

RESOLUTION NO. R-93-509

RESOLUTION APPROVING ZONING PETITION NO. 92-23
SPECIAL EXCEPTION PETITION OF STEVE CRAIG, TR., EMMA WILSON,
GENE BARBATO, TR., SPEARS CORPORATION, INBAR AND PAT SCRUGGS,
SCOOLEY CADILLAC, INC.

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 (Ordinance 73.2, as amended), have been satisfied; and

WHEREAS, Petition No. 92-23 was presented to the Board of County Commissioners of Palm Beach County at its Public Hearing conducted on October 29, 1992; and

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

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner (Ordinance 73-2, as amended); and

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

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.
2. With the attached conditions this proposal is consistent and compatible with the present and future development of the area.
3. The attached conditions mitigate any negative impacts which might result from the development of this project.
4. The excessive traffic generated by this project is mitigated by the road improvements required by the conditions.
5. The conditions ensure that the property located within the Palm Beach International Airport Runway Protection Zone is used in a manner consistent with any and all aviation and/or clearance easements, so as to protect the public health, safety and general welfare of the citizens and visitors of Palm Beach County.
6. The conditions ensure that the property located within the Palm Beach International Airport Runway Protection Zone is used in a manner consistent with Federal Aviation Administration Advisory Circular 150/5300-13, Section 212 Runway Protection Zone, issued September 29, 1989, and Federal Administration Administration Regulation, Part 77.

7. This proposal is not disruptive to the character of the neighborhood and conforms to the district.
- 8 This project utilizes existing infrastructure and does not promote excessive scattering of population or settlement.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 92-23, the petition of STEVE CRAIG, TR., EMMA WILSON, GENE BARBATO, TR., FOR SPEARS CORPORATION, INBAR AND PAT SCRUGGS, SCHOOLEY CADILLAC, INC, by Kieran J. Kilday, Agent, on a parcel of land lying in the southwest quarter (S.W. 1/4) of the southeast quarter (S.E. 1/4) of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, and being more particularly described as follows: Commencing at the south quarter (S. 1/4) corner of said Section 25, run along the west line of the southeast quarter of said Section 25, said line also being the centerline of Military Trail (106' Right-of-way) **N01°21'21"E** a distance of 281.00 feet; thence leaving said west line, **S88°31'24"E** a distance of 100.00 feet to point of beginning of the herein described parcel; Thence **S88°31'24"** a distance of 371.65 feet to the northwest corner of Lot 1, Plat of Central Bank, as recorded in Plat Book 32, Page 145; thence along the westerly line of said Plat, No **1°27'39"E** a distance of 393.22 feet to the northwest corner of said plat; thence along the northerly line of said plat, **S88°44'02"E** a distance of 200.00 feet to the northeast corner of said plat, said point lying on the east line of the west one half of the southwest one-quarter of the southeast one quarter of said Section 20; thence, along the easterly line of said plat, **S01°27'39"W** a distance of 610.01 feet to a point on a curve concave to the northeast, having a radius of 901.93 feet, and whose center bears **N07°51'30"W**; thence northeasterly along said curve through a central angle of **37°26'56"**, an arch length of 589.51 feet to the point of tangency; thence **N44°41'34"E** a distance of 234.15 feet to a point on the east line of the southwest quarter, of the southeast quarter of said Section 25; thence along said east line **N01°29'53"E** a distance of 343.47 feet; thence leaving said east line **N02°53'17"W** a distance of 392.29 feet; thence **N01°29'53"E** a distance of 109.12 feet to a point on the north line of the southwest quarter of said Section 25; thence along said north line, **N88°41'07"W** a distance of 642.01 feet to a point on the east line of the west half of the southwest quarter of the southeast quarter of said Section 25; thence along said east line, **S01°27'39"W** a distance of 337.48 feet; thence **N88°38'42"W** a distance of 443.75 feet; thence **S01°27'39"W** a distance of 65.50 feet; thence **N88°38'42"W** a distance of 176.12 feet to a point on the easterly Right-of-way line of Military Trail (106' Right-of-way), thence along said easterly Right-of-way line **S01°21'21"W** a distance of 103.02 feet; thence leaving said easterly Right-of-way line, **S88°37'29"E** a distance of 7.00 feet to a point on the easterly Right-of-way line of Military Trail (120.00' Right-of-way); thence along said line, **S01°21'21"W** a distance of 168.52 feet; thence **N88°36'16"W** a distance of 7.00 feet to a point on the easterly Right-of-way line of Military Trail (106.00' Right-of-way); thence, along said line, **S01°21'21"W** a distance of 200.51 feet; thence **S88°32'35"E** a distance of 47.00 feet to a point on the easterly Right-of-way line of Military Trail (200' Right-of-way); thence along said line **S01°21'21"W** a distance of 192.59 feet point of beginning. Containing 25.211 acres more or less, and being located on the North side of Belvedere Road, East of Military Trail, West

of Country Club Road, in the CG Zoning District, was approved on October 29, 1992, as advertised, subject to the following conditions:

A. ALL PETITIONS

1. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval, by the Development Review Committee on or before March 31, 1993. (MONITORING-Zoning)
2. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations, land development requirements of Palm Beach County and all conditions of approval. (ZONING)
3. Prior to site plan certification, the site plan shall be amended to indicate all phases of development. Each phase shall comply with all minimum property development regulations and land development requirements of Palm Beach County and all conditions of approval. (ZONING)
4. Prior to April 30, 1993, the Developer shall plat the subject property in accordance with provisions of the Palm Beach County Subdivision Ordinance (Ord. No. 73-4), as amended. (MONITORING-Engineering)

5. A) Prior to site plan certification by the Development Review Committee, the petitioner shall obtain approval from the Town of Haverhill for a comprehensive Streetscape Plan for both sides of

Belvedere Road between Military Trail and Haverhill Road and both sides of Haverhill Road between Belvedere Road and the northernmost corporate limits of the Town of Haverhill. The petitioner shall also submit a true copy of the approved Streetscape Plan to the Palm Beach County Zoning Division in conjunction with the submittal for site plan certification.

At a minimum, the comprehensive Streetscape Plan shall include:

- a) a minimum five (5) foot continuous landscape strip planted with a minimum of one native canopy tree every twenty (20) feet consistent with the requirements of condition L.3. All tree planting shall be in a manner so as not to create a conflict with any aboveground or underground utility;
 - b) the required landscape strip shall be planted with a groundcover acceptable to the Town of Haverhill. (ZONING-Monitoring)
- B) Prior to issuance of the first building permit or December 31, 1993, whichever occurs first, the petitioner shall, in cooperation with the Town of Haverhill, obtain consent for the installation of all required improvements indicated in the approved Streetscape Plan that are located on private

property or obtain all necessary easements for the benefit of the Town of Haverhill and the intended purpose of installing the approved Streetscape Plan. In the event that a property owner refuses to grant consent and/or an easement, the petitioner shall deposit in an escrow account, in the form and manner acceptable to the Town of Haverhill, funds equal to the cost of the required improvements indicated in the affected portion of the approved Streetscape Plan. All consent and/or easements shall be over property free of any existing encumbrance that prohibits or restricts the installation of the required improvement. (MONITORING/ZONING)

C) Prior to issuance of the first certificate of occupancy (CO), or the first certificate of completion (CC), or December 31, 1994, whichever occurs first, the petitioner shall have completed the installation of all required improvements indicate in the approved Streetscape Plan and permitted by the Palm Beach County Engineer. The perpetual maintenance of the required improvements shall be the responsibility of the Town of Haverhill and/or the petitioner at their discretion. Palm Beach County shall not be responsible for the maintenance, repair, replacement, monitoring, service, or any liability that may arise from the required improvements. There shall be no administrative time extensions granted to this condition. (MONITORING/ZONING)

6. In the event staff, the petitioner or the representative of the Town of Haverhill are unable to reach agreement regarding a certified site plan, staff shall schedule this petition for a Board of County Commissioners agenda to receive a final determination regarding consistency of the site plan with the conditions of approval. (ZONING)

7. Building permits in accordance with Exhibit No. 27 of Petition No. 92-23 shall not be issued. (ZONING - Engineering - Building)

B. AIRPORTS

1. Prior to site plan certification, the petitioner shall amend the site plan to be in full compliance with FAA Advisory Circular 150/5300-13, Section 212 Runway Protection Zone (RPZ) issued September 29, 1989, FAA Regulation, Part 77, and submit documentation to the Department of Airports, Zoning Division and County Attorney which competently and substantially demonstrates that the proposed development is in full compliance with said FAA Advisory Circular or any Airport Zoning regulations that are in effect at the time. (AIRPORTS)

C. BUILDING AND SITE DESIGN

1. The maximum height, from grade to roof line, for all structures shall not exceed thirty-five (35) feet. (BUILDING)

2. Similar architectural character and treatment which is compatible and harmonious shall be provided on all sides of all structures and buildings. (BUILDING)

3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the architecture, color and character of the principle structure or equivalent landscape material acceptable to the Zoning Division. (BUILDING/ZONING)
4. Prior to site plan certification, the site plan shall be amended to reflect the location of shopping cart storage and retrieval areas within all parking areas adjacent to the shopping center. (ZONING)
5. Prior to site plan certification, the site plan shall be amended to indicate drop-off areas in the adjacent parking area. Each drop-off area shall be a minimum of twelve (12) feet in width by twenty (20) feet in length. (ZONING)
6. Prior to site plan certification, the petitioner shall provide, in a manner and form acceptable to the County Attorney and the Zoning Director, sufficient evidence that the right-of-way for Grow Street has been abandoned or incorporated into the projects design. (ZONING-COUNTY ATTORNEY)
7. Prior to site plan certification, the petitioner shall amend the site plan to remove any structure or building from within the aviation easement as described in the easement deed recorded in OR Book 1664, PG 1709 of the Official Records of Palm Beach County. Use of the portion of the subject site encumbered by the aviation easement shall be limited to parking, access, water management tracts and landscape areas or such other uses as may be acceptable to the Division of Airports and the Federal Aviation Administration. (ZONING/AIRPORTS)
8. No outdoor speaker or public address systems which are audible off-site shall be permitted. (CODE ENFORCEMENT)

D. AUTO SERVICE STATION WITH CAR WASH (NO REPAIR)

1. The convenience store shall be limited to a maximum of 1,000 square feet in total gross floor area. (ZONING-BUILDING)
2. There shall be no repair or maintenance of vehicles on site. (CODE ENFORCEMENT)
3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (CODE ENFORCEMENT)
4. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the service station facility shall provide air and water for minor vehicle maintenance to the public at no charge. (ZONING)
5. Prior to site plan certification, the plan shall be amended to eliminate all direct ingress and egress to the Auto Service Station from Country Club Road. (ZONING-Engineering)
6. The car wash facility shall utilize a 100% water recycling system. (ERM)

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, **Land Development Division**. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement (ENGINEERING).
2. Prior to May 1, 1993, or prior to the issuance of the first Building Permit, the Property owner shall convey to Palm Beach County adequate road drainage easement(s) through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments on Military Trail required for the expanded intersection at Belvedere Road. 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 the 110-foot expanded intersection cross-section. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING).
3. Prior to May 1, 1993, or prior to the issuance of the first Building Permit, the Property owner shall convey to Palm Beach County adequate road drainage easement(s) through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Belvedere Road, along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Belvedere Road. 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 the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. **Any** and all

excess fill material from excavation within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING).

4. Prior to May 1, 1993, or prior to the issuance of the first Building Permit, the Property owner shall convey to Palm Beach County adequate road drainage easement(s) through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Country Club Road, along the property frontage and for a maximum 400 ft. distance north of the Project's north property line.. 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 the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures. Elevation and location of all construction shall be approved by the County Engineer. Any and all excess fill material from excavation within said easements shall become the property of Palm Beach County which at its discretion may use this fill material (MONITORING).

5. Prior to May 1, 1993 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Belvedere Road, sufficient right-of-way to provide for a 110 foot expanded intersection on an alignment approved by the County Engineer. The County acknowledges that the service station on the northeast corner of the intersection of Belvedere Road and Military Trail is not part of this project. This right-of-way conveyance 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 all encumbrances and encroachments. (ENGINEERING/MONITORING).

6. Prior to May 1, 1993 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Military Trail sufficient right-of-way to provide for a 110-foot expanded intersection on an alignment approved by the County Engineer. The County agrees to abandon any right-of-way for Military Trail on the subject site not required for the expanded intersection. The cost of abandoning this right-of-way shall be borne by the Developer. The County acknowledges that the service station on the northeast corner of the intersection of Belvedere Road and Military Trail is not part of this project. This right of way conveyance shall be free of all encumbrances and encroachments; provided the property owner shall be permitted to leave the existing Bar-B-Q Ben's sign until such time as the contract for the construction of the expanded intersection is let, at

which time property owner shall move the sign to the east off the right-of-way, subject to appropriate removal and hold harmless agreements with Palm Beach County. 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. (ENGINEERING/MONITORING)

7. Prior to May 1, 1993 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for the construction of a right turn lane on Belvedere Road, at the project's main entrance road. This right-of-way conveyance shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet. This right-of-way dedication shall be in excess of the dedication required in Condition E5. The right-of-way conveyance 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 all encumbrances and encroachments. (ENGINEERING/MONITORING)
8. Prior to May 1, 1993 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Country Club Road, forty (40) feet from centerline. The right-of-way conveyance 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 all encumbrances and encroachments. (ENGINEERING/MONITORING)
9. The Property owner shall construct Country Club Road as a three (3) lane section from Belvedere Road to the project's north access. The construction shall be concurrent with the construction of paving and drainage improvements for the site for Phase 2. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit, and construction shall be completed prior to the issuance of the first Certificate of Occupancy. (ENGINEERING)
10. For Phase I, the Property owner shall be limited to a single entrance/exit onto Belvedere Road at the existing Grow Street. If the project has not commenced Phase 2 by February 1, 1994, then at the County Engineer's option the median opening on Belvedere Road serving Phase I may be modified or closed.

For Phase 2, the Grow Street entrance shall be closed and relocated to a point where it is aligned with the existing Country Club Road entrance to the Town of Golfview. At this main entrance, the property owner shall construct a left turn lane, west approach and a right turn lane, east approach on Belvedere Road. The construction shall be concurrent with the construction of paving and drainage improvements for the site for Phase 2. Permits required by Palm Beach County for this

construction shall be obtained prior to the issuance of the first Building Permit for Phase 2, and construction shall be completed prior to the issuance of the first Certificate of Occupancy for Phase 2.

For Phase 2, the property owner shall reconstruct the median at Belvedere Road and the project's main entrance to provide for a directional median opening. This directional median opening shall be constructed to permit only left turns into the project, and shall be so constructed as to prohibit left turns out of the project for eastbound movements onto Belvedere Road. Access to the Town of Golfview shall be accomplished in one of the following ways:

1) If the Golfview Town Council concurs, consideration shall be given to relocating the existing Country Club Road entrance south of Belvedere Road to align with Country Club Road north of Belvedere Road. Developer shall prepare plans for and construct the relocated roadway. The plans and right-of-way for the roadway shall be subject to approval by the County Engineer and County Department of Airports.

2) If the Golfview Town Council does not concur or plans and right-of-way for a relocated Country Club Road are not approved, then the existing Country Club Road entrance south of Belvedere Road shall remain for Phase 2. Developer shall construct a left turn lane, east approach and directional median opening on Belvedere Road in such a manner as to only permit left turn movements into the Country Club Road entrance to Golfview. Left turns from Country Club Road to westbound Belvedere Road shall be accomplished by means of a u-turn at the intersection of Country Club Road north of Belvedere Road.

All of the above Phase 2 construction shall be concurrent with the construction of paving and drainage improvements for the site for Phase 2. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the Building Permit for Phase 2, and construction shall be completed prior to the issuance of the first Certificate of Occupancy for Phase 2.

For Phase 2, two other entrances/exits shall also be permitted from the property to Belvedere Road. A right turn in/right turn out driveway shall be permitted at a point about 400 feet east of the Belvedere/ Military Trail intersection. In addition, a right turn in/right turn out driveway shall be permitted at a location acceptable to the County Engineer for the proposed gasoline station on the northwest corner of Country Club Road and Belvedere Road. Permits required by Palm Beach County for this construction shall be obtained by the Developer. (ENGINEERING)

11. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$597,905. (10,871 trips X \$55.00 per trip) and is paid

at the time of the Building Permit. Credits for in-kind contributions shall be provided in accordance with the Fair Share Contribution for Road Improvements Ordinance. (IMPACT FEE COORDINATOR)

12. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a) No Building Permits shall be issued until the contract is let for construction of Belvedere Road from Congress Avenue to Military Trail as a 5-lane divided section. Prior to any building permits being issued and no later than 6 months after the issuance of this Site Specific Development Order, the Developer shall post Performance Security in the amount of \$1.325 million.
 - b) Building permits for development generating more than 6,371 trips per day (162,624 square feet) shall not be issued until the contract is let for the construction of Haverhill Road from Okeechobee Boulevard to Belvedere Road as a 5-lane section.
 - c) Building permits for development generating more than 6,771 trips per day (172,838 square feet) shall not be issued until the contract is let for construction of Belvedere Road from Military Trail to Haverhill Road as a 5-lane section. (BUILDING)
13. The Developer shall fund the installation of signalization if warranted as determined by the County Engineer, at the intersection of Country Club Road and Belvedere Road. Should signalization not be warranted 12 months after the final Certificate of Occupancy for this property is issued, the owner shall be relieved from this condition. (ENGINEERING).
14. Prior to Site Plan Certification by the Development Review Committee, the Site Plan (including the portion within the Town of Golfview) shall be revised to reflect **only** two (2) entrances/exits onto Country Club Road; one main entrance and two right turn in and right turn out entrances on Belvedere Road). The entrances/exits are subject to the approval of the County Engineer. (ENGINEERING/ZONING)
15. A separate driveway for the proposed gas station shall be eliminated from Country Club Road. Access to the gas station shall be integrated into the overall circulation for the entire center. (ENGINEERING/ZONING)
16. Prior to **February 1, 1993** or prior to Site Plan Certification, whichever shall first occur, the Property owner shall enter into a Roadway Agreement with Palm Beach County enumerating the property owner's and Palm Beach County's obligations. In addition, developer shall provide \$1,325,000 in an escrow account as required in Condition 12A. These funds shall be used by Palm Beach County to accomplish the following:
 - A) 1) Advance the construction of Belvedere Road from Congress Avenue to Military Trail to a 6-lane divided section. This road improvement is currently scheduled in the Palm Beach County 5-Year

Road Program for the 1993-94 fiscal year. It is the intent that this construction be accomplished by the County as soon as practical upon the establishment of the escrow account.

2) Prepare plans for the construction of Belvedere Road from Military Trail to Haverhill Road as a 5-lane section with the appropriate approved tapers. Funding of these construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum construction Plan Standards as they presently exist or as they may from time to time be amended. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration.

3) Prepare plans for the construction of Haverhill Road from Okeechobee Blvd. to Belvedere Road as a 5-lane section with the appropriate paved tapers. Funding of these construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum construction Plan Standards as they presently exist or as they may from time to time be amended. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration.

4) Prepare all necessary right-of-way acquisition documents required for the construction of Belvedere Road from Military Trail to Haverhill Road and Haverhill Road from Belvedere Road to Okeechobee Blvd. subject to the approval of the County Engineer.

B) An Escrow Agreement shall be established in a bank which meets County standards for Letter of Credit acceptance and which will provide:

- 1) the County has irrevocable control of the funds;
- 2) the County may draw the funds periodically upon presentation of proper invoices prior to October 1, 1993.
- 3) interest shall accrue to the account;
- 4) an accounting of funds shall be provided; and
- 5) Should the total funds drawn by Palm Beach County be less than \$1 million by October 1, 1993, then Palm Beach County shall draw additional funds which would result in a total of \$1 million prior to November 30, 1993.
- 6) Should the total funds drawn by Palm Beach County be more than \$1 million by October 1, 1993, then Palm Beach County shall refund the amount in excess of \$1 million to the Developer. This reimbursement shall be provided from the construction funds in the County 5-Year Road Program for the construction of Belvedere Road as a 5-lane section from Military Trail to Congress Avenue scheduled for the 1993-94 fiscal year.

C) Palm Beach County shall reassign the funds originally scheduled for the Belvedere Road construction from Military Trail to Congress Avenue (less any reimbursement as required by Condition 16.B.6 above) to construct the following roadway improvements:

- 1) Belvedere Road from Military Trail to Haverhill Road as a 5-lane section;
- 2) Haverhill Road from Okeechobee Road to Military Trail as a 5-lane section;
- 3) Construction shall commence as **soon** as practicable for the roadway improvement; in 1 and 2.
- 4) Any funds left over from the design, right of way acquisition, or construction as set forth in condition numbers E16.A.2, E16.A.3, E16.A.4, E16.C.1, and E16.C.2 shall be used toward improving the intersection of Military Trail and Belvedere Road.
- 5) At the option of the County Engineer, the funds for the above mentioned Haverhill Road improvements may be applied toward intersection improvements at Belvedere Road and Haverhill Road and/or Belvedere Road and Military Trail to achieve the adopted level of service necessary to meet the County Wide Traffic Standards. In the event the County Engineer **so** elects, the project shall not be phased to the construction of Haverhill Road between Belvedere Road and Okeechobee Boulevard.
- 6) Credit for all contributions toward road improvements shall be given against the Fair Share Contribution Fees. (IMPACT FEE COORDINATOR)

17. Petitioner shall contribute **\$100,000** toward intersection improvements to the intersection of Military Trail and Belvedere Road (the extent to be determined by the County Engineer) which at a minimum shall construct a right turn lane on the south approach. Any residual funds remaining as addressed in Conditions E.16.C.4 shall be applied toward this \$100,000. Surety for this \$100,000 shall be posted at the same time as the Performance Security is posted as addressed in E.12.a. Palm Beach County shall establish an account to fund the intersection construction using residual funds which were budgeted for Northlake Boulevard from Seminole Pratt Whitney Road to Coconut Road, and let the project as soon as practical.

F. CONCURRENCY

1. Prior to site plan certification, the petitioner shall amend the Concurrency Reservation for the site (Case# 92-04-27-001-C) to reflect any reduction in square footage. (PLANNING)

G. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within seventy five: (75) feet of the east, south and west property lines; shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate. (ZONING/BUILDING-Code Enforcement)
2. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING-Zoning)
3. Prior to site plan certification, the site plan shall be amended to indicate all dumpster and compactor locations. (ZONING)

H. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances, including but not limited to fuels, oils, solvents, or other hazardous chemicals is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING-ERM)
2. Plans for any underground storage tanks must be approved by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures. (BUILDING-ERM)
3. All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be, at a minimum, an area equivalent to eight (8) square feet per linear foot of shoreline. Any areas of planted littoral zone shall not be steeper than six (6) feet horizontal to one (11) foot vertical. The maximum depth of the planted area shall be minus three (-3) feet from OHW. The littoral zone shall be provided with a minimum of three (3) inches of topsoil to promote vegetative growth. The littoral zone shall be planted with appropriate native wetland vegetation, spaced not more than three (3) feet on center or as approved by EM.
 - a. A littoral shelf planting plan and maintenance plan shall be submitted to the Dept. of Environmental Resources Management concurrent with DRC Final Plan Review application and approved by EM prior to Site Plan certification. This information shall also be provided on a mylar for the Zoning Division as part of the site plan application. (ERM)

- b. Prior to the issuance of a Certificate of Occupancy and within three working days of the completion of littoral plantings ERM shall be notified. This planting shall not be credited as compensation required by wetland permits. (ZONING-ERM)

I. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (UTILITIES - Code Enforcement)
2. Water service and sewer service are available to the property. Therefore, no potable well and/or on-site sewage disposal system must be submitted to the Health Unit prior to site plan approval. (HEALTH - Building)
3. The owner occupant, or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of the waste oil. (HEALTH - Code Enforcement)

J. INTERLOCAL AGREEMENT

1. Prior to site plan certification, the petitioner shall obtain appropriate approvals from the Town of Golfview, which ensure that the parking requirements of Palm Beach County are met. Any approval the petitioner receives from Golfview must be in compliance with Traffic Performance Standards. The Town of Golfview approval shall be substantially the same as the Palm Beach County approved master site development plan. In addition, the petitioner shall secure a fully executed interlocal agreement by and between the Town of Golfview and Palm Beach County which, at a minimum, shall incorporate the following:
 - a. The Town of Golfview and Palm Beach County shall agree to make no alterations to the final approved master site development plan (Exhibit #32) which would violate the other jurisdictions, Comprehensive Plan, Land Development Regulations or conditions of development approval;
 - b. The Town of Golfview and Palm Beach County shall join in the approval of a plat, in a manner and form which meets State, County and Town requirements;
 - c. The Town of Golfview and Palm Beach county shall, as appropriate, consider the abandonment of publicly dedicated rights-of-way within the subject property; and,
 - d. The Town of Golfview shall approve a site plan consistent with the County's requirements at the intersection of Military Trail and Belvedere Road (Special Intersection Treatment) for a one hundred ten foot (110') urban intersection;
 - e. Prior to any change in site plan, approved master plan or any other development order, the receiving jurisdiction shall require the developer to notify and receive confirmation from the other jurisdiction that its Comprehensive Plan, Land Development Regulations or condition; of development approval will not be violated. If no

response is received within 60 days from the date of notification, the receiving jurisdiction may take final action. (COUNTY ATTORNEY-Zoning)

K. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

L. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements, all landscape and vegetation preservation conditions of approval. (ZONING)
2. A minimum twenty five (25) foot landscaped buffer strip within the County jurisdictional portions of the subject site and a minimum fifteen (15) foot landscaped buffer strip within the Town of Golfview municipal boundary limits of the subject site shall be provided along the entire east, south and west perimeter of the subject property. (ZONING)
3. All required trees to be planted on site 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. (ZONING)

M. LANDSCAPING - INTERIOR

1. One landscape island, a minimum of six (6) feet wide, shall be provided for every twelve (12) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred twenty linear feet. (ZONING)
2. At grade level planters shall be installed every third parking space. Each required island shall be a minimum of five (5) feet by five (5) feet square (25 square feet). One native canopy tree and appropriate ground cover shall be planted in each required island. (ZONING)
3. Prior to site plan certification, the site plan shall be amended to indicate typical landscape islands, required landscape strips and planting details, subject to approval by the Zoning Division. (ZONING)
4. Landscaping along all interior vehicular use drive!; shall include native trees planted a minimum of twenty (20) feet on center and a continuous opaque hedge twenty-four (24) inches in height planted twenty-four (24) inches on center at installation. (ZONING)

5. Prior to site plan certification, the petitioner shall amend the site plan to include a minimum five (5) foot wide landscape strip along the south and west facades of the structure(s). The required landscape strip shall be placed between the structure and any vehicular space. At a minimum, it shall be planted with one (1) native canopy tree for every twenty (20) linear feet of building facade and appropriate groundcover, subject to approval by the Zoning Division. (ZONING)
6. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress and egress to the site. The minimum width of this median shall be six (6) feet. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One native canopy tree or native palm tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (ZONING)

N. LANDSCAPING ALONG THE EAST, SOUTH AND WEST PROPERTY LINE
(ABUTTING RIGHTS-OF-WAY)

1. Landscaping within the required buffer along Country Club Road, Belvedere Road and Military Trail shall be upgraded to include:
 - a. One (1) native canopy tree planted every twenty (20) feet on center;
 - b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)

O. LANDSCAPING ALONG THE NORTH PROPERTY LINE (THE REAR OF THE SHOPPING CENTER)

1. Landscaping and buffering along the north property line shall be installed in accordance with the Landscape Code, the WCRA overlay district requirements and applicable conditions of approval. (ZONING)

P. LANDSCAPE WITHIN MEDIAN

1. Prior to Site Plan Certification, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent medians i.e., Belvedere Road and Military Trail). When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singularly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected from the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Ground cover:

Wedilia
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a) All plants shall be container grown or field collected and transplanted from the project site.
- b) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification.

All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (ENGINEERING/BUILDING)

Q. LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. All outdoor lighting shall comply with the requirements of the WCRA Overlay District, aviation easement, the Palm Beach County Department of Airports, the Federal Aviation Administration design guidelines, standards, advisory circulars or other requirements deemed necessary by the Director of Airports. (AIRPORT/BUILDING-Code Enforcement)

R. PARKING

1. A maximum of 1,453 parking spaces shall be permitted on the entire subject site. (BUILDING)
2. All delivery and/or loading areas along the east property line shall be screened from view by a twelve (12) foot high wing wall consistent with the color and character of the principle structure or alternative landscaping acceptable to the Zoning Division. (BUILDING-ZONING)
3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site except within areas designated on the certified site plan as loading areas. (BUILDING-Code Enforcement)

S. RECYCLE SOLID WASTE

1. AS part of any site plan application for any portion of the project, the developer shall submit a solid waste stream reduction/recycling plan to be approved by the Solid Waste Authority of Palm Beach County. (SOLIDWASTE AUTHORITY)

T. RESTRICTIVE COVENANT

1. Prior to site plan certification, the petitioner shall record a copy of a Restrictive Covenant in the public record indicating that all structures and uses within the PGCD are part of a single unified planned development, regardless of ownership. This covenant shall not be removed, altered, changed or amended without written approval from the County and shall be in a form acceptable to the County Attorney. (COUNTY ATTORNEY)

U. SIGNS

1. All new or replaced point of purchase signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1) each on Military Trail and Belvedere Road.
 - d. Secondary signs shall be limited to one (1) monument sign no larger than twenty (20) square feet and five (5) feet in height for each out-parcel. (BUILDING)
2. Prior to site plan certification, the petitioner shall submit a Master Sign Program to the Zoning Division which specifies sign location, sign dimensions, unified color, unified graphics, typical base planting details, and conformance to all sign related conditions of approval. (ZONING)

V. UNITY OF CONTROL

1. Prior to site plan certification by the Development Review Committee, petitioner shall record in the public record a Unity of Control on the entire subject property in a form acceptable to the County Attorney. This Unity of Control may be discharged with the approval of the Executive Director of Planning, Zoning and Building and the County Engineer. (COUNTY ATTORNEY/ENGINEERING/ZONING)

W. USE LIMITATION

1. Use of the entire subject property including the portion within the municipal limits of the Town of Golfview shall be limited to a maximum of 315,972 gross square foot (GFA) Planned General Commercial Development including:
 - a) 294,972 square feet of general retail and three out parcels totaling 7,200 square feet within unincorporated Palm Beach County; and,
 - b) three out parcels totaling 13,800 square feet within the municipal limits of the Town of Golfview. (ZONING / BUILDING)

2. The three major retail areas shall be limited to one story retail with a maximum of **263,313** gross leasable square foot (GLSF). (ZONING/BUILDING)
3. No storage or placement of any material, refuse, equipment or debris shall be permitted on site. (CODE ENFORCEMENT)

X. VEGETATION PRESERVATION

1. The petitioner shall preserve or relocate on site the existing native sabal palms and incorporate them into the project design. (ZONING)
2. Prior to issuance of a Vegetation Removal Permit, the petitioner shall complete the following:
 - a. All sabal palms to be relocated or preserved shall be identified in the field, tagged and numbered.
 - b. The sabal palms shall receive appropriate protection during site development. No clearing shall commence until all protection devices are installed by the petitioner, and inspected and approved by the Zoning Division. (ZONING)

Y. WESTGATE CRA CONDITIONS

1. This site lies within the Westgate Community Re-development Area and is subject to the provisions of Zoning Code Section **627** (Westgate CRA Overlay District), in addition to other applicable zoning district, special exception and land development regulations. (ZONING-Building)
2. Prior to site plan certification, the petitioner shall submit conceptual elevations with all materials and colors specified, including but not limited to, roof, trim, awnings, walls, signs, fences and screening of mechanical equipment, utility structures and trash receptacles. (ZONING-building)
3. No advertising flags, foreign flags, pennants, banners, streamers, balloons, flashing signs, electronic message boards, etc., 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, other than inside a window as may be permitted by the Sign Code. (CODE ENFORCEMENT)
4. Signage, subject to approval by the County **Engineer**, shall be installed at all points of egress **from** the loading areas that require all service and delivery vehicles to turn right only onto Country Club Road. (ENGINEERING-Code Enforcement)
5. A minimum of two signs, subject to approval by the County Engineer, shall be installed **on** Cherry Road east of the intersection of Country Club Road and Cherry Road restricting truck traffic east of **this** intersection. (ENGINEERING-Code Enforcement)
6. Prior to site plan certification, the petitioner shall fund a one time clean-out of the existing section of the **L-2B** Canal between the L-2 Canal and Belvedere Road. The total expenditure shall not exceed **\$8,500.00**. (WCRA/ENGINEERING)

Z. COMPLIANCE

1. As provided in the Palm Beach County Land Development Code Article 5.8, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code. (MONITORING)
2. Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Commissioner Marcus moved for approval of the Resolution.

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

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

The Chair thereupon declared the resolution was duly passed and adopted this 20 day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK