control devices, if necessary.

10. 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 violation of the Palm Beach County Zoning Code.
11. Prior to certification, the petitioner shall amend its site plan to indicate creation of one (1) single family dwelling site. The amount of usable land reserved for the homesite shall be sufficient to satisfy the Environmental Control Rules and all other regulations governing construction of single family residence in the AR-Agricultural Residential Zoning District.
12. Petitioner shall provide Palm Beach County a road drainage easement for 105th Avenue North within this projects internal lake system. The drainage system within the project shall have sufficient retention/detection capacity to meet the stormwater discharge requirements of the applicable Drainage District and South Florida Water Management District.
13. The petitioner shall install a six (6) foot high fence around the perimeter of the property where necessary to restrict public access. The fence shall be installed simultaneously with commencement of excavation.
14. Prior to certification, the petitioner shall amend its site plan and reclamation plan to indicate creation of at least one (1) single family homesite upon the site. The area set aside for this homesite shall meet all applicable Zoning, Engineering, Health, and other requirements for receipt of permits to construct a residence on site.
15. In lieu of excavation of this site and if required by the South Florida Water Management District, petitioner agrees to participate in an alternative program to provide cash contributions to address C-51 Basin drainage requirements, if one is created by the South Florida Water Management District within six (6) months of approval of the resolution approving this project. The amount of cash contributions shall be equal to the development's pro rata share of its compensatory drainage. If no such program is undertaken by South Florida Water Management District or the funding is not requested, petitioner shall excavate in accordance with the requirements of the

South Florida Water Management District and Palm Beach County.

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

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

The foregoing resolution was declared duly passed and adopted this 28th day of February, 1989 confirming action of March 24, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:


COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: 
DEPUTY CLERK