

RESOLUTION NO. R-92-1106

RESOLUTION APPROVING ZONING PETITION NO. 91-5(A)
MODIFICATION OF COMMISSION REQUIREMENTS
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(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 23, 1992; 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(A)**, the petition of WASTE MAGIC RECYCLERS, INC., **BY WILLIAM R. BOOSE, III**, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land situated within 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 North east **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, IN THE SA ZONING DISTRICT, was approved on April 23, 1992, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including **original** deadlines for Zoning Code Section 402.9 Compliance, unless expressly modified. (Zoning/Monitoring)
2. 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. (Previously Condition No. A.1, Petition 91-5). (Zoning)
3. 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. (Previously Condition No. A.2, Petition 91-5). (Zoning)

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 Department of Environmental Resources* Management concurrent with Site Plan Review application and approved by ERM prior to Site Plan certification. (Previously Condition No. B.1, Petition 91-5). (ERM/Zoning)
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. (Previously Condition No. B.2, Petition 91-5). (ERM)
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. (Previously Condition No. B.3, Petition 91-5). (ERM)

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. (Previously Condition No, C.1, Petition 91-5). **(HRS/ Zoning)**
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. (Previously Condition No. C.2, Petition 91-5). **(HRS)**
3. This facility shall not be open to the public and shall be conspicuously signed. (Previously Condition No. C.3, Petition 91-5). (Code Enforcement/Building)
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. **(Previously Condition No. c.4, Petition 91-5). (HRS/ Code Enforcement)**
5. The applicant shall secure an operating permit for the septic tank system. (Previously Condition No. C.5, Petition 91-5). **(HRS)**

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. (Previously Condition No. D.1, Petition 91-5). (Utilities)

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-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. (Previously Condition No. E.1, Petition 91-5). **(Engineering/FDOT)**
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 berming 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. (Previously Condition No. E.2, Petition 91-5). (Monitoring)

3. Condition No. E.3, Petition 91-5, which currently states:

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.

shall be amended to state:

The property owner shall construct a left turn lane, east approach on Lox Road at the project's entrance road within six (6) months of the date of written notification by the Palm Beach County Engineer's office that traffic capacity on Lox Road or the number of accidents at the intersection of Lox Road and the project's entrance has increased to a level requiring the construction of the left turn lane for traffic safety and/or traffic volume reasons. A Performance Bond, which will guarantee construction of this turn lane, shall be posted with the County Engineer prior to the issuance of a Certificate of Occupancy. Bond amount shall not exceed **\$30,000.00**. (Engineering)

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) 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. (Previously Condition No. E.4, Petition 91-5). (Monitoring/Building)

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). (Previously Condition No. **E.5**, Petition 91-5). (Impact Fee Coordinator)
6. Prior to Site Plan approval by the Site Plan Review Committee the property owner shall record a Unity of Title on the subject property subject to approval by the County Attorney. (Previously Condition **No. E.6**, Petition 91-5). (Zoning/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. (Previously Condition No. F.1, Petition 91-5). (Zoning)
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. (Previously Condition No. F.2, Petition 91-5). (Zoning)
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. (Previously Condition No. F.3, Petition 91-5). (Zoning)
4. All required trees shall have a minimum of five (5) feet of clear trunk and a minimum seven (7) foot canopy spread. (Previously Condition No, F.4, Petition 91-5). (Zoning)
 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. (Previously Condition No. F.5, Petition 91-5). (Zoning)

G. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets. (Previously Condition No. G.1, Petition 91-5). (Code Enforcement)
2. Lighting fixtures shall not exceed twenty (20) feet in height. (Previously Condition No. 'G.2, Petition 91-5). (Building)
3. All outdoor lighting shall be extinguished no later than 9:00 p.m. Security lighting only is excluded from this requirement. (Previously Condition No. G.3, Petition 91-5). (Code Enforcement)

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. (Previously Condition No. H.1, Petition 91-5). (Building)

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). (Previously Condition No. 1.1, Petition 91-5). (Building)
2. A sign shall be prominently displayed at the entrance of the facility prohibiting hazardous materials and white goods on site. (Previously Condition No. 1.2, Petition 91-5). (Building)

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. (Previously Condition No. J.1, Petition 91-5). (SWA)

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. (Previously Condition No. J.2, Petition 91-5). (SWA)
3. Building height shall be limited to a maximum of 36 feet. (Previously Condition No. 5.3, Petition 91-5). (Building)

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. (Previously Condition No. K.1, Petition 91-5). (Zoning/ SWA)
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 years 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. (Previously Condition No. K.2, Petition 91-5). (County Attorney/Building/SWA)

L. USE LIMITATIONS

1. Hours of operation shall be limited to 7 a.m. to 7 p.m. Monday through Saturday. (Previously Condition No. L.1, Petition 91-5). (Code Enforcement)
2. No outdoor speaker or public address systems shall be permitted. (Previously Condition No. L.2, Petition 91-5). (Code Enforcement)
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (Previously Condition No. L.3, Petition 91-5). (Code Enforcement)

4. The facility shall be gated and locked when the facility is not open. (Previously Condition No. L.4, Petition 91-5). (Code Enforcement)
5. The applicant shall maintain a contract with a licensed waste hauler for weekly removal of any and all hazardous material on site. (Previously Condition No. L.5, Petition 91-5). (SWA)
6. Only construction materials and vegetation shall be recycled on site. (Previously Condition No. L.6, Petition 91-5). (SWA)
7. Recyclable materials shall not be stockpiled for longer than 30 days. (Previously Condition No. L.7, Petition 91-5). (SWA)
8. Non-recyclable materials shall be removed from site within seven days. (Previously Condition No. L.8, Petition 91-5). (SWA)
9. All swale, berm, setback areas shall be free of **stockpiled materials**. (Previously Condition No. L.9, Petition 91-5). (Zoning)
10. No concrete or rock grinding shall occur on site. (Previously Condition No. L.10, Petition 91-5). (SWA)
11. Commercial excavation is prohibited on site. (Previously Condition No. L.11, Petition 91-5). (Engineering)
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. (Previously Condition No. L.12, Petition 91-5). (Zoning/County Attorney)
13. Stockpiling of construction material shall be located **within the bermed area and piles shall not exceed 25 feet in height**. (Previously Condition No. L.13, Petition 91-5). (Zoning)
14. **Noise from the site shall not exceed 70 db** at any lot line at any time, except during periods of building construction. (Previously Condition No. L.14, Petition 91-5). (Code Enforcement)
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 used for site preparation, construction or buried on site. **Clean fill only may be used to fill the remainder of the site**. (Previously Condition No. L.15, Petition 91-5). (SWA)
16. All material brought on site shall be deposited, recycled and sorted on a concrete surface. (Previously Condition No. L.16, Petition 91-5). (SWA)

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. (Zoning/Monitoring)
2. 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. (Previously Condition No. M.1., Petition No.91-5)

Commissioner Roberts moved for approval of the Resolution.

The motion was seconded by Commissioner Foster 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	--	Absent
Ken Foster	--	Aye
Maude Ford Lee	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 18th day of August, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

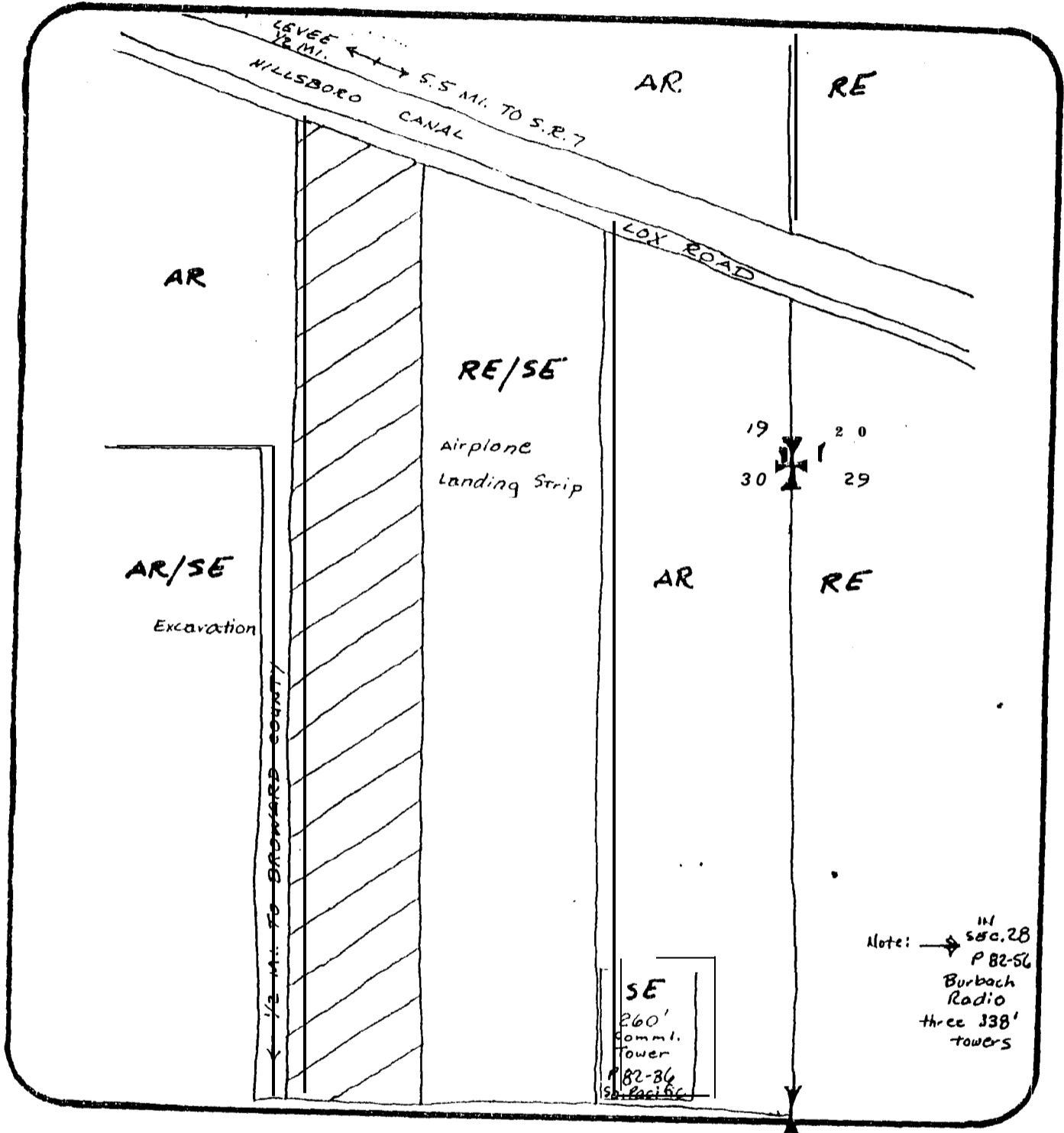
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: *Richard Altier*
COUNTY ATTORNEY

BY: *Robert Johnson*
DEPUTY CLERK

Sec. 19,30 Twp. 47 Rng. 41
 Quadrant Sheet: 84
 Aerial Page: 401

Vicinity
 Sketch



Request:

MODIFICATION OF COMMISSION REQUIREMENTS: R-91-1184,
 CONDITION NO. E.3, ZONING PETITION 91-5 (LEFT TURN LANE)

PETITION NO: 91-5(A)

BCC DISTRICT: 5