

RESOLUTION APPROVING ZONING APPLICATION DOA-2007-01776
(CONTROL NUMBER 1977-00133)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Cross County Associates Ltd Partnership
BY Saltz Michelson Architects, 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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2007-01776 was presented to the Board of County Commissioners at a public hearing conducted on September 29, 2008; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 Application DOADOA-2007-01776, the application of Cross County Associates Ltd Partnership, by Saltz Michelson Architects, agent, for a Development Order Amendment to a Development Order Amendment to reconfigure site plan and add building square footage 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 September 29, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	-	Aye
Jeff Koons, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 29, 2008.

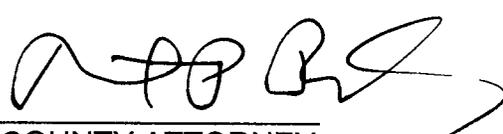
Filed with the Clerk of the Board of County Commissioners on October 17, 2008.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

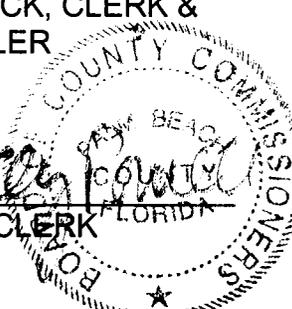


EXHIBIT A

LEGAL DESCRIPTION

PARCEL A: (PROVIDED BY CLIENT)

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 13 COURSES: 1) SOUTH 51°34'57" EAST, 7.16 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°18'24" EAST, 31.74 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 NORTH 01°32'07" WEST); 13) EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°26'28", AN ARC DISTANCE OF 142.46 FEET; THENCE SOUTH 00°53'50" WEST 92.92 FEET; THENCE SOUTH 89°06'09" EAST, 100.00 FEET TO THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 25; THENCE SOUTHERLY ALONG SAID EAST LINE, SOUTH 00°53'51" WEST, 1193.69 FEET TO THE NORTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN RECORD 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°33'11" EAST, 182.57 FEET; THENCE NORTH 45°51'37" EAST, 131.17 FEET; THENCE SOUTH 44°08'23" EAST, 15.00 FEET; THENCE NORTH 45°47'58" EAST, 387.43 FEEL; 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.

LESS AND EXCEPT THERE FROM THOSE LANDS CONVEYED BY WARRANTY DEED TO PALM BEACH COUNTY, FLORIDA, RECORDED FEBRUARY 26, 1998 IN OFFICIAL RECORD BOOK 10248, PAGE 979.

TOGETHER WITH:

NON-EXCLUSIVE EASEMENT RIGHTS FOR PARKING AREA, PEDESTRIAN WALKWAYS, SIDEWALKS, ROADWAYS AND INGRESS AND EGRESS AREAS AS CONTAINED IN THAT CERTAIN DECLARATION OF EASEMENTS DATED MARCH 8, 1978, RECORDED MARCH 20, 1978 IN OFFICIAL RECORD BOOK 2828, PAGE 1159, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPTING THEREFROM, THAT PORTION AS TAKEN IN THE ORDER OF TAKING BY THE STATE OF FLORIDA, RECORDED IN OFFICIAL RECORD BOOK 6499, PAGE 1751, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL B: (O.R. BOOK 2828, PAGE 1159)

A CERTAIN PARCEL OF LAND IN THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST 1/4 (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) RUN THENCE SOUTHERLY ALONG THE EAST LINE OF SAID NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4), A DISTANCE OF 15 FEET TO THE POINT OF BEGINNING: THENCE WESTERLY ALONG A LINE PARALLEL TO AND 15.0 FEET SOUTHERLY FROM (AS MEASURED AT RIGHT ANGLES TO) THE NORTH LINE OF SECTION 25 AND ALONG THE SOUTH LINE OF OKEECHOBEE ROAD, A DISTANCE OF 90.33 FEET TO THE BEGINNING OF A CURVE, CONCAVE TO THE SOUTH HAVING A RADIUS OF 5669.65 FEET AND A CENTRAL ANGLE OF 2°36'13"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, SUBTENDING AN ANGLE OF 0°05'52". A DISTANCE OF 9.68 FEET; THENCE SOUTHERLY PARALLEL TO THE EAST LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) A DISTANCE OF 98.41 FEET; THENCE EASTERLY FORMING AN ANGLE OF 90° WITH THE PRECEDING COURSE, A DISTANCE OF 100 FEET TO A POINT IN THE EAST LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4); THENCE 100.0 FEET NORTH ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

PARCEL C: (O.R. BOOK 1524, PAGE 1690)

A PARCEL OF LAND IN THE NORTHWEST QUARTER (NW ¼) OF THE NORTHEAST QUARTER (NW ¼) OF SECTION 23, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL AND THE NORTH RIGHT-OF-WAY LINE OF WESTGATE AVENUE, SAID INTERSECTION POINT BEING 53 FEET EASTERLY FROM (AS MEASURED AT RIGHT ANGLES TO) THE NORTH-SOUTH QUARTER SECTION LINE, AND ALSO BEING 40 FEET NORTH OF THE SOUTH LINE OF THE NORTHWEST QUARTER (NW ¼) OF THE NORTHEAST (NE ¼) RUN THENCE EASTERLY ALONG SAID NORTH RIGHT-OF-WAY LINE OF WESTGATE AVENUE, A DISTANCE OF 200 FEET; THENCE NORTHERLY FORMING AN ANGLE WITH THE PRECEDING COURSE 90° 36' 17" A DISTANCE OF 175 FEET; THENCE WESTERLY PARALLEL WITH THE SOUTH LINE OF THE NORTHWEST (NW ¼) OF THE NORTHEAST (NE1/4), A DISTANCE OF 200 FEET TO A POINT IN THE EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL; THENCE SOUTHERLY ALONG THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL, 175 FEET OT THE POINT OF BEGINNING.

LESS AND EXCEPT THOSE PORTIONS THEREOF TAKEN FOR RIGHT-OF-WAY PURPOSES, INCLUDING BUT NOT LIMITED TO THAT PORTION DEEDED TO PALM BEACH COUNTY FOR AN ADDITIONAL RIGHT-OF-WAY FOR WESTGATE AVENUE, BY THAT CERTAIN QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 10356, PAGE 1076, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THOSE PORTIONS THEREOF TAKEN FOR RIGHT-OF-WAY PURPOSES RECORDED IN OFFICIAL RECORDS BOOK 6499, PAGE 1751 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

NON-EXCLUSIVE EASEMENT RIGHTS FOR THE PARKING OF AUTOMOBILES, OVER THAT PORTION OF THE REAL PROPERTY, AS MAY FROM TIME TO TIME BE PAVED AND DESIGNATED FOR USE AS A PARKING AREA; AND OVER THE PARKING AREAS, PEDESTRIAN WALKWAYS; SIDEWALKS, ROADWAYS, AND INGRESS AND EGRESS AREAS FROM TIME TO TIME CONTAINED WITH THE REAL PROPERTY, ALL AS MORE PARTICULARLY DESCRIBED IN THAT CERTAIN DECLARATION OF EASEMENTS, AS RECORDED IN OFFICIAL RECORDS BOOK 2828, PAGE 1159, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO TOGETHER WITH:

NON-EXCLUSIVE EASEMENT RIGHTS FOR VEHICULAR ACCESS, INGRESS, EGRESS AND PARKING, AND FOR PEDESTRIAN TRAFFIC, FOR THE PARTIES AND THEIR RESPECTIVE PERMITTEES, OVER, ACROSS, AND THROUGH THE PARKING AND VEHICULAR DRIVE-THROUGH AREAS, AS SUCH AREAS MAY BE DESIGNATED FROM TIME TO TIME, AS MORE PARTICULARLY SET FORTH IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT, AS RECORDED IN OFFICIAL RECORDS BOOK 14322, PAGE 511, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL D: (PROVIDED BY CLIENT)

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

THE SOUTHERLY 425.00 FEET THEREOF LESS THE WEST 20.00 FEET THEREOF FOR WESTGATE AVENUE OUTFALL, AS RECORDED IN ROAD PLAT BOOK 4, PAGE 52.

PARCEL E (EASEMENT):

GRANT OF EASEMENT RECORDED IN OFFICIAL RECORD BOOK 2782, PAGE 154, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, OVER THE FOLLOWING DESCRIBED LAND:

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 40.0 FEET THEREOF AND LESS THE SOUTH 425.00 FEET THEREOF.

PARCEL F: (O.R. BOOK 6717, PAGE 1970)

A CERTAIN PARCEL OF LAND IN THE NORTHWEST QUARTER (N.W. 1/4) OF THE NORTHEAST QUARTER (N.E. 1/4) OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD AS SAME IS SHOWN IN ROAD PLAT BOOK 2, PAGES 130 THROUGH 133 AND PAGES 138 THROUGH 141, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA WITH THE EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL (SR 809) AS SAME IS SHOWN IN ROAD PLAT BOOK 2, PAGE 233, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88°57'26" EAST ALONG SAID SOUTHERLY LINE OF OKEECHOBEE ROAD, A DISTANCE OF 175.02 FEET TO THE POINT OF

BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUING SOUTH 88°57'26" EAST ALONG SAID SOUTHERLY LINE OF OKEECHOBEE ROAD A DISTANCE OF 110.89 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 5789.65 FEET AND A CENTRAL ANGLE OF 01°16'39"; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 129.09 FEET TO A POINT; THENCE SOUTH 00°14'05" EAST ALONG A PROLONGATION OF A RADIAL LINE OF SAID CURVE, A DISTANCE OF 139.88 FEET; THENCE SOUTH 46°54'1 1" WEST, A DISTANCE OF 66.50 FEET; THENCE SOUTH 43°05'49" EAST; A DISTANCE OF 15.00 FEET; THENCE SOUTH 46°54'1 1" WEST, A DISTANCE OF 387.67 FEET; THENCE NORTH 43°05'49" WEST, A DISTANCE OF 15.00 FEET; THENCE SOUTH 46°54'1 1" WEST; A DISTANCE OF 139.94 FEET TO A POINT ON THE SAID EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL; THENCE NORTH 01°53'54" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL, A DISTANCE OF 377.18 FEET; THENCE SOUTH 88°57'26" EAST A DISTANCE OF 175.02 FEET; THENCE NORTH 01°53'54" EAST, A DISTANCE OF 175.02 FEET TO THE POINT OF BEGINNING.

LESS RIGHT OF WAY FOR MILITARY TRAIL RECORDED IN VOLUME 2828, PAGE 1159, PUBLIC RECORDS OF WEST PALM BEACH, FLORIDA.

ALSO LESS RIGHT OF WAY FOR MILITARY TRAIL RECORDED IN OFFICIAL RECORDS BOOK 6499, PAGE 1751.

PARCEL G: (PROVIDED BY CLIENT)

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.

TOGETHER WITH (AS TO PARCELS A AND G):
NON-EXCLUSIVE EASEMENT RIGHTS FOR PARKING, PEDESTRIAN TRAFFIC AND VEHICULAR ACCESS CONTAINED IN THAT CERTAIN RECIPROCAL EASEMENT AGREEMENT BETWEEN CROSS COUNTY PARTNERS AND CHILI'S FLORIDA, INC., DATED MAY 29, 1991, RECORDED JUNE 14, 1991 IN OFFICIAL RECORD BOOK 6857, PAGE 1385, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH (AS TO PARCELS A, D, E AND G):
NON-EXCLUSIVE CASEMENT RIGHTS FOR VEHICULAR ACCESS, INGRESS/EGRESS, PARKING AND PEDESTRIAN TRAFFIC CONTAINED IN THAT AT CERTAIN RECIPROCAL EASEMENT AGREEMENT DATED SEPTEMBER 3, 2002, RECORDED OCTOBER 28, 2002 IN OFFICIAL RECORD BOOK 14322, PAGE 511, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALTOGETHER 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 13 COURSES: 1) S. 51°34'57" E., 7.16 FEET; 2) S. 89°28'12"E., 73.17 FEET; 3) N. 46°18'31" E., 30.43 FEET; 4) N. 87°23'47" E., 33.26 FEET; 5) NORTH 86°45'06" EAST, 21.64 FEET; 6) SOUTH 81°54'51" EAST, 61.06 FEET; 7) N. 86°45'06" EAST, 76.00 FEET; 8) NORTH 68°22'56" E., 38.08 FEET; 9) N. 86°45'06" E., 192.02 FEET; 10) S. 47°42'42" E., 28.11 FEET; 11) N. 87°49'57" E., 74.86 FEET; 12) N. 49°18'24" EAST, 31.74 FEET TO A POINT ON THE ARC OF A NON-

TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 5664.08 FEET AND A CENTRAL ANGLE OF 01°32'15"; THENCE ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 151.99 FEET; THENCE S.89°22'28"E., A DISTANCE OF 90.55 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER OF THE THE NORTHEAST CORNER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST; THENCE S.00°53'51"W., A DISTANCE OF 1288.25 FEET TO THE NORTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN RECORD PLAT BOOK 2, PAGE 205, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE, N. 89°44'41" W., 906.07 FEET FEET; THENCE N.76°14'54"W., A DISTANCE OF 57.84 FEET; THENCE N.89°44'41"W., A DISTANCE OF 290.59 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 21°29'09", A CHORD BEARING OF N.79°00'07"W. AND A CHORD LENGTH OF 14.91 FEET; THENCE ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 15.00 FEET; THENCE N.26°01'41"E., A DISTANCE OF 6.02 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 34.00 FEET, A CENTRAL ANGLE OF 10°06'40", A CHORD BEARING OF N.63°57'42"W. AND A CHORD LENGTH OF 5.99 FEET; THENCE ALONG THE ARC OF SAID CURVE AND ARC LENGTH OF 6.00 FEET; THENCE S.26°01'41"W., A DISTANCE OF 6.02 FEET TO A POINT ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 63°16'12", A CHORD BEARING OF N.27°49'33"W. AND A CHORD LENGTH OF 42.49 FEET; THENCE ALONG THE ARC OF SAID CURVE AN ARC LENGTH OF 44.73 FEET TO A POINT ON 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 ALONG SAID EAST RIGHT OF WAY LINE FOR THE FOLLOWING SIX (6) CALLS: (1) THENCE N.04°21'23"E., A DISTANCE OF 157.32 FEET; (2) THENCE N.00°51'26"E., A DISTANCE OF 300.00 FEET; (3) THENCE N.22°46'20"W., A DISTANCE OF 17.46 FEET; (4) THENCE N.01°33'11"E., A DISTANCE OF 247.32 FEET; (5) THENCE N.04°30'06"E., A DISTANCE OF 157.32 FEET; (6) THENCE N.00°51'26"E., A DISTANCE OF 149.74 FEET; THENCE EASTERLY LEAVING SAID RIGHT OF WAY LINE OF NORTH MILITARY TRAIL, N.90°00'00"E., A DISTANCE OF 157.93 FEET; THENCE N.00°51'26"E., A DISTANCE OF 168.76 FEET TO A POINT 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 ALONG SAID SOUTH RIGHT OF WAY LINE FOR THE FOLLOWING TWO (2) CALLS: (1) THENCE N.90°00'00"E., A DISTANCE OF 220.77 FEET; THENCE S.51°34'43"E., A DISTANCE OF 24.81 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

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 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER N.89°44'41"W., A DISTANCE OF 328.63 FEET; THENCE S.00°15'19"W., A DISTANCE OF 40.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN ROAD PLAN BOOK 2, PAGE 205, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. SAID POINT BEING THE POINT OF BEGINNING; THENCE S.00°54'00"W., A DISTANCE OF 296.93 FEET; THENCE N.89°40'01"W., A DISTANCE OF 476.82 FEET; THENCE N.00°39'21"E., A DISTANCE OF 296.27 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF SAID WESTGATE AVENUE; THENCE S.89°44'41"E., A DISTANCE OF 478.09 FEET TO THE POINT OF BEGINNING.

AND:

A PARCEL OF LAND IN THE WEST ONE-HALF OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: THE SOUTHERLY 425.00 FEET THEREOF LESS THE WEST 20.00 FEET THEREOF FOR WESTGATE AVENUE OUTFALL AS RECORDED IN ROAD PLAN BOOK 4 AT PAGE 52 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE S.00°28'03"W., A DISTANCE OF 40.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF WESTGATE AVENUE AS SHOWN IN ROAD PLAN BOOK 2, PAGE 205, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.89°44'41"E., A DISTANCE OF 20.00 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF WESTGATE AVENUE OUTFALL AS RECORDED IN ROAD PLAN BOOK 4 AT PAGE 52, PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID WEST RIGHT OF WAY LINE S.00°53'01"W., A DISTANCE OF 209.05 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED LANDS; THENCE S.89°35'37"E., A DISTANCE OF 316.91 FEET; THENCE S.00°53'11"W., A DISTANCE OF 425.33 FEET; THENCE N.89°31'20"W., A DISTANCE OF 316.89 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF SAID WESTGATE AVENUE OUTFALL; THENCE N.00°53'01"E. ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 424.90 FEET TO THE POINT OF BEGINNING.

ALSO TOGETHER WITH:

GRANT OF EASEMENT RECORDED IN OFFICIAL RECORD BOOK 2782, PAGE 154, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, OVER THE FOLLOWING DESCRIBED LAND:

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 40.0 FEET THEREOF AND LESS THE SOUTH 425.00 FEET THEREOF.

THE SUBJECT PROPERTY CONTAINS A SURVEYED AREA OF 42.857 ACRES (1,866,815 SQUARE FEET).

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All previously approved conditions of approval continue to apply unless expressly modified herein. (ONGOING: ZONING - Zoning) (Previous Condition 1 of Resolution R 2007 0007, Control No. 1977-133(G))

2.Previous General Condition 1 of R-98-876, Control No.1977-133(G), which currently states:

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

Is hereby deleted: Reason - [Superseded by Condition 3]

3.Previous General Condition of R-98-876, Control No.1977-133(G), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-97-96 (Petition 77-133F) 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-98-876 and R-2007-0007, Control No.1977-133(G) 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)

4.Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated July 11, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1.At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Building P2 shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

BUILDING AND SITE DESIGN

1.All existing air conditioning and mechanical equipment, except within Parcel F, shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.1 of R-98-876, Control No.1977-133(G))

2.All new air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and

architectural style of the principle structure. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.2 of R-98-876, Control No.1977-133(G))

3.All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be confined to the areas designated on the site plan. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.3 of R-98-876, Control No.1977-133(G))

4.Cross access shall be provided to abutting properties to the east and indicated on the site plan. (DRO: CO. ATTORNEY) (Previous Condition C.4 of R-98-876, Control No.1977-133(G))

5.All buildings and structures shall be designed and constructed to be compatible with the general architectural character of surrounding residential areas. (BLDG PERMIT: BLDG-Zoning) (Previous Condition C.5 of R-98-876, Control No.1977-133(G))

6.Architectural character and treatment which is compatible and harmonious with abutting development consistent with earthtone and pastel colors shall be provided on all sides of the building. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.6 of R-98-876, Control No.1977-133(G))

7.Previous Condition 2 of Resolution R 2007-0007, Control No. 1977-133 (G) which currently states:

Total gross floor area shall be limited to a maximum of 442,581 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)

Is hereby amended to read:

Total gross floor area shall be limited to a maximum of 449,806 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRO: ZONING - Zoning)

8.The maximum height for all structures, measured from finished grade to highest point, shall not exceed forty-five (45) feet except as permitted by Section 6.5.H.4. (Exceptions to Height Regulations) of the ULDC. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.8 of R-98-876, Control No.1977-133(G))

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. (Previous Condition C.9 of R-98-876, Control No.1977-133(G) (DRO: ZONING-Zoning)

10.The proposed shopping center buildings shall be designed and constructed to be consistent with the facade elevations prepared by Mark L. Saltz Architect dated June 4, 1997 except pads P2 and P4. (BLDG PERMIT: BLDG - Arch Review) Previous Condition C.10 of R-97-966, Petition 77-133(G).

DRO-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. (ONGOING: CODE ENF - Zoning) (Previous Condition N.1 of Resolution R-98-876, Control No.1977-133(G))

2.Landscaping and buffering along the north, south and east property line of Parcel D shall include:

a. a minimum twenty-five (25) foot wide landscape buffer strip;

b. one (1) canopy tree for each forty (40) feet on center; (CO: LANDSCAPE-Zoning) (Previous Condition N.2 of Resolution R-98-876, Control No.1977-133(G))

3.Landscaping on the west property line of Parcel D shall include a minimum ten (10) foot wide landscape buffer strip with one (1) canopy tree for each forty (40) feet on center. (CO: LANDSCAPE-Zoning) (Previous Condition N.3 of Resolution R-98-876, Control No.1977-133(G))

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. (Previous Condition E.1 of Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (DRO: ENGINEERING-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) Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (BLDG PERMIT: MONITORING - Eng / County Attny)

.....4.Prior to the issuance of the first Building Permit for Parcel C (which is occupied by an existing 7427 square foot restaurant in the southwest corner of the parcel) the property owner of Parcel C shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed the portion of the road right-of-way which is required for the construction of an expanded intersection at Westgate Avenue and Military Trail for that falls within Parcel C. This additional right-of-way for Parcel C shall be in accordance with Palm Beach County's Expanded intersection details and shall include the right-of-way to provide the appropriate length of turn lane, taper length, and corner clip", as approved by the County Engineer. All right-of-way conveyed shall be free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right-of-Way Acquisition Section to ensure that the property is free of any encumbrances and encroachments. (Previously Condition E.4 of Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (ONGOING-ENGINEERING-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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (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 Homeowner'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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (CO:MONITORING-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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (CO:MONITORING-Eng) [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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (ONGOING-ENGINEERING-Eng) [Completed]

.....8.Prior to issuance of a building permit the property owner shall convey a 10 foot "Temporary Construction Easement" to Palm Beach County along Westgate Avenue, Military Trail, and Okeechobee Boulevard. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (Previously Condition E.8 of Zoning Resolution No R-98-0876, Zoning

Petition Number 1977-133(G) (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 Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (DRO-ENGINEERING-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 Engineering Condition E 10 of Zoning Resolution No R-98-0876, Zoning Petition Number 1977-133(G) (CO: MONITORING - Eng) [Completed]

.....11. No Building Permits for the site shall be issued until the applicant obtains a confirmation from the Traffic Division that the applicable maximum allowable limits for the development identified in Table TE-6 of the Comprehensive Plan will not be exceeded. (BLDG PERMIT:MONITORING-Eng)

.....12. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2012. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

HEALTH

1.Previous condition number D.1. of Resolution R-1998-0876 which reads:

Generation and disposal of hazardous effluents into sanitary sewage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)

IS HEREBY AMMENDED TO READ:

Properly owners and operators of facilities generating industrial, toxic, or hazardous waste shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF.-Health)

2.The owner, occup[ant, or tenant of the facility shall participate in an oil recycling program which ensures proper re-use or disposal of any waste oil. (Previous condition D.2 or Resolution 1998-0876, control 1977-0133) (ONGOING: CODE ENF.-Health)

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 (Previous condition D. 3 of Resolution 1998-0876, Control 1977-0133) (ONGOING: CODE ENF-Health)

ZONING - LANDSCAPING

1. Prior to Issuance of a Building Permit for Building P2 the property owner shall replace all dead and missing plant materials on the entire subject property. (BLDG. PERMIT: LANDSCAPE - Zoning)

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

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition F.1 of R-98-876, Petition 77-133(G))

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

- a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition F.2 of R-98-876, Petition 77-133(G))

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

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

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
- c. one (1) palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and
- d. twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition G.1 of R-98-876, Petition 77-133(G))

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

5. Landscaping and buffering along the south property line shall include:

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. a minimum two (2) foot high berm measured from top of curb;
- c. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
- d. one (1) palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and,
- e. twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE -Zoning) (Previous Landscape Condition H.1 of R-98-876, Petition 77-133(G))

LANDSCAPING

6. Landscaping and buffering along Westgate Avenue in front of Retail areas S2 and S3 shall include:

a. Landscaping requirements of 1. above with a minimum twenty (20) foot landscape buffer. (CO: LANDSCAPE-Zoning) (Previous Landscape Condition H.2 of R-98-876, Petition 77-133(G))

LANDSCAPING-PARCEL G

7. 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- Zoning) (Previous Landscape Condition I.1 of R-98-876, Petition 77-133(G))

LANDSCAPING

8. Foundation plantings or 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. (DRO / CO: LANDSCAPE-ZONING) (Previous Landscape Condition H.3 of R-98-876, Petition 77-133(G))

LANDSCAPING-PARCEL G

9. 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-Zoning) (Previous Landscape Condition I.2 of R-98-876, Petition 77-133(G))

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

10. Landscaping and buffering along the west property line shall include:

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
- c. one (1) palm for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and,
- d. twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE - Zoning) (Previous Landscape Condition J.1 of R-98-876, Petition 77-133(G))

LANDSCAPING

11. 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. (DRO/CO: LANDSCAPE-ZONING) (Previous Condition J.2 of R-98-876, Petition 77-133(G))

LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs

shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning) (Previous Lighting Condition K.1 of Resolution R-98-876, Control No.1977-133(G))

2.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) (Previous Lighting Condition K.2 of Resolution R-98-876, Control No.1977-133(G))

3.All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING: CODE ENF-Zoning) (Previous Lighting Condition K.3 of Resolution R-98-876, Control No.1977-133(G))

4.The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning) (Previous Lighting Condition K.4 of Resolution R-98-876, Control No.1977-133(G))

PALM TRAN

1.Previous MassTransit Condition L.1A of Resolution R-98-0876, Control DOA77-133(G) which states:

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

Is hereby deleted: [Reason superseded by more current language and ULDC]

2.Previous MassTransit Condition L.1.B of Resolution R-98-0876, Control DOA77-133(G) which states:

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

Is hereby amended to read:

Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (BLDG PERMIT/PLAT: MONITORING/ENG -Palm Tran)

3.Previous Palm Tran Condition L.2 of Resolution R-98-0876, Control DOA77-133(G) which states:

All printed and electronic advertising for the project, when practical, shall contain information that mass transit service to the site is available. This condition shall apply to advertising for the entire project only, not to individual stores or tenants. (ONGOING: PALM TRAN)

Is hereby deleted: [Reason superseded by more current language and ULDC]

4.Previous Palm Tran Condition L.3 of Resolution R-98-0876, Control DOA77-133(G) which states:

Commercial locations which are open to the public shall not restrict public mass transit access. (ONGOING: PALM TRAN)

Is hereby deleted: [Reason superseded by more current language and ULDC]

PARKING

1.All proposed or new delivery and/or loading areas shall be completely screened from view from any public right-of-way by a twelve (12) foot high wing wall, measured from finished grade to highest point, or equivalent landscape material. Wing walls shall be constructed in a manner consistent with the color, character and architectural style of the principle structure. (ONGOING: BLDG - Zoning) (Previous Parking Condition O.1 of Resolution R-98-876, Control No.1977-133(G))

2.Overnight storage or parking of delivery vehicles, trucks or trailers shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF-Zoning) (Previous Parking Condition O.2 of Resolution R-98-876, Control No.1977-133(G))

3.Shopping cart storage corrals shall be provided in all parking areas adjacent to retail uses. (DRO: ZONING-Zoning) (Previous Parking Condition O.3 of Resolution R-98-876, Control No.1977-133(G))

4.Previous Parking Condition O.4 of Resolution R-98-876, Control No.1977-133(G) which currently states:

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)

Is hereby deleted Reason: [superseded by Variance number BOFA 9800095]

5.Previous Parking Condition O.5 of Resolution R-98-876, Control No.1977-133(G) which currently states:

The 78 parking spaces in Parcel G" shall not be constructed if the ULDC 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.)

Is hereby deleted - Reason: [superseded by Variance number BOFA 9800095]

PLANNING

1.Prior to Final approval by the Development Review Officer (DRO), the site plan shall include a notation for a vehicular and pedestrian cross access point to the abutting property line, as per Policy 1.2.4-d of the Comprehensive Plan, Westgate Community Redevelopment Area Overlay Guidelines (WCRAO) and Urban Redevelopment Area (URA) Guidelines. The notation shall read Proposed future vehicular and pedestrian cross access to be paved to the property line at a time when the abutting property submits an application to the DRO". When this occurs the property owners of this condition shall record a cross access easement for the subject property in a form and location acceptable to the Planning Division, Traffic Division and the County Attorney. (DRO: PLANNING-

Planning/County Attorney)

SIGNS

1.No advertising flags, foreign flags, pennants, banners, streamers or balloons shall be permitted on site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, or other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc., shall not be permitted on-site. (ONGOING: CODE ENF-Zoning) (Previous Sign Condition P.1 of Resolution R-98-876, Control No.1977-133(G))

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. (Previous Sign Condition P.2.a of Resolution R-98-876, Control No.1977-133(G)) (BLDG: ZONING- Zoning)

b. Sign "F" shall be limited to:

- 1) Maximum sign height, measured from finished grade to highest point - fifty (50) feet;
- 2) Maximum sign face area per side - 529 square feet;
- 3) Maximum number of signs - one (1) on Military Trail; and
- 4) Style - monument style only, as depicted on the sketch presented by the petitioner to the Board of County Commissioners. (BLDG PERMIT: ZONING- Zoning) (Previous Sign Condition P.2.b of Resolution R-98-876, Control No.1977-133(G))

3.Replacement, relocation or renovation of all other existing freestanding signs shall be permitted in accordance with the ULDC. (BLDG - ZONING -Zoning) (Previous Sign Condition P.3 of Resolution R-98-876, Control No.1977-133(G))

4.No freestanding point of purchase signs shall be permitted along Westgate Avenue. (BLDG - ZONING-Zoning) (Previous Sign Condition P.4 of Resolution R-98-876, Control No.1977-133(G))

UNITY OF TITLE

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. (DRO: ZONING - Co Att) (Previously Condition Q.1 of R-98-876, Petition 77-133G))

MAINTENANCE

1.All loading areas and berths shall be clean and well maintained. (ONGOING: CODE ENF - Zoning) (Previous Maintenance Condition M.1 of Resolution R-98-876, Control No.1977-133(G))

MAINTENANCE

2.Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear, parking lots or access ways of the facility. (ONGOING: CODE ENF - Zoning) (Previous Maintenance Condition M.2 of Resolution R-98-876, Control No.1977-133(G))

MAINTENANCE

3.Parcels of land along Westgate Avenue owned by the petitioner, including the land

area deleted from the subject property and the Cross County Mall retention area (Parcel D), shall be maintained with the same frequency and integrity as the subject property. Maintenance shall include, but not be limited to, garbage collection, landscaping, and repairs to fences, gates, lighting and paved surfaces. Frequency of maintenance shall be no less than on a monthly basis. (ONGOING: CODE ENF - Zoning) (Previous Maintenance Condition M.3 of Resolution R-98-876, Control No.1977-133(G))

AUTO SERVICE

1.No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: CODE ENF - Zoning) (Previously Condition B.1 of R-98-876, Control No.1977-133(G))

AUTO SERVICE

2.Vehicles shall not be tested off-site on residential streets. (ONGOING: CODE ENF - Zoning) (Previously Condition B.2 of R-98-876, Control No.1977-133(G))

AUTO SERVICE

3.There shall be no outdoor repair or storage of vehicles or parts on site. (ONGOING: CODE ENF - Zoning) (Previously Cond. B.3 of R-98-876, Control No.1977-133(G))

AUTO SERVICE

4.Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previously Condition B.4 of R-98-876, Control No.1977-133(G))

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.Previous Compliance Condition R.2 of Resolution R-98-876, Control No.1977-133(G) which currently states:

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. (ONGOING: MONITORING)

Is hereby amended to read:

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; revocation of any concurrency; 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)