

ORIGINAL

RESOLUTION NO. R-91- 1184

RESOLUTION APPROVING ZONING PETITION NO. 91-5
SPECIAL EXCEPTION PETITION OF WASTE MAGIC RECYCLERS, INC.

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. 91-5 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on June 27, 1991; 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 the 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, Chapter 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. 91-5, the petition of WASTE MAGIC RECYCLERS, INC., BY WILLIAM R. BOOSE, III, AGENT, on a SPECIAL EXCEPTION FOR SOLID WASTE TRANSFER AND RECYCLING STATION (CONSTRUCTION DEBRIS ONLY) on a parcel of land lying on a portion of Tracts 29, 30 and 31 of FLORIDA FRUIT LANDS COMPANY SUBDIVISION NUMBER 2, of Section 19, Township 47 South, Range 41 East, Plat Book 1, Page 102, together with a portion of the Northeast 1/4 of Section 30, Township 47 South, Range 41 East; commencing at the Southwest corner of said Northeast 1/4 of Section 30; thence South 89°48'54" East, along the South line of said Northeast 1/4 of Section 30, 118.81 feet to the POINT OF BEGINNING; thence North 0°20'38" West, parallel with the West line of said Northeast 1/4 of Section 30, 2,654.19 feet to a point on the North line of said Northeast 1/4 of Section 30, thence North 0°21'11" West 1,406.20 feet, to a point on the South right-of-way line of State Road No. 827, as claimed by the State Road Department; thence South 71°40'03" East, along said South right-of-way line 262.96 feet; thence North 89°53'12" East, 78.99 feet; thence South 71°39'44" East, 246.97 feet; thence South 0°20'46" East, 3,901.95 feet, to a point on the South line of said Northeast 1/4 of Section 30; thence North 89°48'54" West along the South line of said Northeast 1/4 of Section 30, 561.57 feet to the POINT OF

BEGINNING, and being located on the **S SIDE OF SR 827, APPROX. 5.5 MILES W OF SR 7 AND .5 MILE N OF THE BROWARD COUNTY LINE**, was approved on June 27, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County.
2. This Special Exception is granted concurrent with a rezoning. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section **402.7(E)2(b)** (Site Plan Review Committee Powers and Standards of Review). The Site Plan Review Committee shall be limited to a maximum ten percent (**10%**) redesign of the site plan unless further changes are required by a governmental agency.

B. ENVIRONMENTAL RESOURCES MANAGEMENT

1. All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater six (**6**) feet horizontal to one (**1**) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or **CWL**. A minimum of **30%** of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Dept. of Environmental Resources Management concurrent with Site Plan Review application and approved by **ERM** prior to Site Plan certification.
2. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals- is required. Environmental Resources Management Department staff are willing to provide guidance on appropriate protective measures.
3. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures.

C. HEALTH

1. 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.
2. The applicant shall establish policies and procedures acceptable to the Palm Beach County Public Health Unit to ensure that hazardous material is not brought onto the site.

3. This facility shall not be open to the public and shall be conspicuously signed.
4. Only construction and vegetative debris and waste from licensed contractors and waste haulers shall be accepted. White goods and other hazardous material shall not be accepted **on** site and are not part of this approval.
5. The applicant shall secure an operating permit for the septic tank system.

D. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

E. ENGINEERING

1. 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/detain on-site **100%** of the stormwater runoff generated by a three (3) year-on? (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.
2. Prior to January 1, 1992, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall reserve for future dedication at no cost to Palm Beach County or other appropriate governmental agencies to Palm Beach County Roadway Production Division by appropriate documents acceptable to the County Engineer and County Attorney for Lox Road a maximum of an additional **80** feet along the project's north property line on an alignment approved by the County Engineer. A minimum of **90** days of notification to the property owner will be required that the additional right of way is needed. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments at the time of the dedication. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. There shall be no lakes or berms to be included within this required Right-of-way. Prior to Master Plan certification, the Site Plan shall be amended to reflect the Right-Of-Way required above.

3. The Property owner shall construct a left turn lane, east approach on Lox Road at the project's entrance road concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.
4. Prior to January 1, 1992, or prior to the issuance of the first Building Permit, the Property Owner shall convey to Palm Beach County adequate road drainage tract(s) through the project's internal surface water management system to provide legal positive out-fall for all runoff from those segments of Lox Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Lox Road. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation within said easements shall become the property of Palm Beach County.
5. 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 at the time of the Building Permit presently is \$20,130.00 (366 trips X \$55.00 per trip).
6. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unit of Title on the subject property subject to approval by the County Attorney.

F. LANDSCAPED BUFFERS

1. The perimeter landscape buffer strip may be phased in accordance with a phased site plan. Perimeter landscape buffer strips along the perimeter of the site, except for that perimeter adjacent to the retention/detention area, shall consist of:
 - a. A fifty (50) foot minimum width.
 - b. Two (2) rows of ten foot tall native canopy trees planted twenty (20) feet on center.
 - c. A continuous berm a minimum of 8 feet in height seeded and irrigated, (except for gated access).
 - d. A six foot tall fence presenting a visually opaque barrier on the exterior of the berm.

2. The temporary buffer between phases shall consist of:
 - a. A fifty (50) foot minimum width.
 - b. A continuous berm a minimum of 8 feet in height seeded and irrigated.
 - c. A six foot tall fence presenting a visually opaque barrier on the exterior of the berm.
3. The perimeter landscape buffer strip occurring adjacent to the retention/detention area on the north, east and west sides (except for gated access) shall consist of:
 - a. A minimum width of twenty-five (25) feet.
 - b. A continuous berm a minimum of five (5) feet in height. The berm shall be sodded on the exterior along Lox Road with 25 foot returns on the east and west; the remainder of the berm shall be seeded; all landscaped areas shall be irrigated and maintained.
 - c. A continuous hedge a minimum of three (3) feet in height on top of the berm.
 - d. A six (6) foot tall, black or dark green chain link fence fronting on Lox Road with a continuous hedge a minimum of three (3) feet in height on the exterior side.
 - e. A six (6) foot tall fence on the east and west property lines, presenting a visually opaque appearance, on the exterior of the berm.
 - f. A double row of ten (10) foot tall native canopy trees planted twenty (20) feet on center.
4. All required trees shall have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread.
5. The petitioner shall submit all landscape exhibits presented to the Board of County Commissioners to the Site Plan Review Committee. Landscaping shall be installed in accordance with the exhibits unless design changes are required by the Conditions of Approval.

G. LIGHTING

1. All outdoor lighting used to illuminate the premise; and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets.
2. Lighting fixtures shall not exceed twenty (20) feet in height.
3. All outdoor lighting shall be extinguished no later than 9:00 p.m. Security lighting only is excluded from this requirement.

H. PARKING

1. Vehicle parking shall be limited to the parking areas designated on the approved site plan. **No** parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives.

I. SIGNS

1. Signs fronting on Lox Road shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign face area - 100 square feet.
 - c. Maximum number of signs - one (1).
2. A sign shall be prominently displayed at the entrance of **the** facility prohibiting hazardous materials and **white** goods on site.

J. SITE DESIGN

1. The height of recyclable or recovered materials, or non-recyclable residue, stored in outdoor areas shall not exceed twenty-five (25) feet.
2. All outdoor storage of nonorganic recyclable materials, excluding rock, dirt, mulch and non-pressure-treated wood, shall be in leak-proof containers or located on a paved area that is designed to capture all potential runoff associated with the stored materials.
3. Building height shall be limited to a maximum of 36 feet.

K. SUPPLEMENTAL REQUIREMENTS

1. Prior to Site Plan certification, the petitioner shall provide the following:
 - a. Verification that a permit has been obtained from and a bond posted with the Solid Waste Authority (SWA). This permit shall be consistent with the zoning approval.
2. To be recorded in the public records, a Covenant of Restrictions, subject to approval by the County Attorney, which provides that the solid waste transfer and recycling station operation shall cease within 10 years of issuance of the first building permit and that all construction materials, structures and concrete slabs to be removed and cleared with only permitted fill, berm and landscaping and entrance road to remain:
 - a. Within 6 months after the within approved **operation** ceases but, in no event, no later than 10 year; and 6 months after the issuance of the first building permit on this project.
 - b. The petitioner shall post a performance bond or other surety acceptable to Palm Beach County equal to 110% of the cost of removal costs as determined

by the applicant's engineer, **as** accepted and approved by County Engineering Department. The amount shall be adjusted annually for inflation.

Palm Beach County shall have the right to enforce the provisions of this restriction. The prevailing party shall be entitled to attorneys fees and **costs**, if enforcement is required.

L. USE LIMITATIONS

1. Hours of operation shall be limited to 7 a.m. to 7 p.m. Monday through Saturday.
2. No outdoor speaker or public address systems shall be permitted.
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site.
4. The facility shall be gated and locked when the facility is not open.
5. The applicant shall maintain a contract with a licensed waste hauler for weekly removal of any and all hazardous material on site.
6. Only construction materials and vegetation shall be recycled on site.
7. Recyclable materials shall not be stockpiled for longer than 30 days.
8. Non-recyclable materials shall be removed from site within seven days.
9. All swale, berm, setback areas shall be free of stockpiled materials.
10. **No** concrete or rock grinding shall occur on site.
11. Commercial excavation is prohibited on site.
12. This site shall not be used as a commercial landfill. Prior to site plan certification, the petitioner shall record a deed restriction in the public record prohibiting commercial excavation and a commercial landfill on the site, subject to approval by the County Attorney.
13. Stockpiling **of** construction material shall be located within the bermed area and piles shall not exceed 25 feet in height.
14. Noise from the site shall not exceed 70 db at any lot line at any time, except during periods of building construction.
15. Recycled concrete and organic material only may be used for the construction of the perimeter berms. **No recycled** concrete brought on site to be recycled shall be use3 for site preparation, construction **or** buried on site. Clean fill only may **be** used to fill the remainder of the site.

16. All material brought on site shall be deposited, recycled and sorted on a concrete surface.

M. COMPLIANCE

- 1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
 - a. 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; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, 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. Commissioner Roberts moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Mary McCarty	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 3rd day of September, 1991.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

BY :

Barbara Allen
COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK

BY :

Judith Croshaw
DEPUTY CLERK