

RESOLUTION R-1732

RESOLUTION AMENDING RESOLUTION R-95-1321.1  
RESOLUTION APPROVING ZONING PETITION OF  
WESTGATE COMMERCE 111, INC., CATALFUMO  
BY JIM EXLINE AND JIM LIS, AGENTS  
PETITION 91-39 (A)

WHEREAS, Westgate Commerce 111, Inc., petitioned the Palm Beach County Board of County Commissioners on September 28, 1995 for a Development Order Amendment; and

WHEREAS, Resolution R-95-1321.1 adopted September 28, 1995 confirming the action of the Board of County Commissioners, incorrectly referenced the previous conditions of approval in Exhibit C; and

WHEREAS, Exhibit C of Resolution R-95-1321.1 should have read as shown on attached Exhibit C.

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. Exhibit C of Resolution R-95-1321.1 is hereby amended.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 4th day of December, 1995.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Altier*  
COUNTY ATTORNEY

BY: *Joan Hawery*  
DEPUTY CLERK

DEC 6 1995

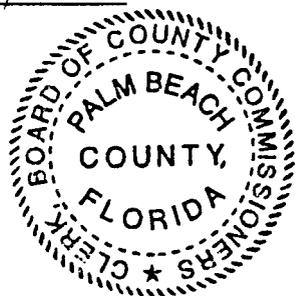


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-91-1717 have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for ULDC Section 5.8 compliance, as amended, unless expressly modified. (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 A.1 of Resolution R-91-1717, Petition No. 91-39).
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 (Exhibit No. 3). Any modifications must be approved by the Board of County Commissioners unless the proposed use *or* design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein. (Previously Condition A.2 of Resolution R-91-1717, Petition No. 91-39).

B. DUMPSTER

1. All garbage and refuse receptacles shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty-six (36) inch high shrub and hedge material planted twenty-four (24) inches on center. (Previously Condition B.1 of Resolution R-91-1717, Petition No. 91-39).

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. 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 C.1 of Resolution R-91-1717, Petition No. 91-39).

D. HEALTH

1. 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. (Previously Condition D.1 of Resolution R-91-1717, Petition No. 91-39).
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition D.2 of Resolution R-91-1717, Petition No. 91-39).

3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition D.3 of Resolution R-91-1717, Petition No. 91-39).
4. No portion of this project is to be approved on potable well or septic tank, existing or new. Existing septic tanks are to be abandoned, in accordance with Chapter 10D-6, F.A.C. (Previously Condition D.4 of Resolution R-91-1717, Petition No. 91-39).

**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 on-site 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 E.1 of Resolution R-91-1717, Petition No. 91-39).
2. Prior to May 1, 1992, 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 warranty deed for Wabasso Drive, 64 feet from centerline 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. (Previously Condition E.2 of Resolution R-91-1717, Petition No. 91-39).
3. 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 \$11,550.00 (210 trips X \$55.00 per trip). (Previously Condition E.3 of Resolution R-91-1717, Petition No. 91-39).
4. 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 E.4 of Resolution R-91-1717, Petition No. 91-39).
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, Zoning Petition Number 91-39(A), to be paid at the time of issuance of the Building Permit presently is \$11,550.00 (210 additional trips X \$55.00 per trip) (IMPACT FEE COORDINATOR) .

**F. LANDSCAPING - GENERAL**

1. A minimum of forty (40) square feet of landscaping for each parking space shall be provided within the interior of the parking area between the building and vehicular use areas. If this requirement is transferred to the perimeter of the site, fifty (50) square feet for each parking space shall be provided. (Previously Condition F.1 of Resolution R-91-1717, Petition No. 91-39).
2. A minimum of fifteen (15) percent of the gross paved vehicular use area that is open to public but **not used** for off-street parking shall be devoted to interior landscaping. (Previously Condition F.2 of Resolution R-91-1717, Petition No. 91-39).
3. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval. (Previously Condition F.3 of Resolution R-91-1717, Petition No. 91-39).
4. Minimum required material standards are as follows:
  - a. Tree height - 14 feet.
  - b. Trunk diameter - 3.5 inches at 4.5 inches above grade.
  - c. Canopy diameter - 7 feet. The diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (Previously Condition No. F.4 of Resolution R-91-1717, Petition No. 91-39).

**G. LANDSCAPING AND BUFFERING**

1. One landscape island shall be provided for every ten (10) parking spaces. Each landscape island shall be planted with a minimum of one native canopy tree or native palm tree a minimum of fourteen (14) feet in height and appropriate ground cover. (Previously Condition No. G.1 of Resolution R-91-1717, Petition No. 91-39).
2. The landscape strip along Wabasso Drive shall be a minimum of fifteen (15) feet wide. (Previously Condition No. G.3 of Resolution R-91-1717, Petition No. 91-39).
3. Landscaping within the required buffer along Wabasso Drive, Genessee Avenue and along the east property line shall be upgraded to include:
  - a. One fourteen (14) foot tall native canopy tree planted every twenty (20) feet on center.
  - b. A continuous native hedge, a minimum of twenty-four (24) inches in height at planting, to be installed twenty-four (24) inches on center, and to be maintained at a minimum height of thirty-six (36) inches. (Previously Condition No. G.4 of Resolution R-91-1717, Petition No. 91-39).

4. Condition No. **G.5** of Resolution 91-1717 which currently states:

The petitioner shall provide a six (6) foot high opaque wall or fence along the east property line, setback a minimum of five (5) feet. The required landscaping (above) shall be installed on the exterior side of the required wall/fence. The interior side of the wall shall be planted with twenty-four (24) inch high hedge or shrub material planted twenty-four (24) inches on center to be maintained at a minimum height of thirty-six (36) inches. Installation of a fence shall be subject to approval by the WCRA and the Board of Adjustment. In the event that the adjacent property develops commercially, the applicant may apply for variance relief from the wall/fence requirement through the Board of Adjustment process, subject to WCRA approval. (Previously condition No. **G.5** of Resolution R-91-1717, Petition No. 91-39).

Is hereby amended to state:

The petitioner shall provide a six (6) foot high opaque wall along the east property line, setback a minimum of two and one half (2 1/2) feet. The required landscaping (above) shall be installed on the exterior side of the required wall. The interior side of the wall shall be planted with twenty-four (24) inch high hedge or shrub material planted twenty-four (24) inches on center to be maintained at a minimum height of thirty-six (36) inches. In the event that the adjacent property develops commercially, the applicant may apply for variance relief from the wall requirement through the Board of Adjustment process, subject to WCRA approval. (BUILDING/LANDSCAPE)

5. Prior to site plan certification, the site plan shall be amended to indicate compliance with the streetscape design guidelines of the Westgate/Belvedere Homes Community Redevelopment Agency. (Previously Condition No. **G.6** of Resolution R-91-1717, Petition No. 91-39).

#### H. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed downward and away from adjacent properties and streets. (Previously Condition No. H.1 of Resolution R-91-1717, Petition No. 91-39).
2. Lighting fixtures shall not exceed twenty (20) feet in height. (Previously Condition No. H.2 of Resolution R-91-1717, Petition No. 91-39).
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. security lighting only is excluded from this requirement. (Previously Condition No. H.3 of Resolution R-91-1717, Petition No. 91-39).

#### I. RECYCLE SOLID WASTE

1. The property owner/lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. The site plan shall be amended to indicate an area for recycle bins along with dumpster locations. (Previously Condition No. 1.1 of Resolution R-91-1717, Petition No. 91-39).

**J. USE LIMITATIONS**

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. J.1 of Resolution R-91-1717, Petition No. 91-39).
2. No outdoor loudspeakers or paging equipment shall be permitted on site. (Previously Condition No. J.2 of Resolution R-91-1717, Petition No. 91-39).
3. Prior to site plan certification, the hours of operation shall be set and approved by the WCRA. The petitioner shall notify the Board of County Commissioners and the Zoning Division of the approved hours of operation. (Previously Condition No. J.3 of Resolution R-91-1717, Petition No. 91-39).
4. No outdoor business activities shall be allowed on the site, excluding deliveries. (Previously Condition No. J.4 of Resolution R-91-1717, Petition No. 91-39).
5. No outdoor storage of materials or equipments shall be permitted on the site. (Previously Condition No. J.5 of Resolution R-91-1717, Petition No. 91-39).
6. A minimum of one-half acre of the development shall be devoted exclusively to office-warehouse use. (Previously Condition No. J.6 of Resolution R-91-1717, Petition No. 91-39).
7. Condition No. J.7 of Resolution 91-1717 which currently states:

**The minimum percentage of office space permitted for any owner/lessee in an office-warehouse bay shall not be less than twenty-five (25) percent of the gross floor area.**

is hereby amended to state:

The percentage of office space permitted for any owner/lessee in an office-warehouse bay shall not be less than five (5) nor more than twenty-five (25) percent of the gross floor area. If the Westgate/Belvedere Homes Overlay District (WCRA-0) Office/warehouse use supplementary regulations are amended, the percentage of office space may be adjusted subject to approval by the Traffic Division. (CODE ENFORCEMENT-Zoning)

8. Storage bay doors shall not face any property which is residentially zoned, nor shall they be visible from any public street. (Previously Condition No. J.8 of Resolution R-91-1717, Petition No. 91-39).

**K. SIGNS**

1. Signs on the property 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).
  - d. Location - Wabasso Drive only.
  - e. sign shall be of monument type.
  - f. Signs shall be setback a minimum of five (5) feet from any sidewalk. (Previously Condition No. K.1 of Resolution R-91-1717, Petition No. 91-39).

2. All tenant identification signs shall be unified in design. signs not attached to the building shall be located within a single cabinet or frame. (Previously Condition No. K.2 of Resolution R-91-1717, Petition NO. 91-39).

L. SITE SPECIFIC

1. Similar architectural character and treatment shall be provided on all sides of the building. The color of the building shall be compatible with the character of the neighborhood. (Previously Condition No. L.1 of Resolution R-91-1717, Petition No. 91-39).
2. For cross access points to adjoining out-parcel to the south, the developer shall execute a cross access easement agreement prior to site plan review. (Previously Condition No. L.2 of Resolution R-91-1717, Petition No. 91-39).
3. The area reserved for future development shall be scdded and maintained in accordance with Section 5(0.35 (Landscape Code) of the Zoning Code. (Previcusly Condition No. L.3 of Resolution R-91-1717, Petition. No. 91-39).

M. WESTGATE CRA CONDITIONS

1. This site is subject to the provisions of Westgate/Belvedere Community Redevelopment Master Plan and Zoning Code Section 627 (Westgate CRA Overlay District) in addition to other applicable zoning district, special exception and land development regulations. (Previously Condition No. M.1 of Resolution R-91-1717, Petition No. 91-39).

2. Condition M.2 of Resolution 91-1717 which currently states:

Concrete sidewalks shall be installed along all property lines abutting right-of-ways in accordance to the design guidelines of Westgate/Belvedere Homes Community Redevelopment Plan.

Is hereby amended to state:

Prior to issuance of the next Certificate of Occcpancy (CO), the property owner shall install concrete sidewalks along all property lines abutting right-of-ways, except for Gennessee Avenue, in accordance with the design guidelines of Westgate/Belvedere Homes Community Redevelopment Plan. Final approval shall be subject to the approval of the County Engineer. (BUILDING-Engineering)

3. Property owner shall provide funding for the constriction of the sidewalk along Gennessee Avenue in the amount not to exceed \$2,010.00. These funds shall be made available to the County Engineer prior to the issuance of the Building Permit of the eastern 12,000 square foot office warehouse. Use of these funds shall then be transferred to the Westgate CRA for area wide paving and drlinage improvements. (BLDG. PERMIT: BUILDING - Engineering).
4. Prior to site plan certification, the petitioner shall submit conceptual elevations with all materials and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles. (Previously Condition No. M.3 of Resclution R-91-1717, Petition No. 91-39).

5. No advertising flags, foreign flags, pennants, banners, streamers, balloons, flashing signs, electronic message boards, etc., shall be permitted on site except as may be allowed by a special permit. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, other than inside a window as may be permitted by the Sign Code. (Previously Condition No. M.4 of Resolution R-91-1717, Petition No. 91-39).

**N. WESTGATE CRA BONUS CRITERIA**

1. The development shall be located on a minimum land area of two (2) acres. (Previously Condition No. N.1 of Resolution R-91-1717, Petition No. 91-39).
2. The developer shall provide on-site landscaping which exceeds Palm Beach County's requirements (Landscape Code Section 500.35) by the following:
  - a. Minimum native tree requirement = 100%.
  - b. Minimum xeriscape area = 50%.
  - c. Minimum overall tree requirement = 1 tree/2000 gross square feet of lot area. (Previously Condition No. N.2 of Resolution R-91-1717, Petition No. 91-39).
3. The developer shall contribute to the Westgate/Belvedere Homes Improvement Fund an amount equal to:
  - a. Twenty-five percent (25%) of the impact fees generated by the bonus acreage for roads/traffic, parks, fire-rescue, and law enforcement; and
  - b. Twenty-five percent (25%) of the capacity reservation fee for the project's bonus acreage for water utilities.

These fees shall be paid at the time of building permit issuance. The improvement fund shall be used to provide for residential infrastructure requirements only. (Previously Condition No. N.3 of Resolution R-91-1717, Petition No. 91-39).

4. The developer shall contribute to a drainage impact fee calculated as \$1,800 times the acreage of the property to be developed. The impact fee will be applied toward the cost of area-wide drainage improvements and/or an area-wide basin study. (Previously Condition No. N.4 of Resolution R-91-1717, Petition No. 91-39).

**O. COMPLIANCE**

1. As provided in 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.

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. 0.1 of Resolution R-91-1717, Petition No. 91-39).