

RESOLUTION APPROVING ZONING PETITION CA92-29
CLASS A CONDITIONAL USE
PETITION OF JAMES G. DELK, TRUSTEE

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, 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 Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA92-29 was presented to the Board of County Commissioners at a public hearing conducted on April 29, 1993; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Land Development Code 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use is consistent with all requirements of Article 5, Section 5.4 (Conditional Uses) of the Palm Beach County Land Development Code, Ordinance 92-20.
3. This Class A Conditional Use complies with all relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
4. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Land Development Code.
5. This Class A Conditional Use is compatible as defined in the Palm Beach county Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
6. This Class A Conditional Use complies with all standards imposed on it by all other applicable provisions of the Palm Beach County Land Development Code for use, layout, function, and general development characteristics.

7. This Class A Conditional Use is consistent with all other applicable local land development regulations.
8. This Class A Conditional Use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
9. This Class A Conditional Use complies with Art. 11, Adequate Public Facility Standards.
10. This Class A Conditional Use, with conditions as adopted, mitigates environmental impacts, including water, air, stormwater management, vegetation, and the natural functioning of the environment.
11. This Class A Conditional Use will result in logical, timely and orderly development patterns.
12. This Class A Conditional Use is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CA92-29, the petition of JAMES G. DELK, TRUSTEE for a CLASS A CONDITIONAL USE allowing an EXCAVATION, TYPE III in the SPECIAL AGRICULTURAL (SA) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 29, 1993, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

Mary McCarty, Chair	--	Absent
Burt Aaronson	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 29th day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: *Richard Altier*
COUNTY ATTORNEY

BY: *Jana M. Blair*
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

All of that part of Section 28, Township 47 South, Range 41 East, lying South of the Southerly right-of-way line of the Hillsboro Canal, said right-of-way being 130.00 feet Southerly of the centerline of the Hillsboro Canal, less the following portion, BEGINNING at the Southwest corner of said Section 28, thence on an azimuth of $358^{\circ}44'45''$, along the West line of said Section 28, a distance of 4309.08 feet to a point on the Southerly right-of-way line of the Hillsboro Canal; thence on an azimuth of $107^{\circ}59'34''$, along said right-of-way line, a distance of 31.78 feet; thence on an azimuth of $178^{\circ}44'45''$, along a line parallel with and 30.00 feet East of as measured at right angles to the said West line of Section 28, a distance of 3529.06 feet; thence on an azimuth of $89^{\circ}36'40''$, along a line parallel with and 769.87 feet North of as measured at right angles to the South line of said Section 28, a distance of 1387.00 feet; thence on an azimuth of $178^{\circ}44'45''$, along a line parallel with and 1416.84 feet East of as measured at right angles to the said West line of Section 28, a distance of 769.96 feet to a point on the South line of said Section 28; thence on an azimuth of $269^{\circ}36'40''$ along the South line of said Section 28, a distance of 1417.00 feet to the POINT OF BEGINNING.

Said lands situate, lying and being in Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

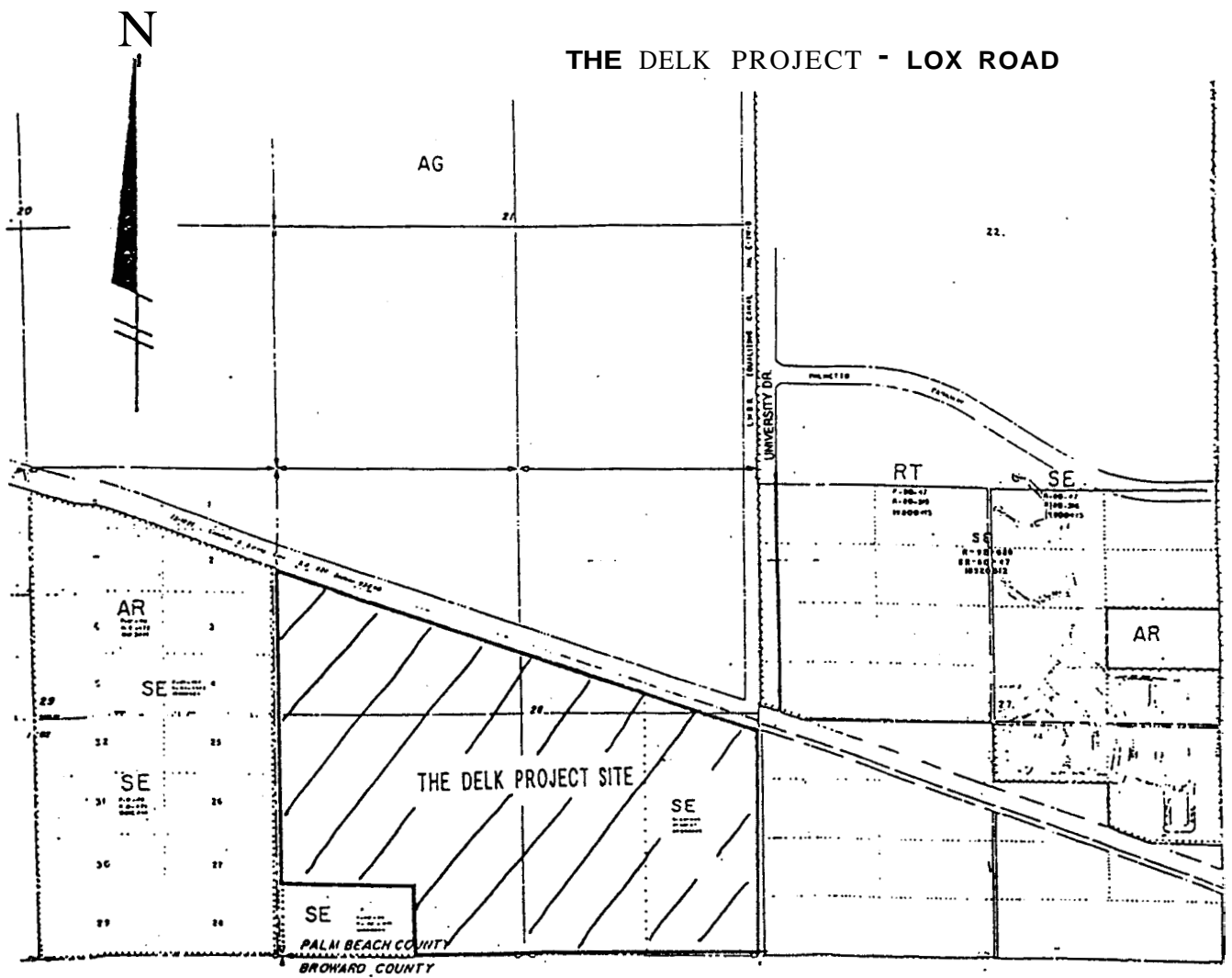


EXHIBIT C

CONDITIONS OF APPROVAL

A. PREVIOUS APPROVAL

1. Petition Number **88-27**, Resolution Number **89-945**, is hereby repealed.

B. MASTER CONSTRUCTION AND PHASING PLAN

1. Prior to July 1, 1993, or the commencement of phases three (3) thru eleven (11), whichever occurs first, the applicant shall submit to the Development Review Committee for approval a detailed Master Construction Plan. This Master Construction Plan shall be consistent with Section **7.6.G.4.b(3)** (a) (Notice of Intent to Construct) and shall indicate the phasing order of the lake construction. (MONITORING/ERM)
2. Prior to commencement of construction of each phase the applicant must receive Development Review Committee approval for the following requirements:
 - a. **A** Detailed Upland Reclamation Plan as described in condition C.3; and,
 - b. **A** Detailed Littoral Planting Plan as described in condition **D. 3.** (ZONING/ERM)

C. UPLAND RECLAMATION

1. Prior to July 1, 1993, or the Department of **ERM** issuing written approval for the Littoral Zone Master Planting Plan, whichever occurs first, the applicant must receive Development Review Committee Certification of a Master Upland Reclamation Plan. This plan at a minimum shall include the following:
 - a. An overall plan that reflects the entire excavation site and the minimum code requirements for a Type III Excavation, including but not limited to: a typical excavation cross section; minimum buffering details; erosion control methods; all proposed access points; internal hauling roads; areas to be used for agricultural production; staging areas; storage areas (with typical cross sections); weigh stations; other structures and improvements on site; and, compliance with all conditions of approval;
 - b. **A** Phasing Plan that provides tabular data for all phases, including: acreages for each phase; total number of trees, shrubs, seedling and groundcover to be provided; minimum number of species to be provided **for** the required trees, seedlings, shrubs, and ground cover; minimum sizes **of** material of all trees, shrubs seedling, and ground covers to be used; and cut and fill tabular data;
 - c. **A** Management plan that, at a minimum, describes the methodologies to be utilized for: installation; maintenance; survivability of plant materials; establishment **of** plant communities; plant replacement; temporary irrigation and **or** nourishment; and, eradication **of** prohibited or invasive plant material; and,

- d. An Erosion Control Plan that at a minimum describes all temporary and permanent erosion control methods. All permanent erosion controls must be compromise of natural organic material or native plants and/or ground cover. (MONITORING/ZONING - **ERM**)
2. Prior **to** commencement **of** construction of phase Three, or any other future phase, or August 1, 1993, whichever shall occurs first, the applicant shall receive approval for a Detailed Upland Reclamation plan for Phases One and **Two** consistent with the Master Reclamation Plan, the requirements **of** Palm Beach County Land Development Code, and all conditions of approval of this petition. (MONITORING/ZONING - **ERM**)
 3. Prior to commencement of construct any phase of this excavation the applicant shall receive DRC approval for a detailed Upland Reclamation Plan. This Upland Reclamation Plan shall be consistent with the approved Master Reclamation Plan, the Palm Beach County Land Development Code, and the Condition **of** approval for this petition. (ZONING - **ERM**)
 4. Minimum upland reclamation requirements are as follows:
 - a. Minimum total acreage is twenty one (21.0) acres (914,760 Square Feet);
 - b. Minimum reclamation area for each upland reclamation phase is one (1.0) contiguous acre (43,560 square feet). Phase **IV** and areas which are contiguous to future reclamation areas may be excluded from this requirement;
 - c. Minimum width **of** any reclamation area shall not be less than twenty five (25) feet;
 - d. Minimum Planting Requirements for upland areas:
 - 1) One (1) eight (8) foot tall native tree with a minimum three and one half (3.5) feet of canopy width per three hundred fifty (350) Square feet of required reclamation area;
 - 2) One (1) twenty four (24) inch native shrub per one hundred twenty five (125) square feet of required reclamation area;
 - 3) One (1) eighteen (18) inch native tree seedling per one hundred (100) square feet **of** required reclamation area; and,
 - 4) One (1) native understory plant per seventy five (75) square feet **of** required reclamation area (Turf Grasses shall not be credited to this requirement)
 - e. A minimum of two (2) inches of mulch shall be used **to** cover the **entire required** reclamation areas to prevent invasive plant species growth; Native ground cover, turf grasses, or wild flowers may be seeded **or** planted to meet this requirement provided that a minimum of eighty (80%) percent coverage **is** obtained prior to the Zoning Division release of the Upland Reclamation bond for that phase of upland reclamation.

- f. Minimum number of species to be used in reclamation planting plan are as follows:
- 1) A minimum of six (6) native species of trees and tree seedlings;
 - 2) A minimum of three (3) species of shade or canopy trees;
 - 3) A minimum of eight (8) species of native shrubs; and,
 - 4) A minimum of eight (8) species of native groundcover plants;
- g. Minimum specifications for plant material are as follows:
- 1) A minimum fifty (50%) percent of the required trees shall be shade or canopy trees;
 - 2) All plant material used must have a minimum of a drought tolerant rating by the South Florida Water Management District Xeriscape Guide;
 - 3) A minimum of one hundred (100%) percent of all required plant material shall be South Florida native; and,
- h. The performance guarantee for each phase this performance guarantee shall meet the minimum requirement pursuant to Section 7.6.F.13. (Additional Surety Requirements For Type III Excavations. ..) . (ZONING)
5. Prior to Development Review Committee certification of the next upland reclamation phase the petitioner shall required to submit a signed and sealed survey of each individual reclamation area within the previously approved phase of the excavation. (ZONING)
6. The Boundaries of each upland reclamation area shall be marked with physical survey monument markers indicating the area as a "Preserve Area - Do Not Encroach". These survey monument markers shall be installed around the perimeter one hundred (100) feet on center. (ZONING)
7. For each reclamation area within each upland reclamation phase shall:
- a. Record a deed restriction that:
 - 1) limits the use of the reclaimed area to a passive trail with a maximum width of eight (8) feet;
 - 2) Prohibits the removal of native vegetation from the reclaimed upland area; and,
 - 3) Prohibits the construction or placement of structures, or utilities within the reclaimed upland areas; and,
 - b. Receive plating approval from the County Engineer and shall be recorded with the County Clerk of Palm Beach County prior to the Zoning Division Releasing the required Upland Bound for the individual phase. (ZONING)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The Petitioner shall pay any outstanding vegetation removal fees to the Department of Environmental Resources Management prior to certification of the Master Construction Plan by the DRC. (ERM)
2. A Master Littoral Zone Planting Plan for the total project (phases one (1) thru eleven (11)) shall be submitted to and receive written approval from the Department of Environmental Resources Management prior to the commencement of construction of Phase three (3). (ERM)
3. For each phase:
 - a. Prior to the initiation of construction of each phase of the excavation, the applicant shall submit and receive written approval from ERM a Detailed Littoral Planting Plan. Each Detailed Littoral Planting Plan shall include the following:
 - 1) The required performance guarantee pursuant to Section 7.6.F.12 (Surety Requirements for Littoral Plantings) for each phase;
 - 2) The specific littoral planting plan meeting the requirement of section 7.6.F.4. (Littoral Zones) required for that phase as indicated on the approved Master Littoral Planting Plan. (ERM)
4. At the completion of each littoral planting for each phase the applicant shall notify ERM in writing that the littoral planting is completed. (ERM)

E. ENGINEERING

1. 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 exist or as it may from time to time be amended. (LAND DEVELOPMENT)
2. Prior to **December 15, 1994**, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warrarty deed for:
 - a) Lox Road, **80** feet south of and parallel to this project's north property line.

All free of encumbrances and encroachments. The 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections **as** determined by the County Engineer (MONITORING/BUILDING - Engineering).
3. Prior to December 15, 1994, the property owner shall construct a left turn lane, east approach on **Lox** Road at the project's entrance road including guardrail subject to approval by the County Engineer. (MONITORING-Engineering).

4. Within sixty (60) days of a request by the County Engineer, the property owner shall convey to Palm Beach County adequate road drainage easement through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Lox Road and University Drive along the property frontage and for a maximum 400 feet. distance each side of the property boundary lines along Lax Road and University Drive. 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 by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING - Engineering).
5. The Property owner shall furnish, prior to DRC Certification of the Master Upland Reclamation Plan, a road restoration bond to the office of the County Engineer, based on the approved haul route, (LAND DEVELOPMENT - Zoning)

F. LANDSCAPE AND BUFFERING

1. The applicant shall provide at a minimum a fifteen (15) foot landscape buffer around the perimeter of the site. The perimeter buffer may be waived for phases one, and two, if upland reclamation is provided around the perimeter of phases one, and two. The landscape buffer shall meet the minimum standards for compatibility buffers as described in the Palm Beach County Land Development Code Section 7.3. and 7.6. and shall be provided prior to the commencement of construction within any phase. The applicant may submit to the Zoning Division a Alternative Landscape Betterment Plan that integrates the required landscape buffer with the required reclamation. This Alternative Landscape Betterment Plan shall be required to utilize 100% native vegetation. Required landscaping and buffering shall not be credited towards the minimum required Upland Reclamation. (ZONING)
2. All landscape buffers that are provided at the minimum width of fifteen (15) that are not contiguous with an upland reclamation area shall be planted pursuant to the following standards:
 - a. A continuous native hedge planted at a minimum of four (4) feet in height and spaced at a minimum of thirty (30) inches on center;
 - b. Two (2) rows of trees fourteen (14) feet in height with a minimum crown spread of seven (7) feet in width planted in an offset pattern spaced fifteen (15) feet on center;
 - c. Native Palms trees with eight (8) feet of clear trunk planted thirty (30) feet on center. (ZONING)

G. HEALTH

1. The application and engineering plans to construct a limited use commercial drinking water supply system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)
2. The application and engineering plans to construct an on-site wastewater disposal system must be submitted to the Health Unit prior to site plan approval by the Development Review Committee. (HEALTH)

H. OTHER STANDARDS

1. Stockpiles of excavated materials shall be limited to a maximum height of forty (40) feet in height measured from grade to the highest point of the excavated material stockpile. (CODE ENFORCEMENT)
2. The hauling of excavated materials off site shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday, and 10:00 a.m. to 7:00 p.m. on Sunday, (CODE ENFORCEMENT)
3. Excavation activities shall be limited by a covenant of restrictions recorded in the public record, subject to the approval of the County Attorney, which provides that all excavation activities with the exception of site reclamation shall cease within ten (10) years of the date of the adoption of the resolution for this petition. (MONITORING)
4. All required slopes and littoral shelves shall extend to minus (-3) feet OHW. (ERM-Zoning)
5. The property owners shall eradicate all prohibited plant species in perpetuity for all disturbed excavation and reclamation areas. (ZONING)
6. The Excavation shall be limited to the creation of a total of one hundred forty seven (147.0) acres of mined lake. (ZONING/ERM)

I. CONTAINMENT AND DISPENSING OF REGULATED SUBSTANCES

1. Prior to the Master Site Plan being certification by the DRC, the applicant shall provide a list of all regulated substances to be used or stored on site to the Department of Environmental Resources Management. The Department of Environmental Resources Management (ERM) staff are willing to provide guidance on the appropriate protective measures. (ERM)
2. Secondary containment for all regulated substances is required. The Department of Environmental Resources Management (ERM) staff are willing to provide guidance on the appropriate protective measures. All secondary containment structures, dispensing areas, and containment material storage areas shall be clearly depicted on the Master Site Plan. (ERM)
3. Prior to DRC certification of the master site plan the applicant shall submit for approval from ERM, a Contingency Plan for immediate action in the event of a fuel or regulated substance spill. Containment materials and other emergency equipment shall be checked on quarterly basis (four (4) times a year) to assess usability. The applicant shall submit to Department of

Environmental Resources (ERM) an annual report assessing the usability of the emergency equipment. Annual reports shall be submitted starting August 1, 1993. (ERM)

4. All regulated substance dispensing areas shall have an impervious surface or other protective measures approved by the Department of Environmental Resource Management. All fuel lines shall be secondarily contained. Adequate numbers of absorbent materials, pads, clays, containment booms etc. must be stored on-site to contain spills. (ERM)
5. Any spill of any regulated substance shall be reported to the Palm Beach County Health Department within one (1) hour and to the Department of Environmental Resources Management (ERM) within twenty four (24) hours. (HEALTH-ERM)