

RESOLUTION NO. R-90-43

RESOLUTION APPROVING ZONING PETITION NO. **89-70**
REZONING PETITION OF AMERICAN REAL ESTATE TRADING, INC.
SUBJECT TO VOLUNTARY COMMITMENTS

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. **89-70** was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on July **27, 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. **89-70**, the petition of AMERICAN REAL ESTATE TRADING, INC., by Eugene A. Conti, Agent, for a REZONING FROM RE-RESIDENTIAL ESTATE ZONING DISTRICT TO AR-AGRICULTURAL RESIDENTIAL ZONING DISTRICT, WHICH EXTINGUISHES THE SPECIAL EXCEPTION FOR A PLANNED UNIT DEVELOPMENT (PETITION **85-141**) on a parcel of land lying on a parcel of land lying in sections **16** and **17**, Township **43** South, Range **40** East, Palm Beach County, Florida, said parcel of land being part of the Plat of Deer Run Plat No. **2**, as now abandoned, and being more particularly described as follows:

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Beginning at the Southwest corner of Lot **13**, Deer Run Plat No. **2**, according to the Plat thereof, as recorded in Plat Book **44**, pages **171** through **173**, inclusive, public records, Palm Beach County, Florida: thence, North **01** Degrees **34' 09"** East, along the West line of Lots **10** through **13**, inclusive of said Plat, a distance of **1500.00** Feet to the Northwest corner of said Lot **10**, thence, North **88** Degrees **25' 51"** West, along the South line of said Lots **82** and **103** of said Plat, a distance of **1455.00** Feet to the Southwest corner of sid Lot-10.3, thence, North **01** Degree **34' 09"** East, along the West line of Lots **93** through **103**, inclusive, of said Plat, a distance of **3300.00**

Feet to the Northwest corner of said Lot 93; thence, North 88 Degrees 25' 51" West , along the South line of Lots 66 through 68, inclusive, a distance of 758.71 Feet to the Southwest corner of said Lot 66; thence, North 01 Degree 34' 09" East, along the West line of said Lot 66, a distance of 606.52 Feet to the intersection thereof, with the North line of said Section 16; thence, North 87 Degrees 10' 08" West, along the North line of said Section 16, a distance of 2357.04 feet to the Northwest corner of said Section 16, thence, South 89 Degrees 36' 26" West, along the North line of said Section 17, a distance of 0.67 Feet to the intersection thereof with the East Right of Way line of C. & S.F.F.C.D. Canal L-8 Right of Way Line; thence, South 01 Degree 01' 21" West, along said East Right of Way Line, a distance of 5533.36 Feet to the intersection thereof, with the South Line of said Section 17; thence, South 89 Degrees 41' 05" East, along said South Line, a distance of 64.59 Feet to the Southwest corner of said Section 16; thence, South 89 Degrees 22' 25" East, along the South line of said Section 16, a distance of 4454.08 Feet to the point of beginning, being located approximately 2 miles west of Seminole Pratt Whitney Road and approximately 3 miles north of Southern Boulevard (SR 80), and bounded on the west by lake Worth Drainage District L-8 Canal, was approved on July 27, 1989, as advertised subject to the following voluntary commitments:

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 (FCER) 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

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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 those 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).

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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.

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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:

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

The Chair thereupon declared the resolution was duly passed and adopted this 2nd day of January, 1990

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

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