

RESOLUTION NO. R-98-876

RESOLUTION APPROVING ZONING PETITION DOA77-133(G)
DEVELOPMENT ORDER AMENDMENT
PETITION OF CROSS COUNTY ASSOCIATES
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(G) was presented to the Board of County Commissioners at a public hearing conducted on June 25, 1998; 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(G), the petition of Cross County Associates, by Mark Saltz, agent, for a Development Order Amendment (DOA) to Modify Conditions of R-97-966; add land area (3.3 acres) and add building square footage (+22,781) 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 25, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on June 25, 1998.

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°00'00" EAST, 467.87 FEET; THENCE SOUTH 00°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°34'57" EAST, 6.63 FEET; 2. SOUTH 89°28'12" EAST, 73.17 FEET; 3. NORTH 46°18'31" EAST, 30.43 FEET; 4. NORTH 87°23'47" EAST, 33.26 FEET; 5. NORTH 86°45'06" EAST, 21.64 FEET; 6. SOUTH 81°54'51" EAST, 61.06 FEET; 7. NORTH 86°45'06" EAST, 76.00 FEET; 8. NORTH 68°22'56" EAST, 38.08 FEET; 9. NORTH 86°45'06" EAST, 192.02 FEET; 10. SOUTH 47°42'42" EAST, 28.11 FEET; 11. NORTH 87°49'57" EAST, 74.86 FEET; 12. NORTH 49°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°32'14" EAST); 13. EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°32'14", AN ARC DISTANCE OF 151.96 FEET; THENCE SOUTH 90°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°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°44'41" WEST, 1094.95 FEET; THENCE NORTH 00°51'36" EAST, 175.00 FEET; THENCE NORTH 89°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°21'23" EAST, 38.40 FEET; 2. NORTH 00°51'26" EAST, 300.00 FEET; 3. NORTH 22°46'20" WEST, 17.46 FEET; 4. NORTH 01°33'10" EAST, 182.27 FEET; THENCE NORTH 45°51'38" EAST, 131.22 FEET; THENCE SOUTH 44°08'23" EAST, 15.00 FEET; THENCE NORTH 45°51'37" EAST, 387.67 FEET; THENCE NORTH 44°08'23" WEST, 15.00 FEET; THENCE NORTH 45°51'37" EAST, 66.50 FEET; THENCE NORTH 01°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°51'26" WEST, 1127.02 FEET; THENCE SOUTH 89°08'34" EAST, 61.66 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°44'41" EAST, 191.35 FEET; THENCE SOUTH 00°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°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°33'29", AN ARC DISTANCE OF 33.37 FEET; THENCE NORTH 45°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°15'03" EAST); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°36'09", AN ARC DISTANCE OF 6.01 FEET; THENCE SOUTH 45°33'33" WEST, 6.01 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 46.00 FEET (A RADIAL LINE THROUGH SAID POINT BEARS NORTH 49°17'30" EAST); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 33°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°21'23" EAST, 135.06 FEET TO THE POINT OF BEGINNING.

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

EXHIBIT A

LEGAL DESCRIPTION

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:

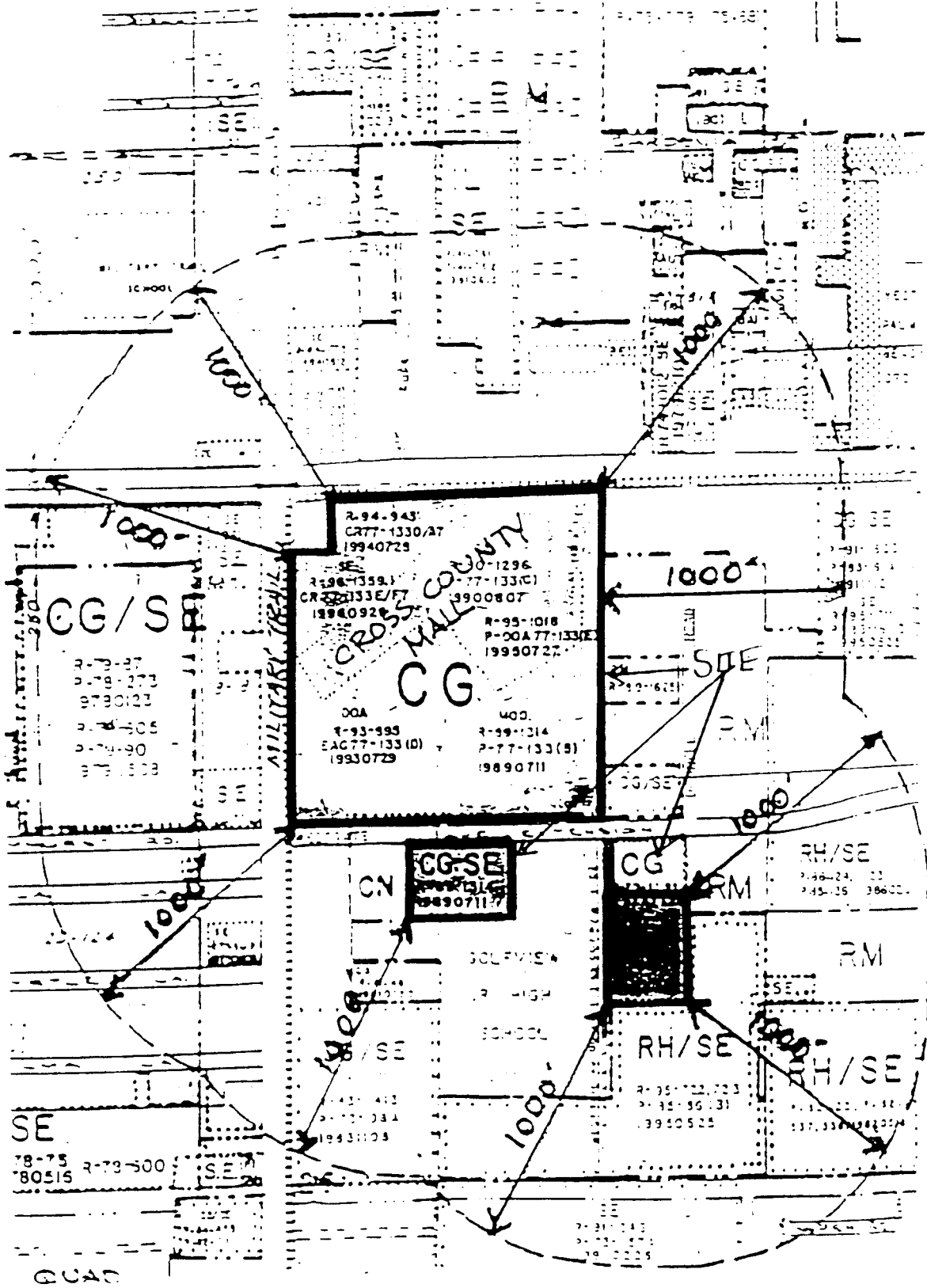
COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE SOUTHERLY ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25, SOUTH 00°51'26" WEST, 218.96 FEET; THENCE SOUTH 89°08'34" EAST, 70.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 90°00'00" EAST, 158.00 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, 25.34 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.

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: 77-133G

Zoning Quad Page _____

Date: March 18, 1998



NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: **All previous** conditions of approval are shown in BOLD and will be carried forward with this petition unless **expressly** modified.

A. GENERAL

1. 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 77-133**B**), R-90-1296 (Petition **77-133C**), **R-93-895** (Petition 77-133**D**), and R-94-943 (Status Report **CF-77-133D/A7**), R-95-1018 (Petition 77-133**E**) and **R-96-1359.1** are hereby repealed and of no further force and effect. (Previously Condition 9.1. Resolution 97-966, Petition 77-133**F**) (MONITORING)
2. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-97-96 (Petition 77-133**F**) have been consolidated as contained herein. **The** petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
3. Condition A.2 of R-97-966, Petition 77-133**F**), which currently states:

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.

Is hereby amended to read:

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, 1998, & (June 12, 1998 reduced copy for staff report). 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. (Previously Condition B.1 of R-97-966, Petition 77-133**F**) (ONGOING: CODE ENF)
2. Vehicles shall not be tested off-site on residential streets. (Previously Condition B.2 of R-97-966 Petition 77-133**F**) (ONGOING: CODE ENF)
3. There shall be no outdoor repair or storage of vehicles or parts on site. (Previously Cond. **B.3** of R-97-966 Petition 77-133**F**) (ONGOING: CODE ENF)

4. **Outdoor speaker or public address systems which** are audible from any property line shall not be permitted on site. (Previously Condition B.4 of R-97-966 Petition 77-133(F) (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. (Previously Condition C.1 of R-97-966 Pet. 77-133(F) (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**. (Previously Condition C.2 of R-97-966 Petition 77-133(F) (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**. (Previously Condition C.3 of R-97-966, Petition 77-133(F) (BLDG PERMIT: BLDG - Zoning))
4. **Cross** access shall be provided to abutting properties to the east and indicated **on** the site plan. (Previously Condition C.4 of R-97-966, Petition 77-133(F) (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. (Previously Condition C.5 of R-97-966, Petition 77-133(F) (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. (Previously Condition C.6 of R-97-966, Pet. 77-133(F) (BLDG PERMIT: BLDG - Zoning))
7. Condition C.7 of R-97-966, Petition 77-133(F) which currently states:

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.

Is hereby amended to state:

Total gross floor area shall be limited to a maximum of 449,781 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (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 6.5H.4. (Exceptions to Height Regulations) **of** the **ULDC**. (Previously Condition C.8 of R-97-966, Petition 77-133(F) (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 MUPD and adjacent parcels. The circulation system shall include seating and bicycle parking. (Previously Condition C.9 of R-97-966, Petition 77-133(F) (DRC: ZONING)

10. Condition C. 10 of R-97-966, Petition 77-133(F) which currently states:

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.

Is hereby amended to state:

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 except pads P2 and P4. (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. (Previously Condition E.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition D.2 of R-97-966, Petition 77-133(F) (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. (Previously Condition D.3 of R-97-966, Petition 77-133(F) (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**. (Previously Condition E.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition E.2 of R-97-966, Petition 77-133(F) (BLDG PERMIT: MONITORING - Eng)
[Completed]

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. (Previously Condition E.3 of R-97-966, Petition 77-133(F) (BLDG PERMIT: MONITORING- Eng / County Attorney)
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. (Previously Condition E.4 of R-97-966, Petition 77-133(F) (BLDG PERMIT: MONITORING - Eng)
[Completed]
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**. (Previously Condition E.5 of R-97-966, Petition 77-133(F) (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. (Previously Condition **E.6.a** of R-97-966, Petition 77-133(F) (BLDG PERMIT: MONITORING - Eng)

[Completed]

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 assignees or duly established Property Owner's Association **and/or** Homeowners's 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. (Previously Condition **E.6.b** of R-97-966, Petition 77-133(F) (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. (Previously Condition **E.6.c** of R-97-966, Petition 77-133(F) (CO: Co Attorney)

[Completed]

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. (Previously Condition E.7 of R-97-966, Petition 77-133(F) (ENG) [Completed]

0. 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. (Previously Condition E.8 of R-97-966, Petition 77-133(F) (BLDG PERMIT: MONITORING - Eng) [Completed]
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. (Previously Condition E.9 of R-97-966, Petition 77-133(F) (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 more than 165,000 square feet of Commercial Building Area. (Previously Condition E.10 of R-97-966, Pet. 77-133(F) (CO: MONITORING - Eng) [Completed]

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. (Previously Condition F.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition F.2 of R-97-966, Petition 77-133(F) (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. (Previously Condition G.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition H.1 of R-97-966, Petition 77-133(F) (CO: LANDSCAPE)
 2. Landscaping and buffering along Westgate Avenue in front of Retail areas S2 and S3 shall include:

- a. Landscaping requirements of H.I. above with a minimum twenty (20) foot landscape buffer. (CO: LANDSCAPE)
- 3. **Foundation** plantings ~~at~~ grade level planters shall be provided along the rear facades of all structures. The minimum width of the required landscape areas shall be five (5) feet. The length of the required landscaped areas shall be no less than **50%** of the total length of the applicable rear exterior side of the structure. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

I. LANDSCAPING PARCEL "G"

- 1. Landscaping and buffering along the north property line of Parcel "G" abutting Westgate Avenue shall include:
 - a. a minimum twenty (20) 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-five (25) linear feet of frontage with a maximum spacing of thirty (30) 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)
- 2. Landscaping along the south, east and west property lines of Parcel "G" shall include a minimum five (5) foot buffer with trees spaced a maximum of thirty (30) feet on center; and a continuous opaque hedge a minimum of **24** inches in height installed twenty-four inches on center and maintained at a minimum thirty-six (36) inches in height. (CO: LANDSCAPE)

J. 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. (Previously Condition 1.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition **12** of R-97-966, Petition 77-133(F) (DRC: ZONING - CO: LANDSCAPE)

K. 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. (Previously Condition J.1 of R-97-966, Petition 77-133(F) (CO / ONGOING: BLDG / CODE ENF - Zoning)
2. Condition **J.2** of R-97-966, Petition 77-133(F) which currently states:

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.

Is hereby amended to state:

All outdoor pole mounted 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. (Previously Condition J.3 of R-97-966, Petition 77-133(F) (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. (Previously Condition **J.4** of R-97-966, Petition 77-133(F) (ONGOING: CODE ENF)

L. 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. (Previously Condition **K.1.a** of R-97-966, Petition 77-133(F) (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. (Previously Condition **K.1.b** of R-97-966, Petition 77-133(F) (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. (Previously Condition K.2 of R-97-966, Petition 77-133(F) (ONGOING: PALM TRAN)
3. Commercial locations which are open to the public shall not restrict public mass transit access. (Previously Condition K 3 of R-97-966, Peiition 77-133(F) (ONGOING: PALM TRAN)

M. MAINTENANCE

1. All loading areas and berths shall be clean and well maintained. (Previously Condition L.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition L.2 of R-97-966, Petition 77-133(F) (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. (Previously Condition L.3 of R-97-966, Petition 77-133(F) (ONGOING: CODE ENF)

N. 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. (Previously Condition M.1 of R-97-966, Petition 77-133(F) (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; (Previously Condition M.2 of R-97-966, Petition 77-133(F) (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. (Previously Condition M.3 of R-97-966, Petition 77-133(F) (CO: LANDSCAPE)

O. 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. (Previously Condition N.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition N.2 of R-97-966, Petition 77-133(F) (ONGOING: CODE ENF)
3. Shopping cart storage corrals shall be provided in all parking **areas** adjacent to retail uses. (Previously Condition N.3 of R-97-966, Petition 77-133(F) (DRC: ZONING)
4. Prior to final site plan approval **by** the DRC the petitioner shall indicate the 78 parking spaces located in "Parcel G" as Phase 2. (DRC: ZONING)
5. The 78 parking spaces in "Parcel G" shall not be constructed if the ULC is amended to reduce MUPD parking requirements and the 78 parking spaces are no longer required. (DRC : ZONING)
 - a. In the event the parking spaces are installed on Parcel G, the use of such parking shall be limited to valet parking, which shall be provided the day after Thanksgiving, weekends from Thanksgiving to Christmas, and at other peak parking demand hours when required by the Zoning Director, based upon an observed demand for parking when parking demand is not adequately satisfied by the parking areas north of Westgate Boulevard. (ONGOING: CODE ENF.)

P. 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. (Previously Condition 0.1 of R-97-966, Petition 77-133(F) (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. (Previously Condition 0.2.a of R-97-966, Petition 77-133(F) (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. (Previously Condition 0.2.b of R-97-966, Petition 77-133(F) (BLDG/ ZONING)

3. Replacement, relocation or renovation of all other existing freestanding signs shall be permitted in accordance with the ULDC. (Previously Condition 0.3 of R-97-966, Petition 77-133(F) (BLDG - Zoning)

4. **No** freestanding point of purchase signs shall be permitted along Westgate Avenue. (Previously Condition 0.4 of R-97-966, Petition 77-133(F) (BLDG - Zoning)

Q. 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. (Previously Condition P.1 of R-97-966, Petition 77-133(F) (DRC: ZONING - Co Att)

R. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon **the** oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of **these** representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. 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 non-compliance, **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. (Previously Condition 0.1 of R-97-966, Petition 77-133(F) (MONITORING))