

RESOLUTION NO. R-2003- 0098

RESOLUTION APPROVING ZONING PETITION DOA1977-048E
DEVELOPMENT ORDER AMENDMENT
PETITION OF WAL-MART STORES
BY KEVIN WORKMAN, AGENT
(WESTERN PLAZA (HOME DEPOT))

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

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

WHEREAS, Zoning Petition DOA1977-048E was presented to the Board of County Commissioners at a public hearing conducted on January 9, 2003; and

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

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

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA1977-048E, the petition of Wal-Mart Stores, by Kevin Workman, agent, for a Development Order Amendment to modify the site plan and 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 January 9, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Absent
Mary McCarty	-	Aye
Burt Aaronson	-	Absent
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 9, 2003.

Filed with the Clerk of the Board of County Commissioners on 30 day of January, 2003

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

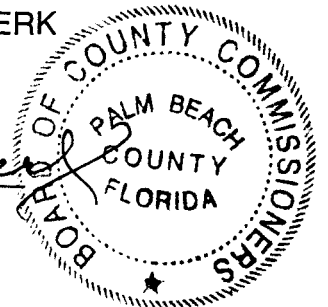


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 44 SOUTH, RANGE 42 EAST PALM BEACH COUNTY, FLORIDA. SAID PARCELLYING WITHIN THE PLAT OF "PALM BEACH FARMS COMPANY, PLAT NUMBER 3" IN A PORTION OF TRACT 22 OF BLOCK 8 OF SAID PLAT, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORD OF SAID COUNTY, TOGETHER WITH A PORTION OF THE 50.00 FEET ROAD RIGHT-OF-WAY LYING BETWEEN LOTS 8 AND 10 OF SAID PLAT, AND A PORTION OF THE 60.00 FEET IN WIDTH CANAL RESERVATION AND THE 25.00 FEET IN WIDTH ROAD RIGHT-OF-WAY LYING ADJACENT TO THE WEST LINE OF TRACTS 21 AND 22, ALL BETWEEN BLOCKS 8 AND 9 OF SAID PLAT, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE PURPOSE OF THIS DESCRIPTION THE WEST LINE OF THE PLAT OF "WESTWOODS", A P.U.D., FROM LOT 40 TO LOT 49 INCLUSIVE, BEARS SOUTH 02°58'25" WEST AS SHOWN IN SAID PLAT RECORDED IN PLAT BOOK 34 AT PAGES 131 THROUGH 134, OF THE PUBLIC RECORD OF SAID COUNTY, AND ALL BEARINGS RECITED HEREIN ARE RELATIVE THERETO.

BEGIN AT THE NORTHWEST CORNER OF SAID PLAT OF "WESTWOODS", P.U.D, BEING ALSO THE INTERSECTION OF THE WEST LINE OF SAID PLAT WITH THE SOUTH RIGHT-OF-WAY LINE OF SOUTH FLORIDA WATER MANAGEMENT DISTRICT CANAL C-51 (WEST PALM BEACH CANAL); THENCE SOUTH 02°58' 25" WEST ALONG THE WEST LINE OF SAID PLAT OF THE "WESTWOODS" 1660.22 FEET; THENCE SOUTH 89° 22' 39" WEST 831.93 FEET; THENCE NORTH 01°52'19" EAST 342.25 FEET; THENCE NORTH 00°58'1 3" EAST 298.90 FEET; THENCE NORTH 00°1 2;26" WEST 210.64 FEET TO THE INTERSECTION WITH THE WEST LINE OF SAID SECTION 6; THENCE ALONG SAID WEST LINE OF SECTION 6 NORTH 01°53'41" EAST 838.94 FEET TO THE AFOREMENTIONED SOUTH RIGHT-OF-WAY LINE OF THE C-51 CANAL; THENCE SOUTH 88°29'34" EAST ALONG SAID RIGHT-OF-WAY LINE 875.09 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,431,508 SQUARE FEET, 32.8629 ACRES.

EXHIBIT B
VICINITY SKETCH

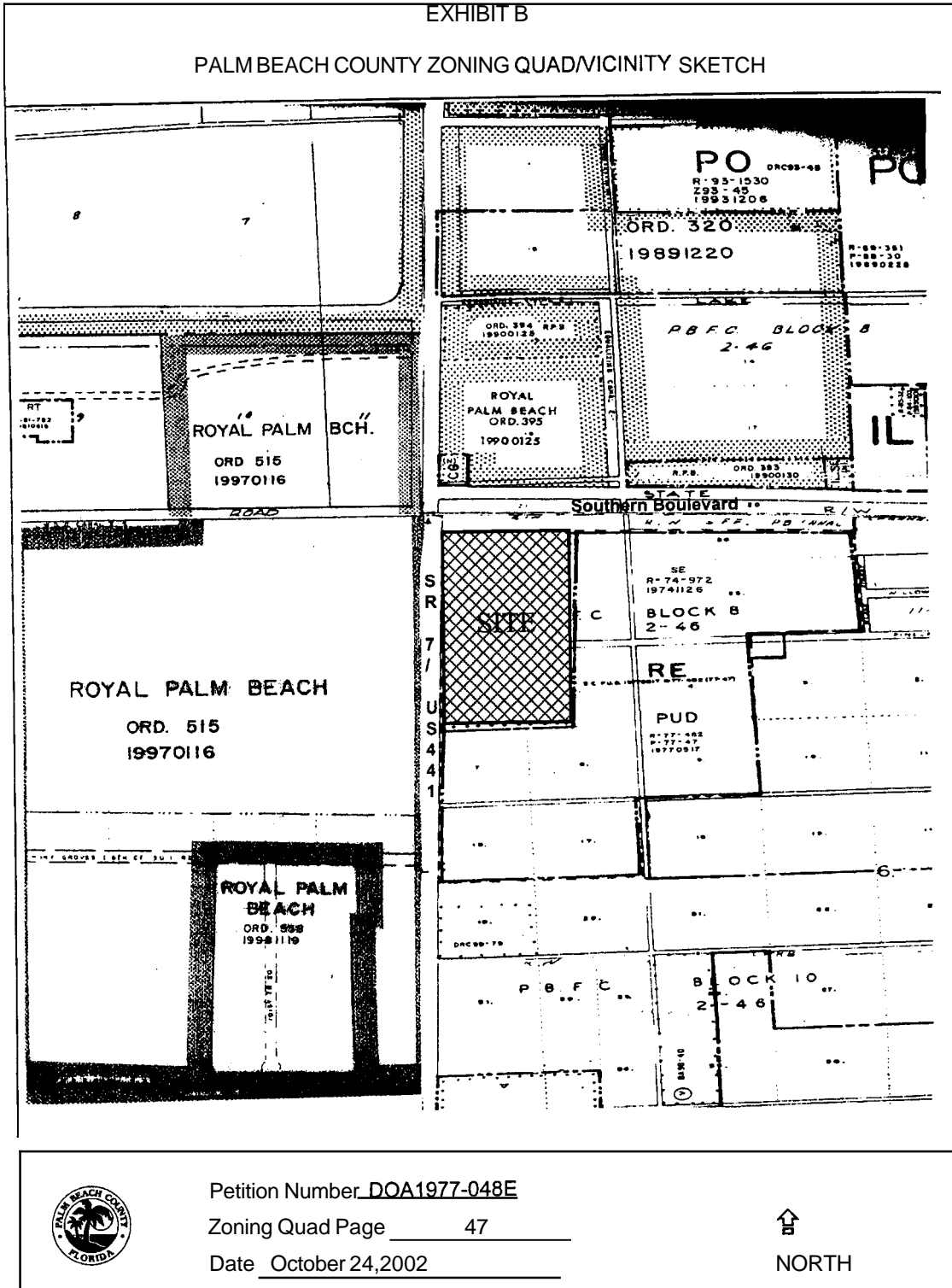


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. Condition A.1 of Resolution R-94-505, Petition 77-48C which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-89-441 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-89-441 (Petition 77-48A), R-93-1362 (Petition 77-48B), R-94-505 (Petition 77-486) 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)

2. Resolution No. R-77-483, adopted April 28, 1977 is hereby repealed. (ONGOING: ZONING –Zoning) (Previous Condition A.2 of Resolution R-94-505, Petition 77-48C)

3. Condition A.3 of Resolution R-94-505, Petition 77-48C which currently states:

Prior to site plan certification by the Development Review Committee, the petitioner shall amend the site plan to indicate:

- a. Tabular data to include all square footage of the development as defined in the ULDC.
- b. Parking calculation which reflects all square footage pursuant to Section 7.2 and Section **6.8.E.7(3)** of the ULDC;
- c. Delineate the affected areas of this petition;
- d. Remove all parking along the east property line;
- e. Delineate all required storage areas and relocated dumpster locations; and,
- f. All required landscaping.

Is hereby deleted. REASON: [Replaced by new site plan which satisfied these conditions].

4. Condition A.4 of Resolution R-94-505, Petition 77-48C which currently states:

Simultaneously with submission to the Site Plan Review Committee, the petitioner shall submit a corrected survey or site plan, as applicable, to correspond with the respective site plan or survey.

Is hereby deleted. REASON:[Completed].

5. Prior to Site Plan Review Committee certification, the petitioner shall submit a Unity of Control **for** review and approval by the Zoning Division and the County Attorney. Prior to the issuance of the first building permit, the petitioner shall record the Unity of Control. (Previous Condition A.5 of Resolution R-94-505, Petition 77-48C)

6. Condition A. 13 of Resolution R-94-505, Petition 77-48(C) which currently states:

To ensure compliance with conditions required to mitigate compatibility with adjacent residential, the petitioner shall comply with all applicable conditions of approval prior to issuance ~~of~~any further building permit. (ZONING)

Is hereby deleted. REASON:[code requirements].

7. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated October 16, 2002. 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. (DRC:ZONING-Zoning)
8. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to provide a minimum of twenty-five (25) foot wide aisle along the rear parking area of the proposed Home Depot store. Terminal islands shall be provided for all parking spaces. (DRC: ZONING-Zoning)
9. The proposed landscaping and signs for the redevelopment portion of the site shall comply with the Village of Royal Palm Beach Code, unless the County's requirements (conditions of approval) exceed the Village code. Prior to final DRC certification of the site plan, the petitioner shall obtain written confirmation from the Village of Royal Palm Beach that the proposed landscaping and signage in the affected area are consistent with the Village code.(DRC/ONGOING:ROYAL PALM BEACH –Zoning)

B. ARCHITECTURAL CONTROL

1. Condition A.8 of Resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, all delivery and/or loading areas shall be screened from view by an eight- (8) foot high wing wall consistent with the color and character of the principle structure. (BUILDING)

Is hereby amended to read:

All delivery and/or loading areas shall be screened from view by an eight- (8) foot high wing wall consistent with the color and character of the principle structure. This condition is applicable to the new Home Depot store only. (DRC: ARCH. REVIEW – Zoning)

2. Condition A .II of Resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, all eastern oriented facades for proposed expansion shall have a solid opaque wall to the roof line. (BUILDING)

Is hereby amended to read:

At time of submittal for final DRC certification, the architectural elevations shall be submitted for final architectural review and approval. Elevations and the site plan shall be designed to be consistent with Sec. 6.6.E and 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and DRC certified site plan. (DRC: ZONING - Zoning)

C. 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. (Previous Condition B.1 of Resolution R-94-505, Petition 77-48(C))
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC., and Palm Beach County ECR-I. (Previous Condition B.2 of Resolution R-94-505, Petition 77-48(C)) (HEALTH)
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-11. (Previous Condition B.3 of Resolution R-94-505, Petition 77-48(C)) (HEALTH)

D. LANDSCAPING – STANDARD (FOR OVERALL SITE, EXCEPT HOME DEPOT)

1. Simultaneously with application submittal to the Site Plan Review Committee, the petitioner shall submit an alternative landscape betterment plan for the landscape buffers along the eastern property line. This alternative landscape betterment plan shall include the landscape plans for the western buffer of the Westwoods Planned Unit Development (Zoning Petition No. 77-47). The alternative landscape betterment plan buffer shall equal or exceed thirty-five (35) feet and shall receive landscape treatment meeting the requirements of Section 500.35.E of the Landscape Code. This plan shall be subject to approval by the Zoning Division. (ZONING) (Previous Condition C.1 of Resolution R-94-505, Petition 77-48(C)) [Completed].
2. Prior to the issuance of a building permit, the developer shall submit a copy of the approved alternative landscape betterment plan which meets or exceeds the requirements stated in Condition No. 12 above. No Certificate of Occupancy shall be issued until the landscape plan has been installed and received approval from the Zoning Division. (CO:LANDSCAPE –Zoning) (Previous Condition C.2 of Resolution R-94-505, Petition 77-48(C)) [Completed].
3. All trees required to be planted on the entire 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. (CO: LANDSCAPE – Zoning) (Previous Condition C.3 of Resolution R-94-505, Petition 77-48(C))

E. ENGINEERING

1. Prior to site plan certification the petitioner shall demonstrate, in a manner and form acceptable to the County Attorney, its legal right to discharge unto the existing lake within the Westwood subdivision east and south of the subject property. (COUNTY ATTORNEY) (Previous Condition A. 14 of Resolution R-94-505, Petition 77-48(C))

2. Prior to issuance of any building permits, the petitioner shall fund up to **\$7551.85** plus all expenses necessary for the installation of an aeration system in the existing lake within the Westwood Subdivision. (ZONING) (Previous Condition A.15 of Resolution R-94-505, Petition 77-48(C))

3. Condition E.1 of Resolution R-94-505, Petition 77-48(C) which currently states:

If required by the County Engineer or the South Florida Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced area shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site (ENGINEERING)

Is hereby deleted. [REASON: code requirements].

4. Developer shall construct at the intersection of State Road 7 the projects south and the north entrance concurrent with onsite paving and drainage improvements and shall be completed prior to the issuance of any Certificate of Occupancy:

a) right turn lane south approach unless a permit from the Florida Department of Transportation for any portion of Condition No. 6 cannot be obtained at which case this portion of the condition shall not be enforced subject to review by the County Engineer. [NOTE: a) is completed]

b) **signalization**/if warrant as determined by the County Engineer and approved by the Florida Department of Transportation. [ONGOING]

Any right-of-way required for the construction of these improvements shall be funded entirely by the property owner. (ENGINEERING) [NOTE: a) is completed] (Previous Condition E.2 of Resolution R-94-505, Petition 77-48(C))

5. Condition E.3 of Resolution R-94-505, Petition 77-48(C) which currently states:

The developer 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 **\$340,126.00 (12,696 trips X \$26.79 per trip)** to be paid in its entirety prior to the issuance of the first building permit for the main center. Should building permits for the parcels (other than the main center) along State Road 7 and State Road 80 be sought, the users shall pay the standard Impact Fee rate based upon their square footage. The total amount of these impact fees shall be credited toward the **\$340,126.00**. (IMPACT FEE COORDINATOR)

Is hereby deleted. REASON: [code requirements].

6. Condition E.4 of Resolution R-94-505, Petition 77-48(C) which currently states:

Nothing herein shall preclude the issuance of any approval to the Lake Worth Drainage District for government structures.
(ZONING/ENGINEERING)

Is hereby deleted. REASON: [construction within a Lake Worth Drainage District right of way or easement requires permits from the affected agency].

7. The property owner shall construct at the project's entrance road and State Road 80 concurrent with on site paving and drainage improvements.
- a. **left** turn lane, east approach
 - b. right turn lane, west approach
 - c. signalization if warranted as determined by the County Engineer and approved by the Florida Department of Transportation

Any right-of-way required for this construction shall be funded in its entirety by the property owner.

Should any of these turn lanes not be permitted by the Florida Department of Transportation then that portion of the condition shall not be enforced, subject to concurrent review by the County Engineer.
(ENGINEERING) (Previous Condition E.5 of Resolution R-94-505, Petition 77-48(C))

[NOTE: a and b completed; c - Not warranted at this time]

8. LANDSCAPE WITHIN THE MEDIAN OF STATE ROADS

The petitioner shall design, install and perpetually maintain the median landscaping within the Median of SR 7. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Exceptions for additional landscaping beyond OTIS require Board of County Commissioners approval. Sites with additional landscaping shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County.

- a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING- Eng)
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING- Eng)

At the petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner-installed landscaping, payment for the maintenance may be provided to the County. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The Developer shall first be required to correct any deficiencies in the landscaping and irrigation.

In the event that the County installs trees, irrigation, and sod under its OTIS program along this project's frontage prior to the petitioner installing this landscaping and irrigation, then the option for the petitioner to install and maintain shall no longer be available without Board of County commissioners approval, and the petitioner shall contribute to the County's beautification program, as outlined in the second part of this condition, as follows:
Alternately, at the option of the petitioner:

Prior to the issuance of a Building Permit, the petitioner's shall make a contribution to the County's Only Trees, Irrigation and Sod (OTIS) unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage length along SR 7. The payment shall be in the amount and manner that complies with the schedule for such payments, as it currently exists, or from time to time may be amended.

NOTE: Payments under this program do not guarantee the installation of landscaping and irrigation along this project's frontage during any particular time frame.

9. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along State Road 7 to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG. PERMIT: MONITORING-Eng)

F. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. To mitigate compatibility with adjacent residential, landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip free and clear of all utility easements or other encumbrances that may impede the required landscaping; and,
 - b. One (1) native canopy tree planted every twenty (20) feet on center.

(Previous Condition D.1 of Resolution R-94-505, Petition 77-48(C))

2. Condition D.2 of Resolution R-93-1362, Petition 77-48(B), which currently states:

To mitigate compatibility with adjacent residential area, the petitioner shall remove all existing parking along the east property line. This area shall be used for landscaping and may only be encroached by the existing two dumpster areas.

~~Is hereby deleted. REASON:~~[no longer applicable, replaced by new site plan].

3. Prior to November 1, 1994, the petitioner shall pay up to \$10,000 of invoices upon presentation by the Westwood Property Owners Association (WPOA) for landscaping along the property line abutting the existing shopping center. The petitioner shall be relieved of any portion of this responsibility not installed by the WPOA prior to November 1, 1994. (Previous Condition D.3 of Resolution R-93-1362, Petition 77-48(B) (DATE: MONITORING-Zoning) [Completed].

G. LANDSCAPING – STANDARD FOR HOME DEPOT, AFFECTED AREA

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet:
 - b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;

- c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:
- a. Palm heights: twelve (12) feet clear trunk;
 - 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)
3. All shrub or hedge material shall be planted in overlapping, continuous masses, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:
- a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. these heights shall be continuously maintained to achieve the hierarchical effect. This condition does not apply to the five (5) foot wide buffer. (CO: LANDSCAPE – Zoning)
4. All trees and palms material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF SR7/US441, HOME DEPOT - AFFECTED AREA ONLY)

1. Landscaping and buffering along the west property line shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip (along the south 860 feet of the west property line);
 - b. one (1) canopy tree planted for each thirty (30) linear feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. one (1) flowering tree planted for each thirty (30) linear feet of the property line;
 - e. one small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - f. one medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation.
 - g. one large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

I. LANDSCAPING – INTERIOR, HOME DEPOT - AFFECTED AREA ONLY

1. The minimum width of the landscaping median within the parking lot of the affected area shall be ten (10) feet including curbs, and shall consist of the following:
 - a. one (1) canopy tree and appropriate ground cover shall be planted for each twenty-five (25) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center.
 - b. shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. Shrubs may be exempted in areas where fire hydrants or any above or underground utilities are located. (CO: LANDSCAPE-Zoning)
2. Foundation planting or grade level planters for the existing (Retail A) and the new Home Depot buildings shall be provided along the front and side facades to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet on the north and south sides of each building. Foundation planting shall only be applicable for the south side of Retail A. The minimum width of the required landscape areas shall be eight (8) feet on the west façade of each building;
 - b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of the north and south sides of each structure; The length of the required landscaped areas for the west façade shall be no less than forty (40) percent of the total length of the structure; and
 - c. Landscape areas shall be planted with a minimum equivalent of one tree or palm for each twenty (20) linear foot of building facade and appropriate shrub or ground cover. (DRC/CO:ZONING/LANDSCAPE-Zoning)
3. Landscaping along the (interior) sides of the existing concrete walls, which are located along the south and east buffers, shall consist of the following:
 - a. one (1) canopy tree planted for each twenty (20) feet of the property line;
 - b. one (1) vine (ficus pumila or similar specie) planted at five (5) feet on center; and
 - c. tree requirements may be exempted in areas where the existing landscape strip is below five (5) feet in width. (CO:LANDSCAPE – Zoning)
4. Landscaping along the east and west portions of the existing detention area shall consist of the following, (planting requirements for each area):
 - a. minimum planting area for each portion - 3,000 square feet
 - b. a minimum of five (5) canopy trees;
 - c. a minimum of five (5) flowering trees; and,
 - d. a minimum of one (1) shrub per fifteen (15) square feet of the planting area. (CO:LANDSCAPE-Zoning)
5. Landscaping along divider medians along both sides of the middle access driveway at SR7/US 441 shall be landscaped with the following:
 - a. a minimum of two (2) sets of trellis/shaded structure shall be provided for the landscape divider medians. Each structure shall have a minimum of six (6) feet in width and eighty (80) feet in length. Vines shall be planted adjacent to each structure;
 - b. a minimum of four (4) foot wide pedestrian walkway paved with decorative pavers shall be provided under each set of trellis;

- c. one shrub for each two (2) linear feet of the length of each median. Shrub shall be a minimum height of eighteen (18) inches at installation, and shall be maintained at a maximum height of thirty (30) inches; and,
 - d. prior to final DRC certification of the site plan, the petitioner shall revise the site plan to reflect the locations of these required trellis /shaded structures pursuant to Condition 1.5.a. (DRC/CO:ZONING/LANDSCAPE – Zoning)
6. Landscaping for the divider median in the middle access driveway at SR7/US 441 shall consist of the following:
- a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median.
 - b. one (1) Royal palm for each thirty-five (35) linear feet of the median; and,
 - c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)
7. Landscaping for terminal islands in the parking area shall consist of the following:
- a. one (1) canopy trees for each ten (10) linear feet of the island; and,
 - b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)
8. Landscaping at the base of the existing (Home Depot) sign along Southern Boulevard shall consist of the following:
- a. minimum planting area for each portion - 600 square feet;
 - b. a minimum of five (5) flowering trees; and,
 - c. a minimum of one (1) shrub per fifteen (15) square feet of the planting area. (CO:LANDSCAPE-Zoning)

J. LIGHTING – HOME DEPOT - AFFECTED AREA ONLY

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
- 2. All outdoor, freestanding lighting fixtures shall not exceed thirty (30) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
- 3. 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)

K. PLANNING

- 1. Prior to final Development Review Certification, the site plan shall be revised to include notations indicating the existing or proposed/future location of sidewalks along State Road 7 and Southern Boulevard. (DRC:PLANNING-Planning)

I. SIGNS

1. **No off-premise signs shall be permitted on site.** (Previous Condition F.1 of Resolution R-94-505, Petition 77-48(C) (ONGOING:BLDG.- Zoning)
2. The existing freestanding point of purchase (WalMart) sign located on SR7/US441 shall be replaced and, shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point – twenty-five (25) feet;
 - b. maximum sign face area per side – one hundred (100) square feet;
 - c. maximum number of signs – one (1) sign;
 - d. location – within fifty (50) feet of the central access point of the MUPD;
 - e. Sign shall be limited to identification of tenant only. (CO: BLDG-Zoning)
3. Wall signs for the Home Depot Store shall be limited to the western facade of the Home Depot building and individual lettering size shall be limited to sixty (60) inches high. Wall sign shall be limited to only identification of tenant, and limited to the following identification “Home Depot”. This condition shall not apply to directional signs. (CO: BLDG-Zoning)
4. Directional wall signs for the Home Depot Store shall be limited to the western façade of the Home Depot building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of the following:
 - a. Nursery; and
 - b. Contractor’s pick-up. (CO: BLDG-Zoning)
5. Prior to final DRC certification of the site plan, the petitioner shall submit a master signage program for the Home Depot store. (DRC-ZONING-Zoning)

M. USE LIMITATIONS

1. Condition A.6 of Resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, no outdoor loudspeaker system audible off site shall be permitted. (Code Enforcement)

Is hereby amended to read:

Outdoor speaker or public address systems, which are audible from any property line, shall not be permitted on site. (ONGOING: CODE ENF - Zoning)
2. **To mitigate compatibility with adjacent residential area, no pick up or deliveries shall be allowed on the site, including solid waster pickup, prior to 7:00 a.m. nor later than 10:00 p.m.** (CODE ENFORCEMENT) (Previous Condition A.7 of Resolution R-94-505, Petition 77-48(C))
3. Retail business activity for the Home Depot store shall not be allowed on site, excluding deliveries, prior to 6:30 a.m. nor continue later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning)
4. Hours of deliveries for the Home Depot store (Petition 1977-048E) shall be limited from 7:00 a.m. to 8:00 p.m. daily. (ONGOING: CODE ENF - Zoning)
5. Condition A.9 of resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, no outdoor storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the facility except within designated dumpster locations. (CODE ENFORCEMENT)

Is hereby amended to read:

Storage or placement of any material, pallets, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)

6. Condition A.10 of Resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, dumpsters along the eastern perimeter shall be relocated a minimum of fifteen (15) feet from the east property line and screened in accordance with the ULDC. (ZONING)

Is hereby amended to read:

All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within fifteen (15) feet of the east property line and shall be confined to the areas designated on the site plan. (DRC/ ONGOING: ZONING / CODE ENF-Zoning)

7. Condition A.12 of Resolution R-94-505, Petition 77-48(C) which currently states:

To mitigate compatibility with adjacent residential area, overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (BUILDING/CODE ENFORCEMENT)

Is hereby amended to read:

Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space located on the site plan dated October 16, 2002. No idling of engines shall be permitted. (ONGOING: CODE ENF-Zoning)

8. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
9. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to incorporate an enclosed outdoor storage at the rear of the facility. (DRC:ZONING –Zoning)
10. No outdoor retail business activities shall be permitted on the site unless permitted by Special permits. No permanent outdoor display shall be permitted on site. (ONGOING:CODE ENF – Zoning)

N. COMPLIANCE

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

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; 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 a Code Enforcement Special Master 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. (CO:MONITORING-Zoning)