

RESOLUTION NO. R-91- 1717

RESOLUTION APPROVING ZONING PETITION NO. 91-39  
SPECIAL EXCEPTION PETITION OF WESTGATE COMMERCE 111, INC.

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. 91-39 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 29, 1991; 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 the 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, Chapter 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. 91-39, the petition of WESTGATE COMMERCE 111, INC., BY KIERAN J. KILDAY, AGENT, for a SPECIAL EXCEPTION TO ALLOW A PCD TO INCLUDE AN OFFICE/WAREHOUSE COMBINATION AND USES CUSTOMARILY PERMITTED IN THE CG ZONING DISTRICT on a parcel of land lying within Lots 1 to 15, inclusive, and Lots 31 to 45, inclusive, Block 20, "WEST GATE ESTATES (NORTHERN SECTION)", Plat Book 8, Page 38, Section 30, Township 43 South, Range 43 East, LESS the Westerly 20.00 feet for additional right-of-way, and being located ON THE SE CORNER OF THE INTERSECTION OF WABASSO DR. AND GENESSEE AVE., was approved on August 29, 1991, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. 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.

2. 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.

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.

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.

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.
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
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.

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.

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.
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).
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.

**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.
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.
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
4. Minimum required material standards are as follow;;:
  - 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.!!i feet in length.

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.
2. Landscape strips along Genessee Avenue and along the east property line shall be a minimum of ten (10) feet wide.
3. The landscape strip along Wabasso Drive shall be a minimum of fifteen (15) feet wide.
4. 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.
5. 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.
6. 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.

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.
2. Lighting fixtures shall not exceed twenty (20) feet in height.
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.

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.

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.
2. No outdoor loudspeakers or paging equipment shall be permitted on site.
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,
4. No outdoor business activities shall be allowed on the site, excluding deliveries.
5. No outdoor storage of materials or equipments shall be permitted on the site.
6. A minimum of one-half acre of the development shall be devoted exclusively to office-warehouse use.
7. 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.
8. Storage bay doors shall not face any property which is residentially zoned, nor shall they be visible from any public street.

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.
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.

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.

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.
3. The area reserved for future development shall be sodded and maintained in accordance with Section 500.35 (Landscape Code) of the Zoning Code.

**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.
2. 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.
3. Prior to site plan certification, the petitioner shall submit conceptual elevations with all material; and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles.
4. 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.

**N. WESTGATE CRA BONUS CRITERIA**

1. The development shall be located on a minimum land area of two (2) acres.
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.
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.

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.

0. 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.

Commissioner Elmquist moved for approval of the Resolution.

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	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 26th day of November, 1991.

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