

RESOLUTION NO. R-93- 345

RESOLUTION APPROVING ZONING PETITION NO 83-69(B)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF PETE CARTIER

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. 83-69(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on August 27, 1992; 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. 83-69(B), the petition of PETE CARTIER, BY DENNIS P. KOEHLER, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS - CONDITIONS 10, 11, 12, AND 13 OF RESOLUTION 90-347 (FAIR SHARE FEE, ENGINEERING), located on a parcel of land known as Parcel "C", in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, described as follows: From the Southeast corner of the said South 1/2, run North along the East line of said South 1/2 a distance of 103.60 feet to the point of beginning; thence continued along said East line a distance of 71.17 feet to a point; thence run West at an angle of 89 degrees 18' 40", measured from South to West, a distance of 157.00 feet to a point; thence run Northwesterly at an angle of 165 degrees 55' 24", measured from East through North to Northwest, a distance of 115.85 feet to a point; thence run South parallel to the East line of said South 1/2 a distance of 96.60 feet to a point; thence run East parallel to the South line of said South 1/2 a distance of 260.00 feet to the point of beginning; less the East 10.00 feet thereof for road right of way, also less the following described parcel: A parcel of land in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 25, described as follows: From the Southeast corner of said South 1/2 run thence Northerly along the East line of said South 1/2 a distance of 137.77 feet to the point of

beginning; thence run Westerly angling 89 degrees 18' 40" from South to West, a distance of 157.00 feet to a point; thence run Northerly, parallel to the East line of said South 1/2, a distance of 37.00 feet to a point; thence run Easterly, parallel to the above described South line, a distance of 157.00 feet to a point in the East line of said South 1/2; thence run Southerly along said East line a distance of 37.00 feet to the Point of Beginning; AND a parcel of land referenced as Parcel "D", in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, described as follows: The South 103.60 feet of the East 299.07 feet of the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 25, less the East 10.00 feet thereof for road right of way, and also less that portion conveyed to Palm Beach for road right of way in Official Record Book 554, page 308; AND a parcel of land referenced as Parcel "E", in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, described as follows: Beginning at the Southwest corner of the above described said South 1/2 run East along the South line of said South 1/2 a distance of 47.93 feet to a point; thence run North parallel to the East line of said South 1/2, a distance of 103.60 feet to a point; thence run East parallel to the South line of said South 1/2, a distance of 39.07 feet to a point; thence run North parallel to the East line of said South 1/2, a distance of 96.60 feet to a point; thence run Southeasterly at an angle of 76 degrees 45' 44" measured from South to East, a distance of 115.85 feet to a point; thence run North parallel to the East line of said South 1/2 a distance of 100.00 feet to a point; thence run West at an angle of 89 degrees 18' 40", measured from South to East, a distance of 180.00 feet more or less to a point in the West line of said South 1/2; thence run South along said West line a distance of 274.20 feet more or less to the point of beginning, less that portion conveyed to the Palm Beach County for road right of way in Official Record Book 554, page 300. AND EXHIBIT A: A parcel in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, described as follows: From the Southeast corner of said South 1/2 run North along East line of South 1/2 a distance of 174.77 feet to point of beginning; thence run West along an angle of 89 Degrees 18' 40" measured from South to West a distance of 157.00 feet to a point, thence run North parallel to the East line of South 1/2 a distance of 100.00 feet to a point; thence run East parallel to above described South line a distance of 157.00 feet to a point in the East line of South 1/2; thence run South along the East line a distance of 100.00 feet to the point of beginning. AND A parcel in the South 1/2 of the West 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 25, described as follows: From the Southeast corner of the said South 1/2 run thence Northerly along the East line of said South 1/2 a distance of 137.77 feet to the Point of Beginning; thence run Westerly, angling 89 Degrees 18' 40" from South to West, a distance of 157.00 feet to a point; thence run Northerly, parallel to the East line of said South 1/2, a distance of 37.00 feet to a point; thence run Easterly, parallel to the above described South line, a distance of 157.00 feet to a point in the East line of said South 1/2, thence run Southerly along said East line a distance of 37.00 feet to the Point of Beginning, and being located on the N.W. Corner of Westgate Avenue and Donnell Rd., in the CS Zoning District, was approved on August 27, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. Resolution Nos. R-83-1075 and R-83-1074 are hereby repealed in their entirety. (Previously Condition # 15 of Resolution # R-90-347, Zoning Petition #83-69(A)).

2. All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified. (ZONING/MONITORING)
3. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval on or before October 31, 1992. (MONITORING - Zoning)

B. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 18,610 square feet of gross floor area. (ZONING/BUILDING)
2. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BUILDING)

C. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, 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. (BUILDING/ZONING)
2. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING/ZONING)

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 #5 of Resolution #R-90-347, Zoning Petition #83-69 (A)). (HEALTH)
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition #6 of Resolution # R-90-347, Zoning Petition #83-69 (A)). (HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition #7 of Resolution #R-90-347, Zoning Petition #83-69 (A)). (HEALTH)

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 #8 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ENGINEERING)
2. Prior to February 1, 1990 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 Donnell Road, 30 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. (COMPLETED 2/28/92) (Previously Condition #9 of Resolution #R-90-347, Zoning Petition #83-69(A)). (MONITORING/Building - Engineering)
3. The property owner shall construct Westgate Avenue as a three-lane section along the project's frontage along Westgate Avenue plus the appropriate paved tapers. Construction shall be concurrent with the issuance of a building permit and shall be completed prior to the issuance of a Certificate of Occupancy. (Previously Condition #10 of Resolution #R-90-347, Zoning Petition #83-69(A)). (BUILDING - Engineering)
4. 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. (Previously Condition #11 of Resolution #R-90-347, Zoning Petition #83-69(A)). (IMPACT FEE COORDINATOR)
5. In addition the Developer shall contribute the amount of \$467.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$9,817.00 shall be paid prior to the issuance of the first Building Permit. (Previously Condition #12 of Resolution #R-90-347, Zoning Petition #83-69(A)) (BUILDING/Impact Fee Coordinator)

6. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$467.00 shall be credited toward the increased Fair Share Fee. (Previously Condition #13 of Resolution #R-90-347, Zoning Petition #83-69 (A)). (IMPACT FEE COORDINATOR)
7. Prior to Site Plan approval the property owner shall revise the site plan to reflect only one access onto Westgate Avenue. (Previously Condition #14 of Resolution #R-90-347, Zoning Petition #83-69 (A)). (ENGINEERING)
8. Any funds paid as outlined in Condition No. 3(a) and Condition No. 10 shall be used within a one-half mile radius of this project. (Previously Condition #16 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ENGINEERING)
9. Condition Number 10 of Resolution R-90-347, which presently states:

The property owner shall construct Westgate Avenue as a three-lane section along the project's frontage along Westgate Avenue plus the appropriate paved tapers. Construction shall be concurrent with the issuance of a building permit and shall be completed prior to the issuance of a Certificate of Occupancy.

Is hereby amended to state:

The property owner shall construct a left turn lane west approach on Westgate Avenue at the projects entrance. This construction shall be concurrent with the development of Phase 2 of the petitioner's project, more than 6,230 square feet of office space. This construction shall be completed prior to the issuance of the Certificate of Occupancy for the second phase. (BUILDING - Engineering)
10. 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. (Previously Condition #11 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ENGINEERING)
11. In addition, the Developer shall contribute the amount of \$467.00 as established in Article V, Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$9,817.00 shall be paid prior to the issuance of the first building Permit. (Previously Condition #12 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ENGINEERING)
12. The Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee. this additional amount of \$467. It shall be credited toward the increased Fair Share Fee. (Previously Condition #13 of Resolution #R-90-347, Zoning Petition #83-69 (A)j). (ENGINEERING)

F. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or

the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

G. LANDSCAPING - GENERAL

1. 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. (ZONING)
2. All required trees in landscape buffer strips shall meet the following minimum standards:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. 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. (ZONING)

H. LANDSCAPING - INTERIOR

1. Prior to site plan certification, the site plan shall be amended to indicate typical landscape island planting details in accordance with a Landscape Betterment Plan, subject to approval by the Zoning Division. (ZONING)

I. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. The landscape buffer shall be the area between the northern property line and the limit of work line indicated on Exhibit 49 of Petition No. 83-69(B). The landscape beffer shall be a minimum of five (5) feet in width and a minimum fifteen (15) foot wide.
 - b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (ZONING)
2. Along the interior side of the existing wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (ZONING)

J. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CODE ENFORCEMENT)
2. All lighting fixtures shall not exceed twelve (12) feet in height. (BUILDING)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

K. RECYCLE SOLID WASTE

1. The property owner 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. (SWA)

L. SIGNS

1. Prior to site plan certification, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval. (ZONING)
2. No signs shall encroach into the perimeter landscape buffers or vegetation preservation areas. (BUILDING/ZONING)

M. VEGETATION PRESERVATION

1. Prior to site plan certification, the petitioner shall submit the following:
 - a. A Landscape Betterment Plan that include:
 - 1) Preserve or relocate on site all oaks four (4) inches dbh and larger unless it is determined by the Zoning Director that such trees impose undue constraints on the efficient planning or engineering of the property, at which time the developer shall relocate said trees in accordance with Arbor Society Standards.
 - 2) Preserve or relocate on site all sabal palms.
 - b. All preserved and relocated trees shall be incorporated into the site design, such as within interior landscape islands and medians.
 - c. Prior to site plan certification, the petitioner shall obtain a vegetation removal permit in compliance with section 500.36.G.6.b. of the zoning Code. (ZONING)
2. Condition #1 of Resolution #R-90-347, Zoning Petition #83-69(A), which currently states:

Prior to Site Plan Review submittal, the site plan shall be revised to indicate:

 - a. Compliance with all minimum property development regulations and land development requirements;
 - b. The designation of a minimum ten (10) foot wide perimeter landscape strip along the east property line with ten (10) foot high native canopy trees spaced twenty (20) feet on center, with a thirty (30) inch high hedge spaced two (2) feet on center;
 - c. Either a decrease in building square footage to create more green areas and minimum preservation areas of eight (8) feet by twenty (20) feet with the trunk of the tree to be preserved no closer than four (4) feet to any paved area or curbing;

OR

Utilize a two story building envelop: to concentrate building area and provide minimum preservation areas of ten (10) feet by twenty (20) feet with the trunk of the tree to be preserved no closer than five (5) feet to any paved area or curbing; and

- d. The north property line shall provide a six (6) foot high C.B.S. wall with minimum ten (10) foot high native canopy trees, spaced twenty (20) feet on center.

Is hereby deleted.

3. Prior to Site Plan Submittal, the petitioner shall submit an Alternative Landscape Betterment Plan showing location, size, and species of trees to be preserved subject to Zoning approval. (Previously Condition #2 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ZONING)
4. Prior to commencing with vegetation removal operations, the petitioner shall:
 - a. Clearly identify and mark all trees to be preserved consistent with the approved landscape betterment plan;
 - b. Install appropriate protective barriers around individual and groups of trees to be preserved; and,
 - c. No clearing shall commence until all protection devices are installed by the petitioner and inspected and approved by the Zoning Division (Previously Condition #4 of Resolution #R-90-347, Zoning Petition #83-69(A)). (ZONING)

N. WESTGATE CRA

1. Prior to Site Plan Review submittal, the site plan shall be amended to indicate the following Westgate/Belvedere Homes CRA conditions:
 - a. The petitioner shall construct or fund construction of sidewalks and applicable CRA streetscape paving designs within the road right-of-way and landscape strip along Westgate Avenue and Donnell Road concurrent with on-site paving and drainage improvements. This sidewalk shall be a width of five (5) feet and construction plans shall be subject to approval by the County Engineer. Funds shall be paid prior to submittal for a building permit and given to Palm Beach County Engineering Department for the Westgate/Belvedere Homes CRA Road Improvement Program; (BUILDING)
 - b. Outdoor speaker or public address systems shall not be permitted on site; (CODE ENFORCEMENT)
 - c. The landscape strip along Westgate Avenue 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; (ZONING/CODE ENFORCEMENT)

- d. 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; and, (CODE ENFORCEMENT)
- e. 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. (Previously Condition #3 of Resolution #R-90-347, Zoning Petition #83-69(A)). (CODE ENFORCEMENT)

O. COMPLIANCE

- 1. Condition #17 of Resolution #R-90-347, Zoning Petition #83-69(A), which currently states:

"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.

Is hereby amended to state:

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 one or more of the following:

- a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
- b. The revocation of any 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;
- c. Rezoning of the property;
- d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
- e. Citation of the property owner for violation of the Zoning Code. (MONITORING)

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 Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.
(MONITORING)

Commissioner Marcus moved for approval of the Resolution.

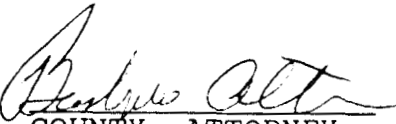
The motion was seconded by Commissioner Roberts and upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared the resolution was duly passed and adopted this 16th day of March, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK