

RESOLUTION NO. **R-89- 2232**

RESOLUTION APPROVING ZONING PETITION NO. **89-15**
SPECIAL EXCEPTION PETITION OF BURG AND DIVOSTA CORPORATION

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. **89-15** was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on June **30, 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. **89-15** the petition of BURG AND DIVOSTA CORPORATION, by Raymond W. Royce and Donaldson E. Hearing, Agents, for a SPECIAL EXCEPTION TO PERMIT A PLANNED UNIT DEVELOPMENT on a parcel of land lying on Parcel **1**: The West **3/4** of the South **1/2** of the Northeast **1/4** and the North **1/2** of the Southeast **1/4** of Section **24**, Township **42** South, Range **42** East, less therefrom that certain parcel of land conveyed to the Board of Public Instruction of Palm Beach County in Official Records **Book 1301**, page **559** and being more particularly described as follows: A parcel of land in the North **1/2** of the Southeast **1/4** of Section **24**, Township **42** South, Range **42** East, being more particularly described as follows: Commence at the Point of Intersection of the East right-of-way line of State Road **809**, said East right-of-way line being **50.00** feet each side of the West line of said Southeast **1/4** with the South line of the North **1/2** of said Southeast **1/4** for a Point of Beginning; thence Easterly along said South line of the North **1/2** a distance of **663.00** feet to a point; thence Northerly parallel to said East right-of-way line of State Road **809** a distance of **660.00** feet to a point; thence Westerly parallel to said South line of the North **1/2** to the Intersection thereof with said East right-of-way line of State Road **809**; thence Southerly along said East right-of-way line to the Point of Beginning; also, less therefrom that certain

parcel of land as set forth in Official Records Book 2137, page 1834 and being more particularly described as follows: A parcel of land in Section 24, Township 42 South, Range 42 East, more particularly described as follows: Commencing at the Northwest corner of the Northeast 1/4 of Section 24, Township 42 South, Range 42 East; thence South 01 degrees 34'16" West along the Centerline of Military Trail a distance of 1327.68 feet to a railroad spike; thence South 88 degrees 11'14" East 50.00 feet to the Point of Beginning; thence South 88 degrees 11'14" East, along the South boundary and Easterly prolongation of the Subdivision of Nicholas Park (unrecorded) Assessors Map No. 64 a distance of 1926.60 feet to the Intersection with the West line of the Subdivision of property for F. J. Guethle (unrecorded) Assessors Map No. 72; thence South 01 degree 48'54" West, along said West line 1326.32 feet; thence South 88 degrees 11'43" East, 506.61 feet; thence South 01 degree 33'47" West, along the Westerly right-of-way line of 1-95 a distance of 220.94 feet; thence North 88 degrees 26'13" West, 50.00 feet; thence North 01 degree 33'47" East, 171.15 feet; thence North 88 degrees 11'43" West, 506.82 feet; thence North 01 degree 48'54" East, 1326.32 feet; thence North 88 degrees 11'14" West, 1876.39 feet; thence North 01 degrees 34'16" East, along the Easterly right-of-way line of Military Trail a distance of 50.00 feet to the Point of Beginning; The bearing of South 01 degree 34'16" West, along the Centerline of Military Trail as referred to in this description is an assumed bearing and all others are relative thereto; Also, less therefrom the East 150.00 feet of the Northeast 1/4 of the Southeast 1/4 for right-of-way of State Road 9 (I-95), Also, less therefrom the right-of-way of State Road 809 (Military Trail), being located on the east side of Military Trail (SR 809), approximately .4 mile north of Silver Beach Road, in a RM-Multiple Family Residential Zoning District, was approved on June 30, 1989, as advertised, subject to the following conditions:

1. Prior to master plan certification, the master plan shall be revised to reflect the following:
 - a. Protection from development of all possible alignments and rights-of-way of Park Avenue. If this right-of-way is determined to fall within the project boundary, the site shall be redesignated to accommodate it;
 - b. Acreage of all lakes;
 - c. A minimum of 12.5 acres of recreation area or a combination of amenities and land area equal in value to the 12.5 acres of recreational area. Recreational facilities shall be approved by the Parks Department prior to Site Plan Review Committee master plan approval for Phase 1, a minimum of 3.5 acres shall be provided;
 - d. A detailed list of all amenities proposed for the recreation area;
 - e. A minimum of a 20 foot PUD buffer adjacent to all PUD buffers abutting canals (north and northeast) or the relocation of this area to the southern and eastern buffer to enhance preservation in these areas;

- f. Clear delineation of area contained and to be developed in Phase I and Phase II and the delineation of Phase II as subject to future Board of County Commission approval; and,
 - g. The **2.35** acre civic site shall be deeded directly to the School Board of Palm Beach County, at no cost to the School Board, within **90** days of master plan approval by the Site Plan Review Committee. This total acreage of the **2.35** acre civic site shall be adjacent to the existing elementary school's east property line in a configuration acceptable to the petitioner and the Palm Beach County School Board. If the Park Avenue Right-of-way is determined to run along the southern boundary of the property, a minimum of **2.35** acres of civic site dedication shall be maintained. **No** reduction in civic site area shall be permitted as a result of the Park Avenue dedication.
2. At the time of Site Plan Review Committee application for each of the site plans, the following vegetative information shall be submitted:
- a. A detailed vegetation preservation, relocation, donation and removal program. This program shall include a site plan at the same scale as the tree survey (1" = 40' at the same scale). This plan shall clearly identify all oak, slash pine, and cypress and whether or not they are to be preserved, relocated, or removed. At a minimum, this plan shall incorporate all oaks greater than thirty inches in diameter, unless in the opinion **of** the Zoning Director, such tree imposes undue constraints on the efficiency planning or engineering of the property at which time the developer shall relocate said tree in accordance with Arbor Society Standards; relocate all oaks between five and twenty-nine inches in diameter, preserve or relocate all cypress that can be moved with a tree spade, preserve or relocate all slash pine that may be moved with a tree spade. This program shall include justification for all relocation or removal, it shall also detail methods to be used in relocation, preservation and removal.
 - b. Palms growing within required buffer areas and preserve areas shall be preserved, where possible. Those palms growing within the developable portions of the site shall not be removed until a relocation program is developed and approved. This program shall require that the School Board, Parks Department and other municipal government agencies be contacted and assisted in relocating the palms to public works sites in the area. This program shall be developed prior to the first site plan approval.

3. Prior to issuance of a vegetation removal permit for this site the following shall be completed:
 - a. All trees to be relocated, preserved, or removed shall be identified in the field and tagged and numbered according to the tree survey;
 - b. Trees to be preserved shall receive appropriate protection during site development. Protection devices shall be in place and approved by the Zoning Division prior to commencing any clearing activity;
 - c. **No** clearing shall be permitted in Phase II until after Phase II receives appropriate development approval excepting utility and infrastructure development: and,
 - d. **No** vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas or preservation areas.

4. As part of vegetation preservation effort a minimum of a double row of native trees planted an average of thirty (30) feet on center shall be established within the southern twenty-five (25) foot PUD buffer. Existing materials may be credited toward this requirement. A landscape plan conforming to these specifications shall be submitted prior to Site Plan Review Committee approval for the southern pod.
 - a. The petitioner shall provide within the northern and northeastern PUD buffers, where the facility abuts residential properties, a minimum **of:**
 - (1) One, twelve (12) foot in height, six (6) foot spread native canopy tree for each thirty (30) lineal feet of buffer. Preserved or relocated vegetation may be credited towards this and the following conditions. These materials may be planted on the interior of the wall.

The following plants shall be planted on the outside of the wall; on the exterior of the wall:

 - (2) One (1) native understory plant (saw palmetto, wax myrtle, coco plum), a minimum of thirty-six (36) inches in height, for each ten (10) lineal feet of buffer;
 - (3) One (1) drought tolerant vine for each five (5) lineal feet of buffer;
 - (4) All ground area shall receive appropriate coverage with a minimum **of** two (2) inch layer **of** pine straw or appropriate seeding;
 - (5) A minimum of a five (5) foot wide landscape easement shall ~~be~~ provided

permitting the continued maintenance of these materials. Maintenance shall be provided by the Home Owners Association,

(6) A complete set of landscape plans shall be submitted, prior to Site Plan Review Committee, demonstrating conformance to this condition. These plans shall employ xeriscape principles.

5. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site.
6. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.
7. 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.
8. Prior to August 15, 1989, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:
 - a. Military Trail, 60 feet from centerline; and,
 - b. The construction of a right turn lane, south approach at the project's entrance road. This turn lane shall be a minimum of 150' in length with a taper length of 180 feet (which is in addition to the 60' dedication) 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 intersection; as determined by the County Engineer.

9. The Property owner shall construct or fund the construction of (to be included in Palm Beach County's 4/6 lane Military Trail reconstruction):
 - a. Right turn lane, south approach; and,
 - b. Left turn lane, north approach

all concurrent with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of any Certificates of Occupancy. Palm Beach County will then have the option of requiring construction of these turn lanes concurrent with the 4/6 laning of Military Trail or added onto

the existing 2 lanes. Should these turn lanes be required concurrent with the reconstruction of Military Trail this property owner shall be responsible for any Change Orders.

10. The Property owner shall convey to Palm Beach County within 90 days of the approval of this project adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Military Trail along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Military Trail. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment.
11. The petitioner 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 \$804.00 single family home under 2,000 square feet and \$562.00 per approved multiple family dwelling unit.
12. The Developer shall install signalization if warranted as determined by the County Engineer at Military Trail. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
13. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended.
14. This project shall be limited to a total of 943 dwelling units (8/acre) of which 236 dwelling units shall be utilized as entitlement density. Building Permits for the remaining 707 dwelling units shall only be available upon future approval by the Board of County Commissioners subject to meeting all future ordinances including but not limited to Traffic Performance Standards and the Comprehensive Land Use Plan.
15. If the alignment of Park Avenue is determined to cross this property, the petitioner shall dedicate necessary Right-of-way as determined by the County Engineer. Right-of-way dedication shall take place within ninety (90) days of Board of County Commission (Zoning Authority) approval, adopting the resolutions for this project and after the alignment has been established.
16. Prior to Master Plan Certification, the petitioner shall submit a revised survey and master plan reflecting the net acreage of the site resulting from

