

RESOLUTION NO. R-89-1437

RESOLUTION APPROVING ZONING PETITION NO. 86-36(A)
SPECIAL EXCEPTION PETITION OF JOHN BARGAS

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. 86-36(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 28, 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. 86-36(A) the petition of JOHN BARGAS, by Kieran J. Kilday, Agent, for a SPECIAL EXCEPTION TO PERMIT A PLANNED RESIDENTIAL DEVELOPMENT WHICH WILL EXTINGUISH THE SPECIAL EXCEPTION FOR A PLANNED UNIT DEVELOPMENT (PETITION NO. 86-36) on a parcel of land lying in the West 1/2 of the Northwest 1/4 of the Southeast 1/4 of the Northwest 1/4, less the North 12.5 feet, the East 1/2 of the Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4, less the North 12.5 feet; the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of the Northwest 1/4, less the South 13.0 feet thereof: the Southwest 1/4 of the Southeast 1/4 of the Northwest 1/4, less the South 13.0 feet thereof: All in Section 14,

Township 46 South, Range 42 East; And the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 14, Township 46 South, Range 42 East, less the East 24.48 feet and less the South 13.0 feet thereof; And the North 60.00 feet of the East 24.48 feet of the West 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 14, Township 46 South, Range 42 East; And that portion of the North 60.00 feet of the East 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 14, Township 46 South, Range 42 East, lying West of the West of a line that is 120.00 feet West of a parallel to the East line of the Northwest 1/4 of said Section 14, being located on the west side of Simms Road, approximately .4 mile north of Atlantic Avenue (SR 806), in a RS-Single Family Residential Zoning District, was approved on April 28, 1989, as advertised, subject to the following conditions:

1. Prior to Subdivision Review Committee approval, the site plan shall be amended to indicate the relocation of the recreation area so that it does not immediately abut adjacent single family dwellings.
2. The development shall be limited to 96 dwelling units.
3. A vegetation removal permit shall be required prior to clearing the recreation area, utility and drainage easements and all on site rights-of-way. -

Individual lots shall not be cleared of native vegetation until after the Zoning Division has accepted the building permit application and approved a vegetation removal permit for that lot.

4. The extent of clearing shall be limited to the minimum necessary to complete development.
5. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
6. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
7. 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 first one inch of stormwater runoff. In the event that the subject site abuts a Florida 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.

8. Within **90** days of approval of this project, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed the ultimate right-of-way of Sims Road, **80** feet west of the ultimate west right-of-way line of the **E-3** Canal free of all encumbrances and encroachments. 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.
9. The Property owner shall convey to Palm Beach County within **90** days of the approval of this project adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for **all** runoff from those segments of Sims Road along the property frontage and for a maximum **400** ft. distance each side of the property boundary lines along Sims 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.
10. The petitioner 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.
11. Based upon a previous commitment the developer has agreed to contribute an additional **\$22,512.00** toward Palm Beach County's existing Roadway Improvement Program. Any remaining funds after receiving credit for the Sims Road construction as outlined in the Conditions below shall be paid prior to March **1, 1990**. If the "Fair Share Contribution for Road Improvements Ordinance!" is amended to increase the Fair Share Fee, this additional amount of **\$22,512.00** shall be credited toward the increased Fair Share Fee.
12. The Property owner shall provide construction plans to Land Development Division for Sims Road as a **2** lane section (expandable to **5** lanes) from the northern paved terminus of Sims Road north of Delray West Road, north to the north right-of-way of the Lake Worth Drainage District **L-32** Canal plus the appropriate tapers. These

construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed within **six (6)** months of the approval of the Resolution approving this project. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division.

13. The property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of Sims Road as an ultimate **80** foot section from the existing paved terminus north of West Atlantic Avenue, north to the project's entrance road plus the appropriate tapers. This right-of-way shall be obtained within **16** months of Special Exception approval or prior to the issuance of a Building permit whichever shall first occur. This property owner shall enter into a written agreement with the Land Acquisition Section within **30** days of Special Exception approval for which this property owner shall fund all costs. These documents shall include a title search for a minimum of **25** years. Notification shall be given to Land Development Division. Previous condition of Zoning Petition **86-36** completed.
14. The Property owner shall construct Sims Road from the present northern paved terminus north of Delray West Road north to a point **300** feet north of the project's entrance road. This construction shall be a minimum of **2-12** foot travel lanes as outlined in the condition above. This construction shall be completed within **6** months of Special Exception approval or prior to January **1, 1990** whichever shall first occur.
15. The Developer shall install signalization if warranted as determined by the County Engineer at the intersection of West Atlantic Avenue and Sims Road. Should signalization not be warranted after **12** months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
16. Surety required to the Land Development Division for the offsite road improvements as outlined in Condition **Nos. 14, 15, and 16** shall be posted with the Office of the County Engineer prior to June **1, 1989**.

17. Petition No. 86-36, Resolution No. R-86-1360 (Special Exception to Allow a Planned Unit Development) is hereby repealed in its entirety.
18. 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 Marcus moved for adoption of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 1st day of August, 1989.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: *Richard Coleman*
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK
BY: *Ann P. Williams*
DEPUTY CLERK

