

RESOLUTION NO. R-90- 532

RESOLUTION APPROVING ZONING PETITION NO. 89-73
SPECIAL EXCEPTION PETITION OF
DENNIS P. AND MARY V. CLEARY

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. 89-73 was presented to the Board of County Commissioners of Palm Beach County, sitting as the zoning Authority, at its public hearing conducted on August 31, 1989; 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 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, 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. 89-73, the petition of DENNIS P. AND MARY V. CLEARY, by Anthony Falotico, Agent, for a SPECIAL EXCEPTION TO PERMIT A PLANNED RESIDENTIAL DEVELOPMENT on a parcel of land being: Parcel 1: A parcel of land in Section 17, Township 41 South, Range 43 East, Palm Beach County, Florida, bounded as follows: On the West by the easterly line of the of the property described below: On the East by the centerline of the Intracoastal Waterway, as shown in Plat Book 17, Page 5, Public Records of Palm Beach County, Florida: On the North by an Easterly extension of the Northerly line of said property described below: and On the South by an Easterly Extension of the Southerly line of said property described below: Starting at a point on the South line of Section 17, Township 41 South, Range 43 East, and the Westerly Right-of-way line of the Intracoastal Waterway as show on map recorded in Plat Book 17, Page 5, in the office of the clerk of the Circuit Court of Palm Beach County, Florida; Run thence Northwesterly along aforesaid Right-of-way line a distance of 1630.00 feet to the Point of Beginning, said point being in the North line of land previously sold to Harold B. Bennington and Elizabeth Bennington, his wife, by deed recorded in Deed Book 1050, page 324, in the office of said clerk, from this point of beginning

and with a deflection angle of 79 Degrees 53' 52" to the left or West, run Westerly along the North line of said land conveyed to Harold B. Bennington and wife to an intersection with the Easterly Right-of-way line of County Road (Palmwood Road), said Right-of-way being more particularly described in the Right-of-way Deed to Palm Beach County dated October 7, 1953, recorded in Deed Book 1036, Page 97, in the office of said clerk; run thence Northwesterly along the Easterly Right-of-Way line of said County Road a distance of 275.00 feet to a point; run thence Northeasterly to a point of intersection with the Northwesterly Right-of-way line of said Intracoastal Waterway, said point being 300.00 feet Northwesterly, measured along said Right-of-way line, from the point of beginning; thence Southerly along said Right-of-way line to the point of beginning, said Tract being in Section 17, Township 41 South, Range 43 East, Palm Beach County, Florida; Parcel 11: Starting at a point on the South line of Section 17, Township 41 South, Range 43 East, and the Westerly Right-of-way line of the Intracoastal Waterway as shown on map recorded in Plat Book 17, page 5, in the office of the Clerk of the Circuit Court of Palm Beach County, Florida; thence run Northwesterly along aforesaid right-of-way line a distance of sixteen hundred thirty (1630.00) feet to the Point of Beginning, said point being in the North line of land previously sold by the grantor's herein to Harold B. Bennington and Elizabeth Bennington, his wife, by deed recorded in Deed Book 1050, page 324 in the office of said clerk; from this point of beginning and with a deflection angle of 79 Degrees 53' 52" to the left or West, run Westerly along the North line of said land conveyed to Harold B. Bennington and wife to an intersection with the Easterly right-of-way line of County Road (Palmwood Road), said right-of-way being more particularly described in right-of-way deed to palm Beach County dated October 7, 1953, recorded in Deed Book 1036, Page 97, in the office of said Clerk; run thence Northwesterly along the Easterly right-of-way line of said County Road a distance of two hundred seventy-five (275.00) feet to a point; run thence Northeasterly to a point of intersection with the Northwesterly right-of-way line of said Intracoastal Waterway, said point being three hundred (300.00) feet Northwesterly, measured along said right-of-way line, from the point of beginning; thence Southerly along said right-of-way line to the point of beginning, said tract being in Section 17, Township 41 South, Range 43 East, Palm Beach County, Florida, being located on the east side of Palmwood Road, approximately .18 mile south of Fred Small Road, in an RS-Single Family Residential Zoning District, was approved on August 31, 1989 as advertised, subject to the following conditions:

1. Prior to subdivision approval the Master Plans shall be revised to reflect:
 - a. Proper dimensions and areas for the lots;
 - b. Appropriate designation, to the satisfactions of the Zoning Divisions and County Attorney, of the Intracoastal waterway right-of-way.
2. Prior to certification/approval of the master site plan, appropriate approvals shall be obtained from the proper permitting agencies for structures within the intracoastal right-of-way.
3. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site.

4. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
5. No new portion of this project is to be approved on well and/or septic tank. Existing septic tanks are to be abandoned in accordance with Chapter 10D-6 F.A.C. However, existing house on site shall be allowed to continue using the existing well and septic tank until the issuance of the first building permit.
6. 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 onsite 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.
7. The Developer 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 \$1,045.00 per approved single family lot.
8. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended.
9. Prior to Master Plan approval the site plan shall be revised to reflect the following:
 - a. Minimum of fifty (50) feet road rights-of-way;
 - b. Standard cul-de-sacs at the termination of the rights-of-way;
 - c. No swimming pools or structures shall extend within the right-of-way easement of the intracoastal waterway unless approved and permitted by the Army Corp. of Engineers; and
 - d. Verification of legal positive outfall into the intracoastal waterway from the U.S. Army Corps of Engineers or other appropriate governmental bodies having jurisdiction of the waterway if such outfall is necessary.
10. Density shall be limited to 1.26 dwelling units per acre.

11. All native vegetation shall be preserved to the greatest extent possible. Clearing shall be limited to that necessary for construction of the access road and residential units.
12. Failure to comply with any conditions of approval 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.

Commissioner Phillips moved for approval of the Resolution.

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

Carol J. Elmquist, Chair	--	Aye
Karen T. Marcus	--	Absent
Carol Roberts	--	Aye
Ron Howard	--	Aye
Carole Phillips	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 27th day of March, 1990.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

