

RESOLUTION AMENDING RESOLUTION NO R-90-43  
RESOLUTION APPROVING REZONING PETITION OF  
AMERICAN REAL ESTATE TRADING, INC  
SUBJECT TO VOLUNTARY COMMITMENTS  
PETITION NO 89-70

WHEREAS, AMERICAN REAL ESTATE TRADING, INC , BY EUGENE A CONTI, AGENT, petitioned the Palm Beach County Planning Commission and the Board of County Commissioners, sitting as the final zoning authority, on July 27, 1989 and January 2, 1990, respectively, for a REZONING FROM RE-RESIDENTIAL ESTATE ZONING DISTRICT TO AGRICULTURAL RESIDENTIAL ZONING DISTRICT, WHICH EXTINGUISHES THE SPECIAL EXCEPTION FOR A PLANNED UNIT DEVELOPMENT, and

WHEREAS, Resolution No R-90-43 adopted January 2, 1990 confirming the action of the Board of County Commissioners sitting as the final zoning authority on July 27 1989 inadvertently contained an incorrect set of Voluntary Commitments, and

WHEREAS, the Voluntary Commitments of Zoning Resolution No R-90-43, read as follows

- 1 The required 10 foot wide landscape strips along Cherry Road and up to the northern entrance along Country Club Road shall be supplemented with a 36 inch high hedge and 12 foot high native canopy trees planted 20 feet on-center
- 2 Storage bay doors shall not face any abutting residentially zoned property nor shall they be visible from any public streets
- 3 Dumpsters and trash receptacles shall be screened from view from adjacent properties and streets
- 4 Off-premise signs shall not be permitted on the site
- 5 Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents
- 6 Sewer service is available to the property Therefore, no septic tank shall be permitted to the site
- 7 Water service is available to the property Therefore no well shall be permitted on the site to provide potable water
- 8 There is a potential for hazardous materials to be stored onsite, an Affidavit of Notification must be executed by site plan certification Secondary containment for stored, regulated substances shall be required
- 9 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.

- 10 The Developer shall design the drainage system such that drainage from these areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.
- 11 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 for County Club Road 40 feet from centerline and Cherry Road 40 feet from centerline. All 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.
- 12 The Property owner shall construct a left turn lane east approach at the intersection of Cherry Road and Country Club Road concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of a Certificate of Occupancy.

In lieu of constructing the above, the petitioner shall have the option to fund a pro-rata share of the cost of roadway expansion within the CRA district. Funding shall be based upon the cost of one (1) twelve foot travel lane along the Cherry Road frontage. The funds shall be paid to the Palm Beach County Engineering Department for the Westgate/Belvedere Home CRA Roadway Improvement Program. The funds shall be paid concurrent with the submittal of a building permit application.

- 13 Property owner shall be permitted only one entrance/exit onto Cherry Road and only 2 entrance/exits onto Country Club Road.
- 14 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 presently is \$30,809.00 (1 150 trips X \$26.79 per trip).
- 15 Prior to Site Plan Review submittal, the site plan shall be amended to indicate the following Westgate/Belvedere Homes CRA conditions:
  - a Outdoor loud speaker or public address systems shall not be permitted on-site,
  - b The landscape strips along Cherry Road and Country Club Drive shall meet the requirements of Section 500.35 (Landscape Code) and the CRA district streetscape program. The landscape strip shall be irrigated by an automatic system and be maintained by the property owner.

- 16 Security lighting shall be low intensity and directed away from surrounding residences through the use of house side shields. Lighting fixtures shall not exceed twelve (12) feet in height along the east property line.
- 17 No advertising flags, foreign flags, pennants, banners, streamers, or balloons shall be permitted on site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle, or wall, or other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc. shall not be permitted on-site.
- 18 The petitioner shall construct or fund the construction of sidewalks and acceptable CRA streetscape paving designs within the road right-of-way and landscape strips along Cherry Road. Construction plans shall be subject to approval by the County Engineer. Funds shall be paid prior to submittal of a Building Permit application. Payment shall be submitted to Palm Beach County Engineering Department for the Westgate/Belvedere Homes CRA Road Improvement Program.
- 19 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 and

WHEREAS, the Voluntary Commitments of Zoning Resolution No. R-90-43 should have read

1. Petition No. 85-141, Resolution Numbers R-86-232 and Resolution No. R-86-233 are hereby repealed in their entirety.
2. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to subdivision approval.
3. 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.
4. This property owner shall share with the homeowners association to the south road and canal maintenance costs. Note: These property owners will be using the roads which are being maintained by the homeowners association to the south.
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 presently is \$1,045.00 per dwelling unit over 2,000 square feet and

\$804 00 per approved dwelling unit under 2,000 square feet

- 6 The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended. Roadways shall be subject to approval by the County Engineer and Planning, Zoning and Building Department
- 7 No off premise signs shall be permitted on site

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY FLORIDA, that

- 1 The foregoing recitals are hereby affirmed and ratified
- 2 The Voluntary Commitments of Resolution No R-90-43 are hereby amended

The foregoing resolution was offered by Commissioner Elmquist who moved its adoption. The motion was seconded by Commissioner Roberts 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 27 day of October 1992

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

MILTON T BAUER CLERK

BY [Signature] COUNTY ATTORNEY

BY [Signature] DEPUTY CLERK