RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Sunbelt Equities, II, in reference to Winkler Falls, has properly filed an application for a rezoning from AG-2 to Commercial Planned Development; and

WHEREAS, the subject property is located at 15841 Winkler Road, described more particularly as:

LEGAL DESCRIPTION: In Section 34, Township 45 South, Range 24 East, Lee County, Florida:

A parcel of land lying in the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) of Section 34, Township 45 South, Range 24 East, Lee County, Florida, described as follows;

COMMENCING at a found concrete monument marking the South Quarter corner of said Section 34;
THENCE N01°01'48"W along the East line of said fraction of a section for 346.56 feet to the POINT OF BEGINNING;
THENCE S88°39'16"W for 1,235.83 feet to the Easterly line of Winkler Road (100 feet wide);
THENCE N06°55'41"E along said East line for 577.50 feet to a Point of Curvature;
THENCE 407.00 feet along said Easterly line along the arc of a curve concave to the Northwest having a radius of 2,914.90 feet and subtended by a chord having a length of 406.67 feet and bearing N02°55'51"E to a point on a curve intersecting the said Easterly line and the North line of said fraction of a section;
THENCE N88°45'17"E along said North line for 1,127.79 feet to a found concrete monument marking the Northeast corner of said fraction of a section;
THENCE S01°01'48"E along said East line for 975.07 feet to the POINT OF BEGINNING.

Parcel contains 26.25 acres more or less.

WHEREAS, the applicant has indicated the property's current STRAP number is 34-45-24-00-00010.0000; and

WHEREAS, on February 18, 1992, a public hearing was held before the Lee County Hearing Examiner who gave full and complete consideration to the staff recommendations, Applicant's presentation, testimony, evidence and comments from the public; and recommended approval of the application with conditions; and

WHEREAS, on May 18, 1992, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons; and DENIED without prejudice a rezoning to Commercial Planned Development; and

WHEREAS, on June 17, 1992, the Applicant filed a Petition for Writ of Certiorari with the Circuit Court of the Twentieth Judicial Circuit, which granted the Writ, which was appealed by Lee County to the Second District Court of Appeal, and then remanded back to the Circuit Court; and

WHEREAS, on November 17, 1993, a Circuit Court Order of the Twentieth Judicial Circuit approved a limited remand of this matter for purposes of giving Lee County zoning jurisdiction to consider Sunbelt's settlement offer for adoption, rejection or counter-offer; and

WHEREAS, at a Zoning hearing which was properly noticed and advertised for public hearing, pursuant to the requirements of the Lee County Zoning Regulations, on December 20, 1993, the Board of County Commissioners acted to

APPROVE the settlement offer from Sunbelt Equities, II.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE with conditions a rezoning from AG-2 to Commercial Planned Development.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. Development of the subject property shall be in accord with the two-page Master Concept Plan (date drawn 9/27/93; last revised 12/22/93; stamped Received 12/27/93) prepared by Gora, McGahey Associates in Architecture, Inc. Conditions of development shall be as identified herein and as specified on the Master Concept Plan. No deviations from Lee County land development regulations are granted except as specifically identified.

2. All structures shall be designed to be architecturally compatible with one another and landscaping arranged to complement and tie together the designs among individual parcels. This condition shall be incorporated into all pertinent covenants and restrictions associated with the property owners association.

3. There shall be no 24-hour retail operations on site. Hours of business for commercial retail uses shall be limited from 8:00 a.m. to 10:00 p.m. Drive-thru facilities shall be limited to the retail sites.

4. The applicant shall provide for the fire protection impacts generated by the proposed development as defined by Lee County Ordinance 89-15.

5. The applicant shall provide for the emergency medical service impacts generated by the proposed development as defined by Lee County Ordinance 89-15.

6. The applicant shall contact the Lee County Division of Emergency Management, Hazardous Material representatives, to discuss the proposed development in relation to the potential type, use, and storage of hazardous materials which will be located on the premises.

   If required by federal, state or local regulations:

   a. The applicant shall prepare or have available material safety data sheets (MSDS) and submit either copies of MSDS or a list of MSDS chemicals to the appropriate fire department or district and to the Lee County Department of Public Safety.

   b. The applicant shall establish an emergency notification system to be used in the event of a hazardous material release.

7. Approval of this rezoning does not give the developer the undeniable right to receive any local Development Order approval which exceeds the 2010 Overlay use allocation for the applicable district.

8. This zoning approval does not indicate that the project's traffic impacts have been mitigated. Additional conditions may be required at the time of issuance of a local Development Order per the Development Standards Ordinance or other Lee County Ordinance.

9. This project shall pay an appropriate share towards the signalization of the Winkler Road and Summerlin Road intersection. The appropriate share should be computed based upon the percentage of this project's traffic to the total intersection traffic.

10. All buildings shall be sprinklered and all fire-related Development Standards Ordinance and Uniform Lee County Fire Code requirements shall be addressed and complied with upon submittal for a Development Order.

11. Deviation (1), a request to deviate from minimum intersection separation of 660 feet along arterial streets (Development Standards Ordinance Section C.3.h.), to 557 feet, is APPROVED. Deviation (2), a request to deviate from the minimum water retention setbacks to a property line of

50 feet (Zoning Ordinance Section 509.C.4.) to 35 feet along south property line, is DENIED since subject water retention area has been deleted from Master Concept Plan. Deviation (3) is indicated as "not used" on Master Concept Plan; no deviation is granted. Deviation (4), a request to deviate from the requirement that access streets be constructed paralleling certain arterial streets (Development Standards Ordinance Sections C.3.j.(2) and C.3.o.) to eliminate this requirement is APPROVED. Deviation (5), a request to provide a vegetative buffer as required by the Master Concept Plan instead of the required concrete block wall with stucco of 6 feet in height [Development Standards Ordinance, Table C-3,(3)], is APPROVED. Deviation (6), a request to deviate from the requirement of one-half the right-of-way plus 40 feet plus 25 feet (Zoning Ordinance Section 202.18.B.2.a.) to one-half the right-of-way plus 25 feet for structures abutting arterial roads with a frontage street is APPROVED.

The following findings and conclusions were made in conjunction with this approval of Commercial Planned Development zoning:

A. That the subject property is located within a Lee Plan Future Land Use Map (FLUM) area designated as "Suburban", and the nature and intensity of the uses associated with the proposed development are not incompatible with the uses contemplated to arise in such a FLUM area.

B. That the location of the proposed development will not place an undue burden on existing or planned transportation or other public facilities, and the project will be served by roadways with adequate capacity to carry the traffic reasonably anticipated to be generated by the project.

C. That the proposed use on the subject real estate is consistent with densities, intensities and general uses set forth in the Lee Plan.

D. That the uses within the proposed development meet or exceed all performance and locational standards delineated in the Lee Plan.

E. That the requested rezoning and proposed development project, including the deviations asked for, and as conditioned and limited herein, is consistent with the Goals, Objectives, Policies and general intent of the Lee Plan.

F. That the proposed development project, as conditioned and limited herein, will be compatible with existing and planned uses on adjacent and near vicinity real estate, and will not cause damage, hazard, nuisance or other significant detriment to persons or property.

G. That the proposed development will not act to adversely impact any environmentally sensitive area or valued natural resource.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas R. St. Cerny, and seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:

John E. Manning	AYE
Douglas R. St. Cerny	AYE
Ray Judah	NAY
Franklin B. Mann	AYE
John E. Albion	AYE

DULY PASSED AND ADOPTED this 20th day of December, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clare J. Wacek
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [signature]
Vice-Chairman

Approved as to form by:

[signature]
County Attorney's Office

FILED
FEB 16 1994
CLERK CIRCUIT COURT
BY [signature] D.C.