

RESOLUTION NO. R-97-966

RESOLUTION APPROVING ZONING PETITION DOA77-133(F)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF MICHAEL SWERDLOW COMPANIES, INC.  
BY MARK SALTZ, AGENT  
(CROSS COUNTY MALL)

**WHEREAS**, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to ~~the~~ authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

**WHEREAS**, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

**WHEREAS**, Zoning Petition DOA77-133(F) was presented to the Board of County Commissioners at a public hearing conducted on June 23, 1997; and

**WHEREAS**, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

**WHEREAS**, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

**WHEREAS**, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is **compatible** as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with ~~the~~ standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes ~~adverse effects~~, including **visual** impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with **conditions** as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and ~~the~~ natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development ~~patterns~~.

**WHEREAS, Article 5 of the Palm Beach** County Unified Land Development Code requires that ~~the~~ action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF **PALM BEACH COUNTY, FLORIDA**, that Zoning Petition DOA77-133(F), the petition of Michael Swerdlow Companies, Inc., by Mark Saltz, agent, for a Development Order Amendment to redesign master plan, modify conditions of approval on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity ~~sketch~~ attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 23, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Absent
Ken Foster	--	Aye
Karen T. Marcus	--	Aye
Mary <b>McCarty</b>	--	Aye
Warren <b>Newell</b>	--	Aye
Carol A. Roberts	--	Aye


**The** Chair thereupon declared that the resolution was duly passed and adopted on July **24**, 1997.

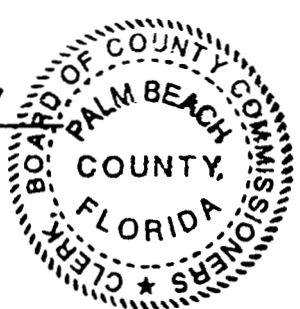
APPROVED **AS TO FORM**  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



## EXHIBIT A

### LEGAL DESCRIPTION

LAND DESCRIPTION: PARCEL "A"

A PORTION OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST LYING IN PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 25, SOUTH  $90^{\circ}00'00''$  EAST, 467.87 FEET; THENCE SOUTH  $00^{\circ}00'00''$  WEST, 66.75 FEET TO THE POINT OF BEGINNING, SAID POINT LYING ON THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BOULEVARD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93280-2507; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BOULEVARD THE FOLLOWING 14 COURSES: 1. SOUTH  $51^{\circ}34'57''$  EAST, 6.63 FEET; 2. SOUTH  $89^{\circ}28'12''$  EAST, 73.17 FEET; 3. NORTH  $46^{\circ}18'31''$  EAST, 30.43 FEET; 4. NORTH  $87^{\circ}23'47''$  EAST, 33.26 FEET; 5. NORTH  $86^{\circ}45'06''$  EAST, 21.64 FEET; 6. SOUTH  $81^{\circ}54'51''$  EAST, 61.06 FEET; 7. NORTH  $86^{\circ}45'06''$  EAST, 76.00 FEET; 8. NORTH  $68^{\circ}22'56''$  EAST, 38.08 FEET; 9. NORTH  $86^{\circ}45'06''$  EAST, 192.02 FEET; 10. SOUTH  $47^{\circ}42'42''$  EAST, 28.11 FEET; 11. NORTH  $87^{\circ}49'57''$  EAST, 74.86 FEET; 12. NORTH  $49^{\circ}04'22''$  EAST, 31.61 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 5664.08 FEET (A RADIAL LINE THROUGH SAID POINT BEARS SOUTH  $01^{\circ}32'14''$  EAST); 13. EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $01^{\circ}32'14''$ , AN ARC DISTANCE OF 151.96 FEET; THENCE SOUTH  $90^{\circ}00'00''$  EAST, 90.69 FEET TO THE EAST LINE OF NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE SOUTHERLY ALONG SAID EAST LINE, SOUTH  $00^{\circ}53'51''$  WEST, 1288.19 FEET TO THE NORTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN ROAD PLAT BOOK 2, PAGE 205 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE, NORTH  $89^{\circ}44'41''$  WEST, 1094.95 FEET; THENCE NORTH  $00^{\circ}51'36''$  EAST, 175.00 FEET; THENCE NORTH  $89^{\circ}44'41''$  WEST, 191.35 FEET TO THE EAST RIGHT OF WAY LINE OF MILITARY TRAIL AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93280-2507; THENCE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE THE FOLLOWING 4 COURSES: 1. NORTH  $04^{\circ}21'23''$  EAST, 35.40 FEET; 2. NORTH  $00^{\circ}51'26''$  EAST, 300.00 FEET; 3. NORTH  $22^{\circ}46'20''$  WEST, 17.16 FEET; 4. NORTH  $01^{\circ}33'10''$  EAST, 182.27 FEET; THENCE NORTH  $45^{\circ}51'38''$  EAST, 131.22 FEET; THENCE SOUTH  $44^{\circ}08'23''$  EAST, 15.00 FEET; THENCE NORTH  $45^{\circ}51'37''$  EAST, 387.67 FEET; THENCE NORTH  $44^{\circ}01'23''$  WEST, 15.00 FEET; THENCE NORTH  $45^{\circ}51'37''$  EAST, 66.50 FEET; THENCE NORTH  $01^{\circ}16'38''$  WEST, 116.87 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL "C"

A PORTION OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST LYING IN PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25, SOUTH  $00^{\circ}51'26''$  WEST, 1127.02 FEET, THENCE SOUTH  $89^{\circ}08'34''$  EAST, 61.66 FEET TO THE POINT OF BEGINNING; THENCE SOUTH  $89^{\circ}44'41''$  EAST, 191.35 FEET; THENCE SOUTH  $00^{\circ}51'36''$  WEST, 175.00 FEET TO THE NORTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN ROAD PLAT BOOK 2, PAGE 205 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE, NORTH  $89^{\circ}44'41''$  WEST, 153.52 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 46.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $41^{\circ}33'29''$ , AN ARC DISTANCE OF 33.37 FEET; THENCE NORTH  $45^{\circ}33'33''$  EAST, 6.01 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 40.00 FEET (A RADIAL LINE THROUGH SAID POINT BEARS NORTH  $41^{\circ}15'03''$  EAST); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $08^{\circ}36'09''$ , AN ARC DISTANCE OF 6.01 FEET; THENCE SOUTH  $45^{\circ}33'33''$  WEST, 6.01 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 46.00 FEET (A RADIAL LINE THROUGH SAID POINT BEARS NORTH  $49^{\circ}17'30''$  EAST); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $33^{\circ}48'48''$ , AN ARC DISTANCE OF 27.15 FEET TO THE EAST RIGHT OF WAY LINE OF MILITARY TRAIL (STATE ROAD 809) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93280-2507; THENCE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE, NORTH  $04^{\circ}21'23''$  EAST, 135.06 FEET TO THE POINT OF BEGINNING.

**EXHIBIT A**  
**LEGAL DESCRIPTION**

TOGETHER WITH: PARCEL "D"

A PARCEL OF LAND IN THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP

43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE SOUTHERLY 425.00 FEET THEREOF LESS THE WEST 20.00 FEET THEREOF FOR WESTGATE AVENUE OUTFALL AS RECORDED IN ROAD PLAT BOOK 4 AT PAGE 52.

TOGETHER WITH: PARCEL "E"

THAT CERTAIN UTILITY, DRAINAGE AND ACCESS EASEMENT LYING IN SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A STRIP OF LAND 20 FEET IN WIDTH BEING THE EAST 20 FEET OF THE WEST 40 FEET OF THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, LESS THE NORTH 40.00 FEET THEREOF FOR WESTGATE AVENUE OUTFALL AS RECORDED IN ROAD PLAT BOOK 4 AT PAGE 42 AND LESS THE SOUTH 425.00 FEET THEREOF.

TOGETHER WITH: PARCEL "F"

A PORTION OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST LYING IN PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25, SOUTH 00°51'26" WEST, 218.96 FEET, THENCE SOUTH 89°08'34" EAST, 70.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90°00'00" EAST, 158.00 FEET; THENCE NORTH 00°51'26" EAST, 169.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE BOULEVARD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93280-2507; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE, SOUTH 90°00'00" EAST, 220.77 FEET; THENCE CONTINUE ALONG SAID SOUTH RIGHT OF WAY LINE, SOUTH 51°34'46" EAST, 25.33 FEET; THENCE SOUTH 01°16'38" EAST, 116.87 FEET; THENCE SOUTH 45°51'37" WEST, 66.50 FEET; THENCE SOUTH 44°08'23" EAST, 15.00 FEET; THENCE SOUTH 45°51'37" WEST, 387.67 FEET; THENCE NORTH 44°08'23" WEST, 15.00 FEET; THENCE SOUTH 45°51'37" WEST, 131.22 FEET TO THE EAST RIGHT OF WAY LINE OF MILITARY TRAIL AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93280-2507; THENCE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE, NORTH 01°33'10" EAST, 64.75 FEET; THENCE CONTINUE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE, NORTH 04°30'06" EAST, 157.32 FEET; THENCE CONTINUE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE, NORTH 00°51'26" EAST, 149.74 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH: PARCEL "G"

THE WEST THREE-QUARTERS OF THE NORTH ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, LESS THE WEST 533.00 FEET THEREOF AND LESS THE NORTH 40.00 FEET THEREOF FOR WESTGATE AVENUE RIGHT OF WAY.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 1,875,661 SQUARE FEET (43.0593 ACRES), MORE OR LESS.



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. GENERAL

1. Condition A.1 of Resolution No. R-95-1018 Petition 77-133(E), which states:

**All previous conditions of approval have been consolidated. The petitioner shall comply with all previous conditions of approval unless expressly modified herein. To ensure proper notification of existing conditions.**

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-77-1191 (Petition 77-133), R-78-606 (Petition 78-83), R-89-1314 (Petition 77-133B), R-90-1296 (Petition 77-133C), R-93-895 (Petition 77-133D), and R-94-943 (Status Report CR77-133D/A7), R-95-1018 (Petition 77-133E) and R-96-1359.1 are hereby repealed and of no further force and effect. (MONITORING)

2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated April 23, 1997. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

#### B. AUTO SERVICE

1. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: CODE ENF)
2. Vehicles shall not be tested off-site on residential streets. (ONGOING: CODE ENF)
3. There shall be no outdoor repair or storage of vehicles or parts on site. (ONGOING: CODE ENF)
4. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF - Zoning)

#### C. BUILDING AND SITE DESIGN

1. **All existing air conditioning and** mechanical equipment, except within Parcel **F**, shall **be** screened from view on all sides by a visually opaque barrier consistent with **the** color, character and architectural style **of** the principle structure or equivalent landscape material. (BLDG PERMIT: BLDG - Zoning)
2. **All new air conditioning and** mechanical equipment shall be roof mounted and screened from view **on** all sides in a manner consistent with the color, character **and** architectural style **of** the principle structure. (BLDG PERMIT: **BLDG** - Zoning)

3. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material ~~or~~ vegetation, **such** as dumpsters and trash compactors, ~~shall be confined to the~~ areas designated on the site plan. (BLDG PERMIT: BLDG - Zoning)
4. **Cross** access shall be provided to abutting properties to the east and indicated on the site plan. (DRC: CO ATTORNEY)
5. All buildings and structures shall **be** designed and constructed to be compatible with the general architectural **character** of surrounding residential areas. (BLDG PERMIT: BLDG-Zoning)
6. Architectural **character** and treatment ~~which~~ is compatible and **harmonious** with abutting development consistent with earthtone and pastel **colors** shall **be** provided on all sides of the building. (BLDG PERMIT: BLDG - Zoning)
7. Total gross floor area shall **be** limited to a maximum of **427,000** square feet. Gross floor area may **be** increased ~~an~~ additional **5%** up to 1000 square feet, whichever is **less**, subject to Development Review Committee (DRC) approval. (DRC: ZONING)
8. The maximum height for all **structures**, measured from finished grade to highest point, shall not exceed forty-five **(45)** feet except as permitted by Section 6.5.H.4. (Exceptions to Height Regulations) **of** the ULDC. **(BLDG PERMIT: BLDG -Zoning)**
9. Prior to final site plan certification the site plan shall be amended *to indicate* a continuous circulation system **for** pedestrians and bicycles connecting land uses within the MUPO and adjacent parcels. The circulation system shall include seating and bicycle parking. (DRC: ZONING)
10. **The** proposed shopping center buildings shall be designed and constructed to **be** consistent with the facade elevations prepared by Mark L. Saltz Architect dated June **4**, 1997. (BLDG PERMIT: BLDG - Zoning)

D. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewage system shall **be** prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are **constructed and** used by tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)
2. The owner, occupant or tenant **of** the facility shall participate in ~~an~~ oil **recycling** program ~~which~~ ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH/ CODE ENF)
3. **Any** toxic ~~or~~ hazardous waste ~~which~~ may be generated at this site shall be ~~handled and~~ disposed of in **accordance** with Rule **62-730** FAC. (ONGOING: HEALTH/ CODE ENF)

E. ENGINEERING

1. Prior to Site Plan approval by ~~the~~ Development Review Committee, the property **owner** shall revise ~~the~~ existing site plan to reflect a **minimum** distance ~~of~~ **100** feet ~~from~~ the **north** right-of-way of Westgate Avenue ~~prior~~ to the ~~construction~~ of any parking spaces ~~or~~ internal driveways. This condition shall apply for the eastern most **proposed** access onto Westgate Avenue. This requirement shall be in accordance with Palm Beach County's **Parking Lot and Street Access Design Criteria and Standards**. (DRC: ENG)

2. Prior to the issuance of the first Building Permit for Parcel A, the property owner of Parcel A, shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed the portion of the Westgate Ave road right-of-way which will be required for the construction of an expanded intersection at Westgate Avenue and Military Trail that falls within Parcel A. This additional right-of-way for Parcel A shall be in accordance with Palm Beach County's Expanded intersection details and shall include the right-of-way to provide the appropriate length of turn lane and taper length, as approved by the County Engineer. All right-of-way conveyed shall be free of all encumbrances and encroachments. Property owners shall provide Palm Beach County with sufficient documentation acceptable to the Right-of-Way Acquisition Section to ensure that the property is free of any encumbrances and encroachments. (BLDG PERMIT: MONITORING - Eng)
  
3. Prior to the issuance of the first Building Permit for Parcel A, the property owner of Parcel A shall, by appropriate recorded documentation acceptable to the County Attorney's office, create a binding obligation on the owner of Parcel A, its successors and assigns to convey to the owner of Parcel C, upon notice by Palm Beach County, a 3,658 square foot parcel of land adjacent to the northern and/or eastern boundary of Parcel C in a configuration acceptable to the County Engineer. Such documentation may authorize the owner of Parcel A to make the conveyance subject to conditions which ensure that the driveway aisle, parking lot, and landscape improvements installed or approved for installation and thereafter installed, within the property conveyed, remain and are adequately maintained. Such documentation may allow a release of the obligation to convey the parcel upon a determination by the County Engineer that such a conveyance is not necessary. (BLDG PERMIT: MONITORING - Eng / County Attny)
  
4. Prior to the issuance of the first Building Permit for Parcel C ( which is occupied by an existing 7427 square foot restaurant in the southwest corner of the parcel) the property owner of Parcel C shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed the portion of the road right-of-way which is required for the construction of an expanded intersection at Westgate Avenue and Military Trail for that falls within Parcel C. This additional right-of-way for Parcel C shall be in accordance with Palm Beach County's Expanded intersection details and shall include the right-of-way to provide the appropriate length of turn lane, taper length, and 'corner clip", as approved by the County Engineer. All right-of-way conveyed shall be 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 any encumbrances and encroachments. (BLDG PERMIT: MONITORING - Eng)
  
5. If the County Engineer advises the owner of Parcel A that the right-of-way for a right turn lane for the east approach on Westgate Avenue at Military Trail is available anytime prior to the issuance of certificates of occupancy for more than 318,000 square feet of building area, the Property owner of Parcel A shall fund the design or any necessary design revisions to existing plans, shall obtain the permits required by Palm Beach County and shall construct a right turn lane east approach on Westgate Avenue at Military Trail. This road shall include all utility relocations, and the relocation of drainage structures. All road work associated with this turn lane shall be completed prior to nine months from the date of issuance of this permit. This right turn lane and transition area shall extend from the east right-of-way line of Military Trail east on Westgate Avenue for a distance of approximately 700 feet. (ENG)



6. Landscape within Median
  - a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median(s) for those abutting rights-of-way where the median can accommodate landscaping. When permitted by the County Engineer, landscaping shall at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department **March 1994** Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards **may be** allowed subject to approval by the County Engineer. (3LDG PERMIT: MONITORING - Eng)
  - b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns or duly established Property Owner's Association and/or Homeowners' Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. The maintenance responsibility of any existing trees within the median shall also become the responsibility of this property owner. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: ONGOING - Eng)
  - c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a Certificate of Occupancy to reflect this obligation. (CO: Co Attorney)
7. Developer shall post acceptable perpetual surety to the County Engineer during the life of this project. This surety shall be posted prior to the issuance of a building permit for Parcel A to insure proper aquatic weed control in all drainage and water management areas for this site necessary to protect road drainage routed through this site. This surety shall be based upon a certified cost estimate from the Developers Engineer and approved by the County Engineer. (ENG)
8. Prior to issuance of a building permit the property owner shall convey a 10 foot" Temporary Construction Easement" to Palm Beach County along Westgate Avenue, Military Trail, and Okeechobee Boulevard. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (BLDG PERMIT: MONITORING - Eng)
9. Developer shall modify the Master Site Plan to rechannel the ingress and egress from and to Okeechobee Boulevard via the Northwest entrance by the installation of landscape barriers. (DRC: ENG)

10. Property ~~owner~~ shall ~~construct~~ an additional northbound left turn lane at the existing signalized ~~driveway~~ connection onto Okeechobee Boulevard
  - A) This ~~construction~~ shall be concurrent with the paving and drainage permits for Parcel A. Any and all **costs** associated with the ~~construction~~ shall be paid by the property owner. These **costs** shall include but not be limited to, utility **relocations** and signal modifications.
  - B) Permits required by Palm Beach County and the Florida Department of Transportation shall **be** obtained prior to the **issuance** of a permit for a building permits for more than 165,000 square feet of Commercial Building Area. Construction shall **be completed prior to** the issuance of a certificate of occupancy for more than 165,000 square feet of Commercial Building Area. The property owner shall also fund any signal modifications required for the ~~driveway~~ modification. Funding shall be completed prior to the ~~issuance~~ of a Certificate of Occupancy for for more than 165,000 square feet of Commercial Building Area. (CO: MONITORING - Eng)

F. LANDSCAPING - GENERAL

1. LANDSCAPING - STANDARD

All canopy trees required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- 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.
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

2. All palms required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING OKEECHOBEE BOULEVARD- EXCLUDING PARCEL "A", "B", AND PARCEL "F")

1. Landscaping and buffering along the north property line shall include :

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
- c. one (1) palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and

- d. twenty four **(24)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

**H. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING WESTGATE AVENUE- EXCLUDING PARCEL "C")**

- 1. Landscaping and buffering along the **south** property line shall include :
  - a. a minimum fifteen **(15)** foot wide landscape buffer strip;
  - b. a minimum two **(2)** foot high berm measured from top of curb;
  - c. one (1) canopy tree for each twenty (20) linear feet of frontage, with a maximum spacing of twenty-five (25) feet on center;
  - d. one (1) palm for each thirty **(30)** linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and
  - e. twenty four **(24)** inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

**I. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING MILITARY TRAIL- EXCLUDING PARCEL "C" AND PARCEL "F")**

- 1. Landscaping and buffering along the west property line shall include :
  - a. a minimum fifteen **(15)** foot wide landscape buffer strip;
  - b. one **(1)** canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
  - c. one **(1)** palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and
  - d. twenty four **(24)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)
- 2. Landscape islands shall be provided along the front and side facades of 50% all proposed or new structures. The minimum width of these landscape islands shall be five (5) feet. The combined length of the required landscape islands shall be no less than **40%** of the total length of the applicable side of the structure. All required landscape islands shall be planted with a minimum of one (1) tree every 20 feet and appropriate groundcover. (DRC: ZONING - CO: LANDSCAPE)

**J. LIGHTING**

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ ONGOING: BLDG / CODE ENF - Zoning)
- 2. All outdoor lighting fixtures shall not exceed forty- five **(45)** feet in height, measured from finished grade to highest point, and provide a minimum of one hundred **(100)** feet from the east property line. (CO: BLDG - Zoning)
- 3. All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)

4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

**K** MASS TRANSIT

1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)

B. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

2. All printed and electronic advertising for the project, when practical, shall contain information that mass transit service to the site is available. This condition shall apply to advertising for the entire project only, not to individual stores or tenants. (ONGOING: PALM TRAN)
3. Commercial locations which are open to the public shall not restrict public mass transit access. (ONGOING: PALM TRAN)

**L** MAINTENANCE

1. All loading areas and berths shall be clean and well maintained. (ONGOING: CODE ENF -Zoning)
2. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear, parking lots or access ways of the facility. (ONGOING: CODE ENF -Zoning)
3. Parcels of land along Westgate Avenue owned by the petitioner, including the land area deleted from the subject property and the Cross County Mall retention area (Parcel D), shall be maintained with the same frequency and integrity as the subject property. Maintenance shall include, but not be limited to, garbage collection, landscaping, and repairs to fences, gates, lighting and paved surfaces. Frequency of maintenance shall be no less than on a monthly basis. (ONGOING: CODE ENF)

**M** PARCEL D (STORMWATER RETENTION AREA SOUTH OF WESTGATE AVENUE)

1. The use of the southerly 3.2 acres of the parcel located on the south side of Westgate Avenue shall be limited to retention and detention for water management and master drainage purposes. (CODE ENF - Zoning)

2. Landscaping and buffering along the north, south and east property line of Parcel **D** shall include:
  - a. a minimum twenty-five (**25**) foot wide landscape buffer strip;
  - b. one (1) canopy tree for each forty (**40**) feet on center; CO: LANDSCAPE)
3. Landscaping on the west property line of Parcel **D** shall include a minimum ten (10) foot wide landscape buffer strip with one (1) canopy tree for each forty (**40**) feet on center. (CO: LANDSCAPE)

**N. PARKING**

1. All proposed or new delivery and/or loading areas shall be completely screened from view from any public right-of-way by a twelve (12) foot high wing wall, measured from finished grade to highest point, or equivalent landscape material. Wing walls shall be constructed in a manner consistent with the color, character and architectural style of the principle structure. (ONGOING: BLDG - Zoning)
2. Overnight storage or parking of delivery vehicles, trucks or trailers shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF)
3. Shopping cart storage corrals shall be provided in all parking areas adjacent to retail uses. (DRC: ZONING)

**O. SIGNS**

1. 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. (ONGOING: CODE ENF)
2. Existing nonconforming signage on site shall be limited as follows:
  - a. Sign "**A**" shall be limited to:
    - 1) Maximum sign height, measured from finished grade to highest point - forty (**40**) feet;
    - 2) Maximum sign face area per side - **459** square feet;
    - 3) Maximum number of signs - one (1) on Okeechobee Boulevard; and
    - 4) Style - monument style only, as depicted on the sketch presented by the petitioner to the Board of County Commissioners. (BLDG / ZONING)
  - b. Sign "**F**" shall be limited to:
    - 1) Maximum sign height, measured from finished grade to highest point - fifty (50) feet;
    - 2) Maximum sign face area per side - **529** square feet;
    - 3) Maximum number of signs - one (**1**) on Military Trail; and
    - 4) Style - monument style only, as depicted on the sketch presented by the petitioner to the Board of County Commissioners. (BLDG / ZONING)

3. Replacement, relocation or renovation of all other existing freestanding signs shall **be** permitted in accordance with the ULDC. (BLDG - Zoning)
4. No freestanding point of purchase signs shall be permitted along Westgate Avenue. (BLDG - Zoning)

P. UNITY

1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall **record** in ~~the~~ public record a unity of control for the entire **subject** property north of Westgate Avenue and the forty **(40)** foot drainage easement to the south **Parcel E** and the south stormwater retention pond (Parcel D) to the south **of** Westgate Avenue. **The** unity of control shall be **recorded** in a form **and manner** acceptable to the County **Attorney**. The unity shall not **be** removed, altered, changed or amended without written **approval** from the Zoning Director. (DRC: ZONING - Co Att)

Q. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
  - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; **and/or**
  - b. The revocation of ~~the~~ Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, **and/or** any other zoning approval; **and/or**
  - c. A requirement of the development to conform with the standards of the ULDC at the time **of** the finding of noncompliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; **and/or**
  - d. Referral to code enforcement; **and/or**
  - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, **and/or** other zoning approval, in accordance with the provisions of Section **5.8** of the ULDC, in response to any flagrant violation **and/or** continued violation of any condition **of** approval.

Appeals **of** any departmental administrative actions hereunder may be taken to ~~the~~ Palm Beach County Board **of** Adjustment or as otherwise **provided** in ~~the~~ Unified Land Development Code (ULDC), as amended. Appeals **of** any revocation **of** an Official Zoning Map Amendment, Conditional Use, Requested **Use, Development** Order Amendment or other actions based on a Board of County Commission decision **shall be** by petition **for writ** of certiorari to the Fifteenth Judicial Circuit. (MONITORING)