

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



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<b>Application No.:</b>	DOA/R-2011-00939
<b>Control No.:</b>	2003-00007
<b>Applicant:</b>	Mission Lakes I LLC Mission Lakes II LLC
<b>Owners:</b>	Target Corp Mission Lakes LLC Mission Lakes I LLC Mission Lakes II LLC Mission Lakes III LLC
<b>Agent:</b>	Urban Design Kilday Studios - Joni Brinkman
<b>Telephone No.:</b>	(561) 366-1100
<b>Project Manager:</b>	Carol Glasser, Site Planner II

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**Location:** Northeast corner of Lantana Road and SR7/US441 (Mission Lakes MUPD)

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**TITLE:** a Development Order Amendment **REQUEST:** to reconfigure the Site Plan and increase square footage; modify Conditions of Approval (Architectural Review, Landscape, Signs); and, re-start the Commencement of Development clock **TITLE:** a Requested Use **REQUEST:** to allow a Type I Restaurant

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**APPLICATION SUMMARY:** Proposed is a Development Order Amendment (DOA) and Requested Use for the Mission Lakes Multiple Use Planned Development (MUPD). The 37.85-acre development was last approved by the Board of County Commissioners (BCC) on October 22, 2009. The development includes 239,936 square feet within 5 buildings, a 186,216-square foot Large Scale Commercial Development (LSCD) retail building with the remaining square footage within 4 outparcel buildings that front on SR7/US441.

The applicant is requesting to replace proposed Building D, which was an 8,100-square foot Type II Restaurant, with a 4,587-square foot Type I Restaurant with a drive-thru; and, Building E, which was a proposed 15,120-square foot Retail use with 2 drive-thrus, will be modified to a 19,350-square foot multi-tenant building (14,350 square feet for General Retail and 5,000 square feet of Type I Restaurant uses) on a 7.24-acre portion of the site (affected area). A total of 240,653 square feet is proposed, an increase of 717 square feet. The applicant also requests to modify Architectural Review Condition 1 to submit building elevations at time of building permit; to modify Architectural Review Condition 4 to eliminate the tower requirement on Building D; to modify Landscape - Interior Condition 9 for foundation planting requirements; and to modify Signs Condition 1 to allow 4 outparcel signs along the SR7/US441 frontage. The Preliminary Site Plan indicates 1,236 parking spaces. Access will remain from 2 points on Lantana Road and 3 points on SR7/US441.

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**ISSUES SUMMARY:**

o Project History

On December 22 1983, the BCC approved Resolution R-84-507 to allow excavation on a portion of the subject site. The excavation was completed. On April 22, 1986, the BCC approved Resolutions

R-86-573-13 and R-86-573-14 for a rezoning from the Agricultural Residential (AR) Zoning District to the Commercial General (CG) Zoning District and a Special Exception (SE) for a Planned Commercial Development (PCD) for a Large Scale Community Shopping Center greater than 50,000 square feet, a Financial Institution with 5 drive thru teller lanes, and a gasoline pump island on a portion of the subject site. The BCC modified the SE on May 8, 1990 to permit phasing pursuant to Resolution R-90-760. On September 3, 1991, the BCC revoked the previous PCD approval and rezoned a portion of the subject site from the CG Zoning District to the Community Commercial (CC) Zoning District pursuant to Resolutions R-91-1180 and R-91-1181.

On July 24, 2003, the BCC approved Resolution R-2003-1129 to rezone a portion of the site from the AR Zoning District to the MUPD Zoning District. On April 22, 2004, the BCC approved Resolutions R-2004-0734 and R-2004-0735 to rezone a parcel of land from the CC Zoning District to the MUPD Zoning District and add the additional land area to the site.

Subsequent to the approval of the Mission Lakes MUPD development, the BCC adopted Ordinance 2005-002 (Big Box Ordinance) on January 27, 2005, which included amendments to Article 5.C. Architectural Guidelines; Article 6.A.1.D. Location of Required Parking; Article 7.D.11, Foundation Plantings; and, Article 7.F. Perimeter Buffer Landscape Requirements for a LSCD. Mission Lakes MUPD is vested pursuant to Article 1.E.1.C. Previous Approvals for the uses, site design, intensity, and tabular data shown on the approved Final Site Plan as more than 80 percent of the approved square footage has been constructed. Mission Lakes MUPD is platted in Plat Book 106 Pages 129 through 132.

On October 22, 2009, the BCC approved Resolution R-2009-1826 for a DOA to modify a Condition of Approval (Landscaping) to modify the right-of-way buffer fronting SR7/US441.

o Consistency with Comprehensive Plan

The Planning Division has reviewed the requests and has determined that the requests are consistent with the site's Commercial Low with an underlying 2 units per acre (CL/2) Future Land Use (FLU) designation. See Planning Division comments for additional information.

o Compatibility with Surrounding Land Uses

NORTH	
FLU:	Low Residential, 2 units per acre (LR-2)
Zoning District:	AR
Supporting:	Single Family residence; Tractor/Bobcat service
NORTH and EAST	
FLU:	LR-2
Zoning District:	AR with a Special Exception (SE)
Supporting:	Excavation (Palm Beach County owned)
SOUTH (across Lantana Road)	
FLU:	LR-2
Zoning District:	Planned Unit Development (PUD)
Supporting:	Zero lot line (ZLL) and Single Family residential (Control No. 95-116, Bellaggio)
EAST	
FLU:	LR-2
Zoning District:	AR
Supporting:	Wholesale nursery (Control 97-48, Odum's Nursery)
WEST (across SR7/US441)	
FLU:	Low Residential, 1 unit per acre (LR-1)
Zoning District:	PUD
Supporting:	ZLL residences (Control No. 97-72, Thoroughbred Lake Estates)
FLU:	LR-2
Zoning District:	AR

Supporting:	Vacant
FLU:	Industrial (IND)
Zoning District:	MUPD
Supporting:	Self Storage and also approved for a Carwash and Paint and Body Shop (Control No. 02-27, US 441 Land Trust)
FLU:	Commercial Low, with an underlying 1 unit per acre (CL/1)
Zoning District:	CC
Supporting:	Type I Restaurants (Control No. 02-002Dunkin Donuts SR7 & Lantana); and, Convenience Store with Gas Sales (Control No. 99-56, Hess Station)

The proposed changes to the MUPD are limited to the two outparcels at the southwest corner of the site (affected area) and are separated from the single family parcel to the north by the existing Buildings B and C. To the south of the affected area across Lantana Road is Pod K of the Bellaggio PUD. The southernmost building is proposed for a mix of in-line General Retail and Type 1 Restaurant (no drive thru service) uses. The proposed Type 1 Restaurant with a drive thru (Building D) is north of the main SR7/US441 entrance and round-a-bout. This main entrance has existing landscaped focal points, trellises, significantly oversized divider medians and has an approximately 144-foot wide separation between the 2 affected area outparcels.

The southernmost outparcel building (Building E) is setback 181 feet from the south property line with the dumpster service area located within a recessed area of the rear façade. Building E is separated from the 127-foot wide Lantana Road expanded intersection by a 45-foot wide platted buffer. The south buffer has a 7-foot high berm, 2 rows of canopy trees planted in a staggered manner and additional palm and flowering trees. On the Bellaggio development, a 35-foot wide open space tract with a buffer and a 6-foot high wall, a 20-foot wide lake maintenance easement, and a lake provide additional separation and buffering for the residents.

To the west, the residences in the Thoroughbred Lake Estates are separated by the 45-foot wide sodded LWDD easement as the LWDD E-1 canal is located within the 240-foot wide SR7/US441 right-of-way; and, a 50-foot wide open space tract and a 20-foot wide buffer within the Thoroughbred Lake Estates development. Subject to the existing Conditions of Approval for the upgraded landscape buffers and buffer widths on the south and west property lines that are carried forward with this application, staff does not anticipate any significant incompatibility issues from the requests.

o Modification of Conditions

**Applicant's Request:** Modify Architectural Review 1 to allow the architectural elevations for Buildings D and E to be submitted and reviewed for compliance with Art. 5.C Design Standards at time of submittal of the building permit applications. The applicant is requesting to comply with Method IV of the Code to avoid preparing elevations without the benefit of end-user input. The existing Condition of Approval requires review and approval of elevations prior to final site plan approval by the Development Review Officer (DRO).

**Staff's Response – Support:** Staff is recommending that the previous condition be carried forward as completed for the Final Site Plan approved in 2004 to maintain the history of the Architectural Review for this project. Staff is recommending a new condition Architectural Review 14 that will allow the property owner to submit the architectural elevations for Buildings D and E at time of Building Permit subject to consistency with the original elevations dated April 15, 2004.

**Applicant's Request:** Modify Architectural Review 4, which requires a decorative tower element along the west façade of all buildings, to eliminate the decorative tower element requirement for the proposed Type 1 Restaurant with a drive thru. The applicant is proposing the restaurant industry's prototype design layout and indicates that the decorative tower element may not be easily accommodated due to the requirements associated with the drive thru. The applicant indicates that the integrity of the architectural theme of the development will be maintained with the decorative tower elements on Buildings B and E on the northernmost and southernmost SR7/US441 frontage.

**Staff's Response Not in Support:** The applicant is requesting the elimination of a conditional requirement for a tower element on Building D only. The applicant states that the decorative element should not be required as the new layout for a restaurant with a drive thru may not easily

accommodate a decorative tower. The applicant states, “The introduction of these types of elements often creates issues with restaurant proto-typical designs.” Staff does not agree with the applicant’s assessment and can note numerous examples of towers associated with a drive thru within Palm Beach County demonstrating that the tower element and the drive thru can coexist with no exhibited negative influence. Additionally, the site plan proposed by the applicant indicates that the tower element could easily be relocated from the Northwest corner to the southwest corner of the site.

Thus, staff is recommending **denial** as to the applicant’s request to modify Architectural Review 4.

**Applicant’s Request:** Modify Landscape – foundation planting condition – Interior 9 to exempt proposed Buildings D and E from the foundation planting requirements as contained in this existing condition to comply with the upgraded foundation planting area requirements as now defined in the Unified Land Development Code (ULDC) for an outparcel building in a LSCD. These upgraded foundation planting requirements were adopted subsequent to the original approval of Mission Lakes MUPD to assure a quality project for a big box development. The applicant is requesting to meet current Code requirements in the affected area.

**Staff’s Response – Support:** Staff has no objection to the applicant’s request to meet current ULDC foundation plantings requirements for outparcel buildings in a LSCD.

**Applicant’s Request:** Modify Sign 1 to allow for outparcel identification signs in compliance with ULDC limitations to address the visibility and identification concerns along the SR7/US441 frontage. The most recent DOA application approved by the BCC on October 22, 2009 addressed some of the visibility concerns by allowing modification of the plantings in the SR7/US441 Right-of-Way buffer to comply with current Code. However, the Lake Worth Drainage District (LWDD) E-1 canal and E-1 canal easement add an additional 90 feet of separation from the SR7/US441 travel lanes. The provision to allow Code-compliant outparcel signs is needed to assist in the marketing process and to address lack of visible tenant identity.

**Staff’s Response – Support:** Staff has no objection to the applicant’s request for Code-compliant outparcel signage. Per Art. 8.A.1.A Purpose and Intent of Signage, the applicant’s Master Sign Program promotes and aids in the identification, location, and advertisement of goods and services; protects Palm Beach County from visual blight; is compatible with the adjacent land uses; minimizes distractions; and, provides the essential identity of and direction to the development.

o Traffic

See Staff Review and Analysis for information from the Traffic Division.

o Landscape/Buffering

No changes are proposed to the 45-foot wide platted Right-of-Way buffers along the south and west property lines. All existing landscaped areas of the site will be maintained in accordance with the existing conditions. The plantings adjacent to the proposed buildings will meet current Code for LSCD foundation planting requirements.

o Re-start the Commencement Clock

The applicant is also requesting to restart the Commencement of Development Clock pursuant to an approved new traffic study dated May 19, 2011. Staff is recommending that All Petitions 3 be revised to indicate the new three-year period to commence development on the proposed buildings by December 1, 2014.

o Type I Restaurant Requested Use

The applicant is requesting a freestanding Type 1 Restaurant with a drive thru on the outparcel that is located north of the main SR7/US441 entrance. The applicant proposes a 4,587-square foot Type 1 Restaurant inclusive of outdoor seating. A freestanding Type 1 Restaurant with a drive thru is allowed in a MUPD with a CL FLU subject to approval of a Requested Use and demonstration of compliance with Art. 5.E.1 Major Intersection Criteria.



A freestanding fast-food restaurant with a drive-thru, which is equivalent to a Type 1 Restaurant, was previously requested for the subject site via Petition No. PDD2003-007A. The verbatim from the April 24, 2004 BCC hearing indicates the adjacent residential community strenuously objected to the proposed freestanding fast-food restaurant with a drive thru. Members of the public indicated objection to the saturation of fast food restaurants in the area, concerns of increased loitering, and generation of mess and dirt, the need for healthier food available in a sit-down (Type 2) restaurant, and that a fast food restaurant does not meet the needs of Bellaggio residents. The BCC approved the petition as amended via Resolution R-2004-0735.

The BCC denied the applicant's request for the freestanding fast-food restaurant with a drive thru by adding Condition M12. The BCC imposed a Condition of Approval A.5 to allow the conversion of the previously requested freestanding 4,000 square foot fast-food restaurant to a freestanding high turn over sit down restaurant. An 8,100-square foot, high turn-over, sit down restaurant (equivalent to a Type 2 Restaurant in the current Code) was subsequently approved based on traffic concurrency during the final DRO site plan approval process.

Staff recommends deletion of All Petitions 4 and Use Limitation 11 Conditions of Approval contained in Resolution R-2009-1826, which were originally included at the April 24, 2004 BCC hearing to address the deletion of the freestanding fast food restaurant with a drive thru from the April 15, 2004 Preliminary Site Plan.

It is important to note that Type 1 Restaurant less than 5,000 square feet and without a drive thru that is not a freestanding (sole use) building, is permitted subject to approval by the DRO pursuant to Art. 4.B.1.A.109.b.1). The Type 1 Restaurant that is proposed in Building E, which is proposed in-line with general retail use and is not considered as a freestanding building, is subject to DRO approval during the final site plan approval process. Type 1 Restaurants that are not freestanding and do not exceed 1,500 square feet are permitted by right through the Building permit process as long as the total square footage of Type 1 Restaurants does not exceed 25 percent of the gross floor area of the development

o Zoning Commission (ZC) Hearing

At the September 1, 2011 ZC Hearing, the motion to postpone to November 3, 2011 to allow the applicant to meet with Bellaggio residents and to avoid conflicts with the holiday during the week of the October 6, 2011 Zoning Commission hearing carried by a vote of 8-0.

TABULAR DATA

	EXISTING	PROPOSED
Property Control Number(s)	00-42-44-31-04-003-0010 00-42-44-31-04-003-0020 00-42-44-31-04-003-0030 00-42-44-31-04-003-0040 00-42-44-31-04-003-0050 (Affected area is Lot #0010 and #0020 only)	Same
Land Use Designation:	Commercial Low with an underlying Low Residential, 2 units per acre (CL/2)	Same
Zoning District:	Multiple Use Planned Development (MUPD)	Same
Tier:	Urban/Suburban	Same
Use:	Retail Sales, General Financial Institution with 3 drive-thrus and ATM lane Restaurant, Type II	Same Type I Restaurant with a drive-thru
Acreage:	37.85 acres	Same
Parking:	1195 spaces	1236 spaces (+41 spaces)
Square Footage	239,936	240,653 (+717)
Access:	Lantana Road (2) SR7/US 441 (3)	Same

**PUBLIC COMMENT SUMMARY:** At the time of publication, staff had received 3 contacts from the public in opposition to this project citing previous promise of no trucks accessing Lantana Road and no fast food restaurants; endangerment to senior residents, security risk since pedestrians or cyclists who are not residents can short-cut through Bellaggio; increase difficulty of access to Fieldstone and Thoroughbred Lakes, provides no benefit to the area; and creates a negative impact on family neighborhoods.

**RECOMMENDATION:** Staff recommends approval of the Development Order Amendment in part and denial of the request to modify Condition of Approval Architectural Review 4 subject to 86 Conditions of Approval as indicated in Exhibit C-1; and, approval of the Requested use subject to 4 Conditions of Approval as indicated in Exhibit C-2.

**ACTION BY THE ZONING COMMISSION:** September 1, 2011: Motion to postpone to November 3, 2011 carried by a vote of 8-0.

**MOTION:** To recommend approval of a Development Order Amendment to reconfigure the Site Plan and increase square footage; modify Conditions of Approval (Architectural Review 1, Landscape, Signs), restart the Commencement of Development clock subject to the Conditions of Approval as indicated in Exhibit C-1.

**MOTION:** To recommend denial of the request to modify Condition of Approval Architectural Review 4.

**MOTION:** To recommend approval of a Requested Use to allow a Type 1 Restaurant subject to the Conditions of Approval as indicated in Exhibit C-2.

The map displays a complex arrangement of land use zones and streets. Key features include:

- Zones:** LR-2, HR-8, IND, CL/2, RR-10, and PARK.
- Streets:** S State Road 7, Raceway Rd, Gekling Ct, Clubhouse Turn Rd, Foa Rd, Durango Dr, Saddle Trail Ln, Old Winston Ct, Cypress Lakes Preserve Dr, Woodward Ln, Lantana Rd, Torino Dr, Via Primo St, Agnello St, Cortona St, Bergamo St, Positano Way, and Tallanna St.
- Other Labels:** "PUD/TDR (2.99 UNITS PER ACRE SEE PET. 1997-072)", "RR (2.99 UNITS PER ACRE . 1997-072)", "URBAN SERVICE AREA BOUNDARY", and "CL/2 2003-065".
- Site Identification:** A large area is highlighted and labeled "SITE".



Application Number:	<b>DOA/R-2011-939</b>
Control Number:	<b>2003-007</b>
Land Use Atlas Page:	<b>81</b>
Date:	<b>06/21/2011</b>



ZC  
Application No. DOA/R-2011-00939  
Control No. 2003-00007  
Project No. 05060-000

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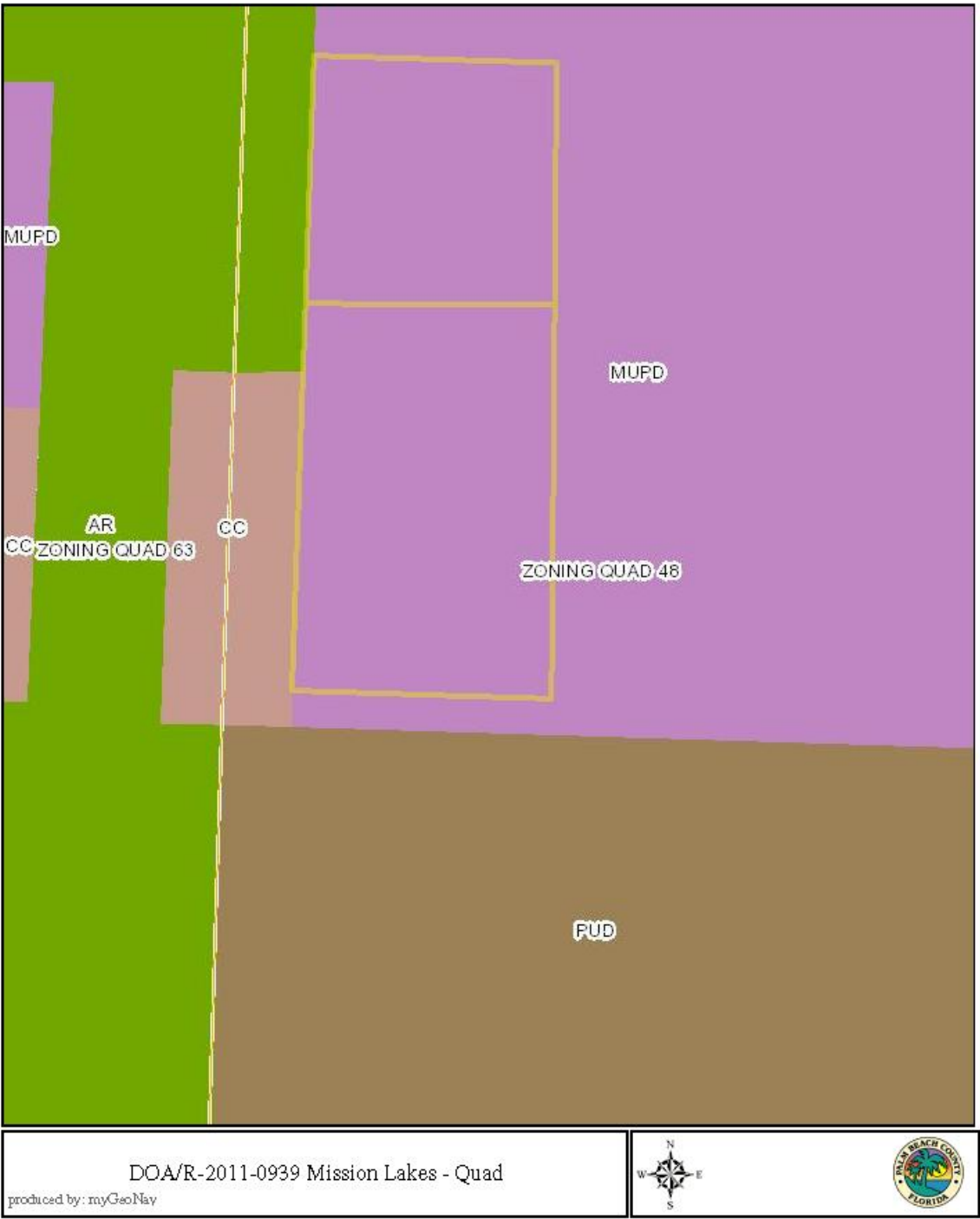


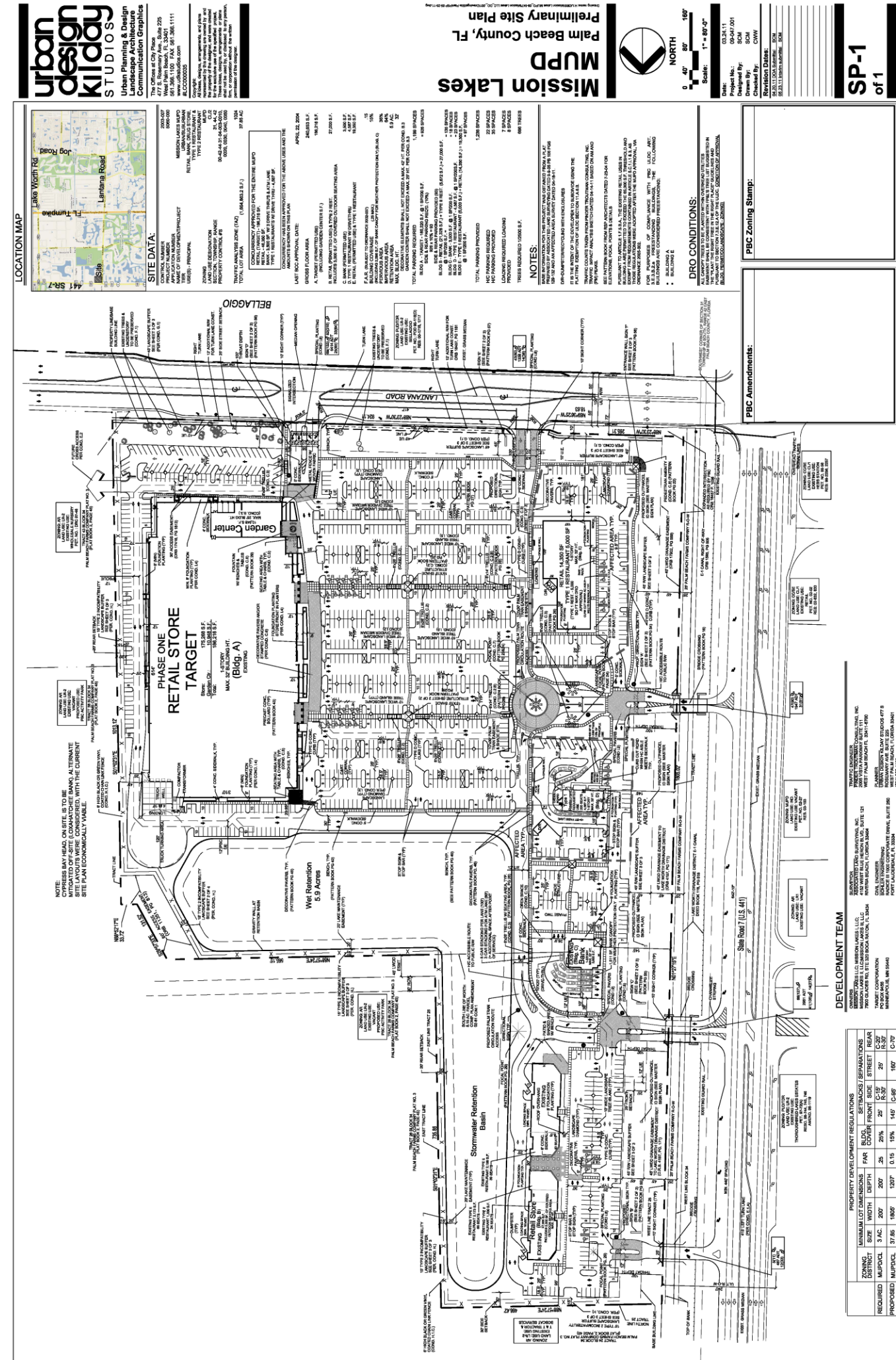
Figure 2 Zoning Quad Map





Figure 3 Aerial of Affected Area



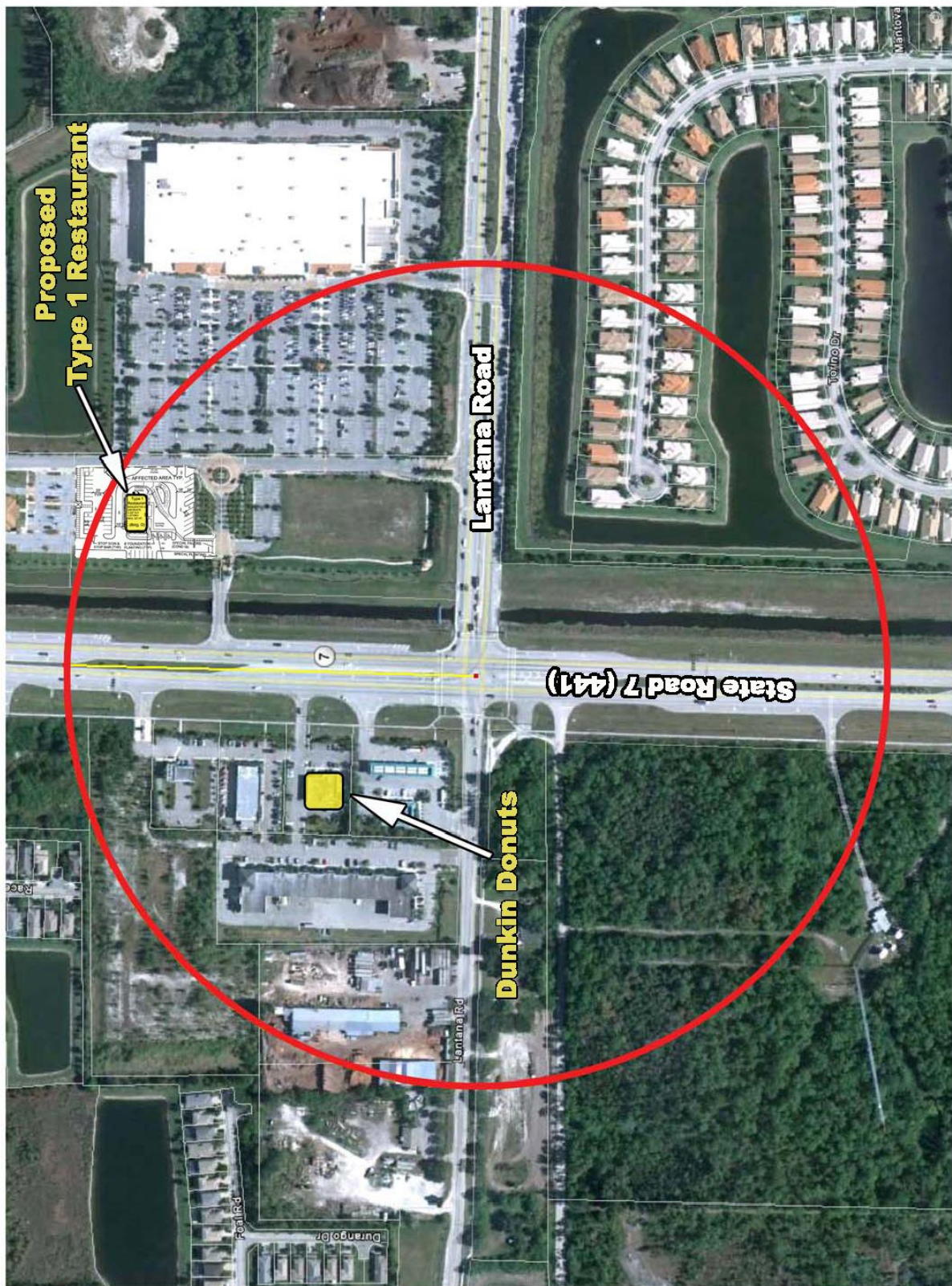












**Mission Lakes DOA  
1000' radius for Separation Criteria of Type 1 Restaurant with Drive Thru**

**Figure 7 Type 1 Restaurant with a drive thru Location Criteria Exhibit**





## STAFF REVIEW AND ANALYSIS

### **PLANNING DIVISION COMMENTS:**

FUTURE LAND USE (FLU) PLAN DESIGNATION: Commercial Low with an underlying Low Residential 2 units per acre (CL/2).

TIER: The subject site is in the Urban/Suburban Tier.

FUTURE ANNEXATION AREAS: The subject site is within the future annexation area of City of Greenacres and the Town of Lantana.

INTERGOVERNMENTAL COORDINATION: The subject site is not located within one mile of a municipality.

CONSISTENCY WITH FUTURE LAND USE (FLU) PLAN DESIGNATION: The Planning Division has reviewed the requests for a Development Order Amendment to allow a Type 1 Restaurant with a drive-thru, to increase the square footage by 717 feet, amend Architectural, Landscape, and Sign Conditions of Approval, to re-start the commencement of development clock, to allow review of the architectural elevations for Buildings D and E at the time of Building permit review and revisions to the approved site plan, and have found the requests to be consistent with the site's CL/2 FLU designation.

The southern 12.40 acre portion of site was the subject of a Large Scale Land Use Amendment known as Commercial Categories 3, LGA-2003-044 (ORD 2003-065), which changed the land use designation from Commercial with an underlying Low Residential 2 units per acre (C/2) to Commercial Low with an underlying Low Residential 2 units per acre (CL/2). The amendment was approved without conditions.

The 8.15-acre parcel on the northern boundary of the MUPD was the subject of a Future Land use Amendment known as 02-81 COM 1 (Mission Lakes) (ORD 2002-037) which changed the land use designation from Low Residential 2 units per acre (LR-2) to Commercial Low with an underlying Low Residential 2 units per acre (CL/2). The amendment was approved with four conditions of approval that have been carried forward as part the Mission Lakes MUPD. They will be employed when the northern parcel applies for future development approvals. The previously approved as well as the proposed Master Plan do not include the 8.15 acre parcel to the north. The conditions of approval are as follows:

1. The maximum gross buildable area of the commercial uses on the subject 8.15-acre site shall be limited to a maximum of 49,940 square feet.
2. The 8.15-acre site shall have pedestrian and vehicular cross access with the commercial parcel to the south.
3. The 8.15-acre site shall be developed consistent with the parcel to the south of the site under one unified Preliminary Development Plan (PDP).
4. The PDP shall be limited to on directional median access point onto Stat Road 7, and at a location to be reviewed and approved by FDOT and the County Engineer. Additional right turn access points may also be permitted subject to review and approval by FDOT and the County Engineer.

The proposed request of 240,653 square feet of Commercial Low use would be consistent with the maximum Floor Area Ratio (FAR) of .25 allowed for a project with the CL FLU designation (37.85 ac x 43,560 x .25 = 412,186.5 square feet maximum). The request for 240,653 square feet equates to an FAR of 0.145 (240,653/1,648,746= 0.145).

Future Land Use Element (FLUE) Policy 4.3-g and TE Policy 1.9-j encourage interconnectivity both within and between sites to reduce the need to use the primary street system to access adjacent sites. When the northern 8.15-acre parcel seeks any development approval or changes to the site

plan along the northern portions of the Mission Lakes MUPD, the parcels shall comply with both the cross access Policies and the conditions associated with the previous Land Use Amendment.

SPECIAL OVERLAY DISTRICT/NEIGHBORHOOD PLAN/PLANNING STUDY AREA: The subject site is not within any Overlays, Plan, Planning or Study Areas.

FINDINGS: The request is consistent with the CL/2 future land use designation of the Palm Beach County Comprehensive Plan.

**ENGINEERING COMMENTS:**

**REQUIRED ENGINEERING RELATED PERMITS**

The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit.

The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section, for modifications to accesses onto Lantana Road and a permit from the Florida Department of Transportation for modifications to accesses onto SR-7.

**TRAFFIC IMPACTS**

Petitioner has estimated the build-out of the project to be December 31, 2015. Existing traffic from this project is 5,724 trips per day, 535 trips in the PM peak hour. Additional new traffic expected from this project is 1,753 trips per day, 122 trips in the PM peak hour for a grand total of 7,477 daily and 657 PM peak hour trips. Additional traffic is subject to review for compliance with the Traffic Performance Standard.

There are no improvements to the roadway system required for compliance with the Traffic Performance Standards.

**ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK DIRECTION)**

Segment: SR 7 from Lantana Road to Lake Worth Road

Existing count: 2112

Background growth: 356

Project Trips: 14

Total Traffic: 2482

Present laneage: 6L

LOS "D" capacity: 2940

Projected level of service: D

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**PALM BEACH COUNTY HEALTH DEPARTMENT:**

No Staff Review Analysis is needed for the requests.

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**ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:**

VEGETATION PROTECTION: The site has been previously cleared for the existing plaza.

WELLFIELD PROTECTION ZONE: The property is not located with a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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**OTHER:**

FIRE PROTECTION: The Palm Beach County Department of Fire Rescue will provide fire protection.

SCHOOL IMPACTS: No Staff Review Analysis is needed for the requests.

PARKS AND RECREATION: No Staff Review Analysis is needed for the requests.

CONCURRENCY: Concurrency has been approved for 232,566 square feet of General Retail use, 3,500 square feet financial institution use with 3 drive thrus and ATM lane, and 4,587 square feet of Type 1 Restaurant use with drive thru.

WATER/SEWER PROVIDER: Palm Beach County Water Utilities Department (PBCWUD)

FINDING: The proposed Development Order Amendment and Requested Use comply with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

**FINDINGS:**

**Conditional Uses, Requested Uses and Development Order Amendments:**

When considering a Development Order application for a Conditional or Requested Use, or a Development Order Amendment, the BCC and ZC shall consider standards 1 – 9 indicated below. A Conditional or Requested Use or Development Order Amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. Staff has reviewed the request for compliance with the standards that are expressly established by Article 2.B.-2.B and provides the following assessment:

1. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

The Planning Division has reviewed the requests for a Development Order Amendment and a Requested Use to allow a Type 1 Restaurant with a drive thru and has determined that the requests are consistent with the site's Commercial Low with an underlying 2 units per acre (CL/2) Future Land Use (FLU) designation.

2. **Consistency with the Code** - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.*

The affected area of the subject site complies current Code and previous Conditions of Approval as carried forward with this application. The applicant has submitted the required aerial to substantiate compliance with the Location Criteria for Type 1 Restaurants with a drive thru. A maximum of 2 Type 1 Restaurants with a drive thru are allowed within 1,000 feet of an intersection. (See Figure 7.) The Type 1 Restaurant Requested Use also complies with the Major Intersection Criteria to be located within the MUPD with a CL land use. Both SR7/US441 and Lantana Road meet the classification requirements in Art. 5.E.1.

3. **Compatibility with Surrounding Uses** – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The Mission Lakes MUPD was previous found to be compatible with the surrounding area under Resolution R-2004-0735. The affected area is the southwest portion of the site. The proposed changes for the MUPD are limited to the two outparcels at the southwest corner of the site (affected area) and are separated from the single family parcel to the north by existing buildings B and C. No

changes are proposed to the platted 45-foot wide right-of-way buffers along the south and west property lines abutting the affected area. To the south of the affected area across Lantana Road is Pod K of the Bellaggio PUD. Lantana Road is 127 feet in width in this area due to an expanded intersection requirement. Pod K buffering includes a 35-foot wide open space tract with a 6-foot high wall in the buffer, a 20-foot wide lake maintenance easement, and a lake to separate and buffer the residents in Pod K from the major intersection of Lantana Road and SR7/US441. To the west is an industrial MUPD, a Type I Restaurant with drive thru, and a convenience store with gas sales. Staff has determined that no significant incompatibility issue will result from the requests to reconfigure the site plan and increase square footage, modify Conditions of Approval (Architectural Review, Landscape, Signs), to re-start the Commencement of Development clock pursuant to a new traffic study, and a Requested Use to allow a Type I Restaurant with a drive thru.

4. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The applicant proposes to locate the Type 1 Restaurant with a drive thru north of the main SR7/US441 entrance and round-a-bout. The previously approved Drug Store retail building on the southwest outparcel indicated a drive thru for the pharmacy whereas the in-line General Retail and Type 1 Restaurant proposed with this Development Order Amendment request does not include a drive thru. The in-line General Retail and Type 1 Restaurant building is situated south of the Type 1 Restaurant with a drive-thru serving to block the view of and separate the drive-thru activity from the residential to the south. Internal loading areas are screened. All of the previously required highly upgraded interior landscaping and pedestrian amenities exist. The double row of canopy trees and additional flowering and palm trees, which have been maturing for years in the south right-of-way buffer, provide a thick vegetative buffer between the residential to the south.

5. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

The affected area has been previously cleared. Environmental Resources Management has determined that there are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

6. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The development pattern of commercial uses along SR7/US441 north of the Lantana Road intersection was previously established. More than 80 percent of the subject site is constructed and remains vested pursuant to Art. 1.E.1.C.2 for the existing large scale commercial development. The requested use for a Type 1 Restaurant and minimal increase in square footage does not affect the previous finding that the development would result in a logical, orderly and timely development pattern.

7. **Consistency with Neighborhood Plans** – *The proposed development or amendment is consistent with applicable neighborhood plans in accordance with BCC policy.*

The subject site is not located within any Neighborhood Plan area.

8. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

Concurrency has been approved for 232,566 square feet of General Retail use, 3,500 square feet financial institution use with 3 drive thrus and ATM lane, and 4,587 square feet of Type 1 Restaurant use with drive thru.

9. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

The applicant states that a major changed circumstance requiring the Development Order Amendment is the effect of the economic downturn on the ability to market building D in the affected area to the quality restaurant industry. The applicant indicates that the Type 2 Restaurant outparcel has been continually marketed to the industry to no avail. The applicant also indicates that the subject site is a prime location for a Type 1 Restaurant due to the passersby on the highly traveled SR7/US441 and Lantana Roads and the opportunity to provide a service to the public and residential communities in the vicinity. The applicant indicates that no apparent issues have arisen from the existing Dunkin Donuts Type 1 Restaurant that has a drive thru and located to the west of the subject site.

Additionally, the ability to permit the previously approved drugstore/pharmacy has been restricted by non-compete provisions provided to Target, the major user within the MUPD. The applicant states, "The restaurant outparcel has been continually marketed to the industry to no avail and the prohibition from a business development standpoint to allow the typical drugstore/pharmacy in the Building E outparcel needs to be rectified in order for development on the parcel to come to fruition." These changed circumstances warrant modifications to the existing development order.

Staff has evaluated the standards listed under Article 2.B.2.B 1-9 and determined that there is a balance between the need of change and the potential impacts generated by this change; therefore, staff is recommending approval of the DOA request. Staff has also determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended conditions of approval as indicated in Exhibit C-1 and C-2.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1

#### Development Order Amendment

#### ALL PETITIONS

1. All Petitions 1 of Resolution R-2009-1826, Control 2003-007, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-0735 (Control 2003-007), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2009-1826 (Control 2003-0007), have been consolidated as contained herein. The property owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. All Petitions 2 of Resolution R-2009-1826, Control 2003-007, which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The Final Site Plan is dated April 27, 2005. 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. (DRO: ZONING - Zoning)

Is hereby amended to read:

Development of the site shall be generally consistent with the Preliminary Site Plan dated May 23, 2011 and approved by the Board of County Commissioners. Modification of the site design may be allowed pursuant to Conditions of Approval or in accordance with Article 2 of the Unified Land Development Code (ULDC). Replacement of a use by another use listed as permitted by right or permitted subject to approval by the Development Review Officer (DRO) may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by Conditions of Approval or the ULDC must be approved by the Board of County Commissioners or Zoning Commission. (ONGOING: ZONING-Zoning)

3. All Petitions 3 of Resolution R-2009-1826, Control 2003-007, which currently states:

The petitioner shall have three (3) years from adoption of the resolution approving Petition 2003-007A to commence development on the site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. (DATE: MONITORING - Zoning) (Previous Condition All Petitions A.4. of Resolution R-2004-0735)

Is hereby amended to read:

Based on Article 2.E of the Unified Land Development Code, this Development Order meets the requirements to receive a new three (3) year review date from Date of Approval of this Resolution. (DATE: MONITORING - Zoning)

4. All Petitions 4 of Resolution R-2009-1826, Control No. 2003-007, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to replace the 4,000 square foot fast-food restaurant with a restaurant that generates an equivalent or



lesser amount of traffic trips based upon an approved Traffic Study that complies with Mandatory Traffic Performance Standards in place at the time of the request. (DRO: ZONING/ENG - Zoning) (Previous Condition All Petitions A.5. of Resolution R-2004-0735) [NOTE: COMPLETED]

Is hereby deleted. [REASON: No longer applicable.]

#### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E. and Section 6.6.C of the ULDC, and shall be generally consistent with the elevations prepared by RSP Architects dated April 15, 2004. Development shall be consistent with the approved architectural elevations and the DRO approved site plan. (DRO: ZONING - Zoning) (Previous Condition Architectural Review 1 of Resolution R-2009-1826, Control No. 2003-007) [COMPLETE]

2. The maximum height for all buildings shall be thirty-two (32) feet including air conditioning, mechanical equipment, satellite dishes and opaque barriers, excluding the Garden Center portion of building A, which shall be limited to a maximum height of twenty-five (25) feet. Decorative elements shall not exceed a maximum height of forty-two (42) feet, excluding the required element at the southwest corner of building A, which shall not exceed a height of thirty-two (32) feet. All heights shall be measured from finished grade to highest point. (DRO/BLDG PERMIT: ARCH REVIEW/BLDG - Zoning) (Previous Condition Architectural Review 2 of Resolution R-2009-1826, Control No. 2003-007)

3. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a parapet or other visually opaque barrier that is consistent with the color, character and architectural style of the building or equivalent landscape material. (DRO/CO: ARCH REVIEW/LANDSCAPE - Zoning) (Previous Condition Architectural Review 3 of Resolution R-2009-1826, Control No. 2003-007)

4. A minimum of one (1) decorative tower element, subject to approval by the Architectural Review Section, shall be provided along the west facade of each building as follows:

- a. above each primary public entrance, each corner, and the midpoint of building A;
- b. above the northwest and southwest corners, and the midpoint of building B; and,
- c. above the northwest and/or southwest corner of buildings C, D and E.

(DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 4 of Resolution R-2009-1826, Control No. 2003-007)

5. A pitched roof shall be provided along the peak of the west facade of building A. This roof shall:

- a. be provided for no less than fifty (50) percent of the total length of the roofline;
- b. have a minimum slope of 4/12;
- c. have a minimum depth of twenty (20) feet measured from the plane of the west building faade; and,
- d. be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 5 of Resolution R-2009-1826, Control No. 2003-007)

6. Design of gutters and downspouts shall be integrated into the architectural design of each building. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 6 of Resolution R-2009-1826, Control No. 2003-007)

7. The pedestrian walkways leading to the primary entry points of building A, as shown on the site plan dated April 15, 2004, shall be a minimum of ten (10) feet in width, and each walkway shall consist of the following:

- a. a shade structure shall be located in the vicinity of the midpoint of each walkway. Each structure shall have a minimum length and width of fifteen (15) feet, or a minimum diameter of fifteen (15) feet; have a pitched roof; and be given a finished treatment that is generally consistent with the buildings on the property;

- b. a trellis shall be located to the east and west of each shade structure, and near the western terminus of each walkway. Each trellis shall have a minimum width of eight (8) feet and a minimum length of twenty-six (26) feet, excluding those located at the terminus of the walkways, which shall have a minimum length of fourteen (14) feet;
- c. decorative paver blocks and/or stamped concrete shall be provided for the entire surface area of each walkway;
- d. one (1) canopy tree shall be planted a maximum distance of twenty (20) feet center to center along the walkway, excluding those portions of the walkway that abut the handicapped parking spaces, where the maximum spacing shall be thirty (30) feet center to center. Adjustments shall be permitted to accommodate required shade structures and trellises; and,
- e. decorative lighting, subject to approval by the Architectural Review Section, shall be provided along the entire length of each walkway. (DRO/CO: ZONING/LANDSCAPE - Zoning) (Previous Condition Architectural Review 7 of Resolution R-2009-1826, Control No. 2003-007)

8. Each trellis, as shown on the site plan dated April 15, 2004, shall include the following, unless otherwise indicated herein:

- a. a minimum width of eight (8) feet and a minimum length of twenty-six (26) feet;
- b. a sitting area that has a direct connection, and lies immediately adjacent to the pedestrian sidewalk system on the property. Each of these areas shall be a minimum width of five (5) feet, a minimum length of ten (10) feet, and be equipped with a minimum of two (2) pedestrian benches and trash receptacles. This requirement shall not apply to the trellises required by Condition C.2.b; and,
- c. the entire ground surface area shall be paved with the same treatment provided to satisfy Condition C.2.c. (DRO/CO/BLDG PERMIT: ARCH REVIEW/LANDSCAPE/BLDG - Zoning) (Previous Condition Architectural Review 8 of Resolution R-2009-1826, Control No. 2003-007)

9. A promenade shall be provided along the west facade of buildings A and B. The promenade shall have a minimum overall width of ten (10) feet for building A, with a minimum unobstructed width of nine (9) feet. The promenade for building B shall have a minimum overall width of eight (8) feet with a minimum unobstructed width of seven (7) feet. The promenades shall:

- a. extend a minimum seventy-five (75) percent of the total length of the west facade of building A and a minimum fifty (50) percent of the total length of west facade of building B;
- b. have a pitched roof with a minimum slope of 4/12. No flat roof shall be permitted;
- c. have a minimum clearance of fourteen (14) feet measured from top of sidewalk surface to the underside of the canopy;
- d. include a minimum of one (1) bench for each twenty (20) linear feet of the promenade; and,
- e. be subject to review and approval by the Architectural Review Section. (DRO/CO: ARCH REVIEW/LANDSCAPE - Zoning) (Previous Condition Architectural Review 9 of Resolution R-2009-1826, Control No. 2003-007)

10. Prior to final DRO approval, the site plan shall be revised to indicate a minimum of two (2) outdoor seating areas along the west facade of building A. These areas shall:

- a. be a minimum width and length of twenty (20) feet;
- b. contain a minimum of two (2) shaded tables and appropriate seating; and,
- c. be paved with the same treatment provided to satisfy Condition C.2.c. (DRO/CO: ZONING/LANDSCAPE - Zoning) (Previous Condition Architectural Review 10 of Resolution R-2009-1826, Control No. 2003-007)

11. Prior to final DRO approval, the site plan dated April 15, 2004, shall be revised to indicate:

- a. a Type D curb along the east edge of the drive aisle located immediate to the west of building A. Curb cuts shall be provided to align with all pedestrian pathways;
- b. decorative paver blocks and/or stamped concrete for the portion of the drive aisle located between the pedestrian crossings to the west of building A. This treatment shall be applied to the entire surface of the applicable area, excluding any alternative paving treatment that may be provided for pedestrian crossings, and be consistent with the paving treatment provided at the points of ingress/egress to the site;
- c. planters along the north and south sides of each bollard; and,
- d. a fountain, subject to review and approval by the Architectural Review Section, in the vicinity of the southwest corner of building A. (DRO/CO: ZONING/LANDSCAPE - Zoning) (Previous Condition Architectural Review 11 of Resolution R-2009-1826, Control No. 2003-007)

12. Prior to final DRO approval, details for all focal points, shade structures, trellises, cart corrals, and signs, as shown on the site plan dated April 15, 2004, shall be submitted for review and approval by the Architectural Review Section. Special planting treatment shall not satisfy the requirement for any focal point, excluding the focal points that are located to the north and south sides of the central access drive from State Road 7/U.S. 441. Each element shall be generally consistent with the details prepared by RSP Architects dated April 15, 2004, as applicable. (DRO: ARCH REVIEW - Zoning) (Previous Condition Architectural Review 12 of Resolution R-2009-1826, Control No. 2003-007)

13. Prior to final DRO approval, the site plan shall be amended to indicate a pedestrian amenity in the vicinity of the southwest corner of the property. This amenity shall be in the form of a clock tower, water fountain, plaza, courtyard, or other similar feature, and be subject to review and approval by the Architectural Review Section. (DRO: ZONING/ARCH REVIEW - Zoning) (Previous Condition Architectural Review 13 of Resolution R-2009-1826, Control No. 2003-007)

14. The architectural elevations for Buildings D and E shall be submitted for final review and approval through the Building Permit process. Elevations shall comply with the standards in Article 5.C. of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the elevations prepared by RSP Architects dated April 15, 2004. Development shall be consistent with the approved architectural elevations and the Final Site Plan, all applicable conditions of approval, and all ULDC requirements. (BLDG PERMIT: BLDG - Arch Rev)

## ENGINEERING

1. The Property owner shall:

- a. lengthen the existing left turn lane north approach on State Road 7 at the Projects main Entrance Road to provide for a left turn lane length of 415 feet; [Note: COMPLETED]
- b. construct a right turn lane south approach on SR 7 at each of the project's entrances; [Note: COMPLETED]
- c. construct a right turn lane east approach on Lantana Road at the project's west and east entrance; and, [Note: COMPLETED]
- d. construct a left turn lane west approach on Lantana Road at the project's east entrance. [Note: COMPLETED]
- e. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
- f. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]
- g. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) (Previous Condition E.1. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

2. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. Building Permits for more than 170,000 square feet of gross leasable floor area of general commercial (which will generate 371 net external PM trips per day) shall not be issued until the construction has commenced for the construction of intersection improvements at Lake Worth Road and SR 7 to provide for:

- triple left turn lanes north approach;
- 4 south approach through lanes (to be accomplished by restriping the existing right turn lane to become a shared through/right lane). This construction shall also include any required signal modifications at SR 7 and Lake Worth Road; and,
- east approach dual right turn lanes including all bridge modifications. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED] (Previous Condition E.2.a of Resolution R-2009-1826, Control No. 2003-007)

b. Building Permits for more than 186,500 square feet of gross leasable floor area of general commercial; a 2,600 square foot bank; and a 4,000 square foot fast food or equivalent restaurant (which will generate 519 net external PM trips per day) shall not be issued until construction has commenced for the construction of Lyons Road as a 4-lane facility from Lantana Road to Hypoluxo

Road plus the appropriate paved tapers. The construction must include the construction the following turn/through lanes at the intersection of Lyons Road and Lantana Road:

- north approach left turn lane;
- 2 thru lanes north approach;
- north approach right turn lane;
- south approach left turn lane;
- 2 thru lanes south approach ; and,
- south approach right turn lane.

(BLDG PERMIT: MONITORING - Eng) (Previous Condition E.2.b of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

c. Building Permits for more than 186,500 square feet of gross leasable floor area of general commercial; a 3,500 square foot bank; and a 4,000 square foot fast food or equivalent restaurant (which will generate 601 net external PM trips per day) shall not be issued until the construction has commenced for the construction of intersection improvements at Lyons Road and Lake Worth Road to provide for a north and south approach right turn lane. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.2.c of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

d. Previous Condition E.2.d of Resolution R-2009-1826, Control No. 2003-007, which currently states:

No Building Permits for the site may be issued after January 1, 2007. 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 Chapter E of the Unified Land Development Code. (DATE: MONITORING - Eng)

Is hereby amended to read:

No Building Permits for the site may be issued after December 31, 2015. 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 Chapter E of the Unified Land Development Code. (DATE: MONITORING - Eng)

e. The mix of allowable commercial uses, as permitted by the Zoning Division, listed above may be adjusted 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. (ONGOING: ENGINEERING - Eng) (Previous Condition E.2.e of Resolution R-2009-1826, Control No. 2003-007)

f. Acceptable surety required for the offsite road improvements as outlined in Conditions E.3.a) (excluding east approach dual right turn lanes), E.3.b), and E.3.c) shall be posted with the Office of the Land Development Division on or before September 25, 2004. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. At any time during the duration of the surety, the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event that such a determination is made, Palm Beach County shall have the right to request funds be drawn for the surety (surety drawn) and Palm Beach County may then complete all required work (TPS - Maximum 6 month time extension) (DATE: MONITORING - Eng)(Previous Condition E.2.f of Resolution R-2009-1826, Control No. 2003-007)

### 3. LANDSCAPE WITHIN THE MEDIAN OF LANTANA ROAD AND SR 7

a. The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lantana Road and SR 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph D.

b. 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) [Note: COMPLETED]

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng) [Note: COMPLETED]

d. At 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. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. 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 petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner.

e. Alternately, at the option of the petitioner, and prior to the issuance of a Building Permit, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's frontage along Lantana Road and SR 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (DRO: ENGINEERING - Eng) (Previous Condition E.3. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Eng) (Previous Condition E.4. of Resolution R-2009-1826, Control No. 2003-007)

5. Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane east approach on Lantana Road at the project's east and west entrance road(s). This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.5. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

6. Prior to December 1, 2004, or prior to the issuance of the first building permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by warranty deed for an expanded intersection at Lantana Road and SR 7. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include provisions for a 40-foot Corner Clips". (DATE/BLDG PERMIT: MONITORING - Eng) (Previous Condition E.6. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

7. Prior to December 1, 2004, the property owner shall provide for the acquisition by funding the cost of the right-of-way and all associated costs for Lyons Road from Lantana Road to Hypoluxo Road plus the appropriate paved tapers as a 108-foot right-of-way within the limits referenced in the Phasing Condition above. Acceptable surety shall be provided to the Office of the County Engineer. This developer shall enter into a written agreement with the Right of Way Acquisition Section on or

before December 1, 2004. Notification by the developer shall be given to the Land Development Division. (DATE: MONITORING - Eng) (Previous Condition E.7. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

8. On or before June 1, 2005, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of Lyons Road as referenced above subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to Land Development Division. (DATE: MONITORING - Eng) (Previous Condition E.8. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

9. Prior to December 1, 2005, the property owner shall commence the construction of Lyons Road as a 4-lane facility (expandable to 6 lanes) from Lantana Road to Hypoluxo Road plus the appropriate paved tapers. All canal crossings within the project limits shall be constructed to their ultimate configuration. (DATE: MONITORING - Eng) (Previous Condition E.9. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

10. The Property owner shall construct intersection improvements at Lake Worth Road and SR 7 to provide for:

- 4 south approach through lanes (to be accomplished by restriping the existing right turn lane to become a shared through/right lane); and,
- signal modifications as required by the County Engineer

a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

c. Construction shall be completed prior to the issuance of the Certificates of Occupancy for more than 170,000 square feet of gross leasable floor area of general commercial. (CO: MONITORING - Eng) (Previous Condition E.10. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

11. The property owner shall construct intersection improvements at Lyons Road and Lake Worth Road to provide for a north and south approach right turn lane.

a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

c. Construction shall be completed prior to the issuance of the Certificates of Occupancy for more than 186,000 square feet of gross leasable floor area of general commercial; 3,500 square foot bank; and a restaurant that is equivalent to a 4,000 square foot fast food restaurant. (CO: MONITORING - Eng) (Previous Condition E.11. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

12. Prior to approval of the Site Plan by the Development Review Officer, the property owner shall convey an access easement to the property owner to the east. Location of the access easement shall be approved by the County Engineer with the form and content of the easement approved by the County Attorney's Office. (DRO: ENGINEERING - Eng) (Previous Condition E.12. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

13. The Property Owner shall fund the cost of a temporary signal if warranted as determined by the County Engineer at the project's east entrance at Lantana Road. Cost of signalization shall also include all design costs and any required utility relocation. Should signalization not be warranted after 24 months of the final Certificate of Occupancy, this property owner shall be relieved from this condition.

a.No Building Permits shall be issued until the developer provides acceptable surety to the Land Development Division in an amount determined by the Director of the Traffic Division for the installation of this signal. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.13. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

14. If the adjacent parcel to the east provides this site an access easement, which will provide paved continuity to the Bellaggio entrance, then concurrent with the paving and drainage improvements for the adjacent site, this property's owner shall:

- a. Construct a restricted median opening at the project's east entrance on Lantana Road.
- i. Construction shall be completed within 9 months of notification by the County Engineer that the existing median opening will be required to be modified to provide for a restricted median opening. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations, the cost of all construction, and Permit modifications from Palm Beach County. (ONGOING: ENGINEERING - Eng)
- b. Fund the removal of the temporary traffic signal on Lantana Road at the project's east entrance. Funding for this construction shall be completed within 30 day notification to the property owner that signal modifications are required. (ONGOING: ENGINEERING - Eng) (Previous Condition E.14. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

15. Site clearing and construction shall be phased such that phase 1 consists solely of the construction of a bridge crossing(s) over the LWDD E-1 Canal. No further construction activity shall begin until such time that phase 1 has been completed. (ONGOING: ENGINEERING - Eng) (Previous Condition E.15. of Resolution R-2009-1826, Control No. 2003-007) [Note: COMPLETED]

#### ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM) (Previous Condition ERM 1. of Resolution R-2009-1826, Control No. 2003-007)

#### LANDSCAPE - GENERAL

1. All palms required to be planted on the property 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. (Previous Condition Landscape - General 1 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

2. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- 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. this condition does not apply where a single row of shrub or hedge is required on one or both sides of a fence. (CO: LANDSCAPE - Zoning)(Previous Condition Landscape - General 2 of Resolution R-2009-1826, Control No. 2003-007)

3. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (Previous Condition Landscape - General 3 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

4. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning) (Previous Condition Landscape - General 4 of Resolution R-2009-1826, Control 2003-007)

5. Field adjustment of berms and plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (ONGOING: LANDSCAPE - Zoning) (Previous Condition Landscape - General 5 of Resolution R-2009-1826, Control No. 2003-007)

6. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. Adjustment of island spacing shall be permitted, subject to approval by the DRO, to accommodate walkway alignment and/or to maximize screening from the south property line. (DRO: ZONING - Zoning) (Previous Condition Landscape - Interior 6 of Resolution R-2009-1826, Control No. 2003-007)

#### LANDSCAPE - INTERIOR

7. Landscaped divider medians shall be provided at every third row of abutting parking. The minimum width of this median shall be ten (10) feet excluding curb. At a minimum, landscaping for divider medians in any parking area shall consist of the following:

- a. one (1) canopy or flowering tree for each thirty (30) linear feet of the median; and,
- b. one (1) palm for each thirty-five (35) linear feet of the median;
- c. This condition shall not apply to the two (2) divider medians that include a pedestrian pathway leading to the primary points of public entry to building A, as shown on the site plan dated April 15, 2004. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape - Interior 7 of Resolution R-2009-1826, Control No. 2003-007)

8. Landscaped diamonds with a minimum planting area of twenty-five (25) square feet shall be provided within all rows of abutting parking. These diamonds shall be located at the common intersection of four (4) parking spaces and be spaced a maximum of four (4) parking spaces apart. A minimum of one (1) canopy tree and appropriate ground cover shall be provided within each diamond. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape - Interior 8 of Resolution R-2009-1826, Control 2003-007)

9. Landscape - Interior 9 of Resolution R-2009-1826, Control No. 2009-1826, which currently states:

Foundation planting or grade level planters shall be provided along the following:

- a. north, south, east and west facades of buildings A and B;
- b. south, east and west facades of building C;
- c. north, south and west facades of buildings D and E;
- d. exterior side of the twelve (12) foot high wing wall attached to building E;
- e. the minimum width of the required landscape areas shall be eight (8) feet, excluding the wing wall of building E, where the minimum width shall be five (5) feet;
- f. the length of the required landscaped areas shall be no less than fifty (50) percent of the total length of each applicable building facade, excluding the wing wall attached to building E and the Garden Center portion of building A, where the minimum length shall be no less than seventy-five (75) percent of the total length of the building or wall facade;
- g. the required foundation planting along the west (front) facade of buildings A and B shall be located between the promenade and drive aisle, where applicable;
- h. landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building or wall facade and appropriate ground cover; and,
- i. trees and/or palms shall have the following minimum height at installation for building A only:
  - 1) twenty-four (24) feet or greater: minimum sixty (60) percent of all required trees and/or palms;
  - 2) eighteen (18) feet to twenty-four (24) feet: maximum twenty (20) percent of all required trees and/or palms; and,
  - 3) sixteen (16) feet to eighteen (18) feet: maximum twenty (20) percent of all required trees and/or palms. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

Foundation planting or grade level planters shall be provided along the following:

- a. north, south, east and west facades of buildings A and B;



- b. south, east and west facades of building C;
- c. the minimum width of the required landscape areas shall be eight (8) feet;
- d. the length of the required landscaped areas shall be no less than fifty (50) percent of the total length of each applicable building facade and the Garden Center portion of building A, where the minimum length shall be no less than seventy-five (75) percent of the total length of the building or wall facade;
- e. the required foundation planting along the west (front) facade of buildings A and B shall be located between the promenade and drive aisle, where applicable;
- f. landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building or wall facade and appropriate ground cover; and,
- g. trees and/or palms shall have the following minimum height at installation for building A only:
  - 1) twenty-four (24) feet or greater: minimum sixty (60) percent of all required trees and/or palms;
  - 2) eighteen (18) feet to twenty-four (24) feet: maximum twenty (20) percent of all required trees and/or palms; and,
  - 3) sixteen (16) feet to eighteen (18) feet: maximum twenty (20) percent of all required trees and/or palms. (CO: LANDSCAPE - Zoning)

10. Landscaping for terminal islands in the parking area shall consist of the following:

- a. one (1) canopy tree 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. (Previous Condition 10 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

11. Both sides of any access driveway from State Road 7/U.S. 441 and Lantana Road shall be landscaped with the following:

- a. a minimum of one (1) Royal Palm or other specimen species that is acceptable to the Landscape Section for each twenty (20) linear feet of the total driveway throat distance. Any portion of a driveway throat that traverses a LWDD drainage easement shall be excluded;
- b. a continuous row of shrub or hedge between all palms. Shrub or hedge material shall be maintained at a maximum height of thirty (30) inches; and,
- c. appropriate ground cover. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscaping - Interior 11 of Resolution R-2009-1826, Control No. 2003-007)

12. Special planting treatment shall be provided within all medians at an access driveway from State Road 7/U.S. 441 and Lantana Road, and within any interior drive aisle median. Planting shall consist of the following:

- a. a minimum of five (5) specimen palms (Medjool, Canary, Royal, or other similar species, subject to Landscape Section approval) per driveway median, and a minimum of one (1) specimen palm for each twenty (20) linear feet of a drive aisle median. All palms shall be of the same variety;
- b. a continuous row of shrub or hedge between all palms. Shrub or hedge materials shall be maintained at a maximum height of thirty (30) inches; and,
- c. appropriate ground cover. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscaping - Interior 12 of Resolution R-2009-1826, Control No. 2003-007)

13. Prior to final DRO approval, the site plan shall be amended to indicate a minimum fifty (50) foot wide open/green space area between the drive-thru lanes for building C and the drive aisle located to the east. This area shall be landscaped with the following:

- a. a minimum of one (1) canopy tree planted for each thirty (30) linear feet of curb;
- b. a minimum of one (1) flowering tree planted for each thirty (30) linear feet of curb;
- c. a minimum of one (1) medium shrub or hedge for each four (4) linear feet of curb; and,
- d. appropriate ground cover. (DRO: LANDSCAPE - Zoning) (Previous Condition Landscape - Interior 13 of Resolution R-2009-1826, Control No. 2003-007)

14. Landscaping along the south boundary of the dry retention pond (Pond A) and the west boundary of the stormwater retention basin (Pond B) shall consist of the following:

- a. a minimum of one (1) canopy tree planted for each thirty (30) linear feet of the applicable boundary of each retention area;
- b. a continuous row of shrub or hedge between all canopy trees, where applicable;

- c. a group of no less than five (5) flowering trees, to be planted at both the northeast corner and the west end of the dry retention pond (Pond A), and at the north end of the stormwater retention area (Pond B); and,
- d. appropriate ground cover. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscaping - Interior 14 of Resolution R-2009-1826, Control No. 2003-007)

15. The south side of the drive aisle located to the northwest of building A (across from the retention ponds) shall be landscaped as follows:

- a. a minimum of one (1) canopy tree planted for each thirty (30) linear feet of the median;
- b. a minimum of one (1) flowering tree planted for each fifty (50) linear feet of the median;
- c. a continuous row of medium shrub or hedge between all trees, where applicable; and,
- d. appropriate ground cover. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscaping - Interior 15 of Resolution R-2009-1826, Control No. 2003-007)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (FRONTAGES OF LANTANA ROAD AND STATE ROAD 7/U.S. 441)

16. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF LANTANA ROAD)

Landscape and buffering along the south property line shall be upgraded to include:

- a. a minimum forty-five (45) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous seven (7) foot high berm measured from top of curb. Field adjustment of berm location may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation;
- c. two (2) meandering rows of canopy trees, to be planted in a staggered manner to maximize screening. A minimum of fifty (50) percent of all required canopy trees along the south property line (frontage of Lantana Road only) shall be Laurel Oak and/or other fast growing species that is acceptable to the Landscape Section. Tree spacing within each row shall not exceed thirty (30) feet center to center;
- d. one (1) palm or pine tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) flowering tree for each fifty (50) linear feet of the property line; and,
- f. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- g. one (1) medium native shrub (Saw Palmetto or other ornamental grass species approved by the Landscape Section) for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- h. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning) (Previous Landscape - Perimeter 16 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER

17. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING NONCONFORMING COMMERCIAL USE AND UNDEVELOPED PROPERTY)

Landscaping and buffering along the north and east property lines shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous two (2) foot high berm measured from top of curb;
- c. a six (6) foot high black or green vinyl coated chain link fence shall be located on the plateau of the berm;
- d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, and to be planted alternating on both sides of the fence; and,
- e. 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, and to be planted alternating on both sides of the fence. (Previous Condition Landscape - Perimeter 17 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

18. The following landscaping requirements shall be installed on the exterior side of the required fence:

- a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (Previous Condition Landscape - Perimeter 18 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

19. Along the interior side of the required fence, the petitioner shall install forty-eight (48) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center, to be maintained at a height of seventy-two (72) inches at maturity. (Previous Condition Landscape - Perimeter 19 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

20. 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; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (Previous Condition Landscape - Perimeter 20 of Resolution R-2009-1826, Control No. 2003-007) (CO: LANDSCAPE - Zoning)

## LIGHTING

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. (Previous Condition Lighting 1 of Resolution R-2009-1826, Control No. 2003-007) (ONGOING: CODE ENF - Zoning)

2. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (Previous Condition Lighting 2 of Resolution R-2009-1826, Control No. 2003-007) (ONGOING: CODE ENF - Zoning)

3. All outdoor, freestanding lighting fixtures shall be setback a minimum of twenty-five (25) feet from the north and east property lines. (Previous Condition Lighting 3 of Resolution R-2009-1826, Control No. 2003-007) (CO: BLDG - Zoning)

4. All outdoor lighting shall be extinguished no later than thirty (30) minutes after operating hours, excluding security lighting only. (Previous Condition Lighting 4 of Resolution R-2009-1826, Control No. 2003-007) (ONGOING: CODE ENF - Zoning)

5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (Previous Condition Lighting 5 of Resolution R-2009-1826, Control No. 2003-007) (ONGOING: CODE ENF - Zoning)

## PLANNED DEVELOPMENT

1. Prior to final DRO approval, the Regulating Plan shall be amended to indicate details for each focal point, shade structure, bench, trellis, pedestrian pathway, freestanding sign, entrance wall sign, and bridge at a canal crossing. All proposed elements/structures shall demonstrate an architectural style and be given a finished treatment that is generally consistent with the principle structures on the property, where applicable. Each detail shall be subject to approval by the Architectural Review Section and be generally consistent with the applicable details prepared by RSP Architects dated April 15, 2004. (DRO: ARCH REVIEW - Zoning) (Previous Condition Planned Development - MUPD 1 of Resolution R-2009-1826, Control No. 2003-007)

2. Prior to final approval by the DRO, the petitioner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered,

changed or amended without written approval from the Zoning Director. (DRO: ZONING - Zoning) (Previous Condition Planned Development - MUPD 2 of Resolution R-2009-1826, Control No. 2003-007)

3. Prior to final approval by the DRO, the property owner shall record a covenant/unity of control in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant/unity of control shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant/unity of control shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Atty) (Previous Condition Planned Development - MUPD 3 of Resolution R-2009-1826, Control No. 2003-007)

4. Prior to final approval by the DRO, the pattern book prepared by RSP Architects dated April 15, 2004, shall be amended to include:

- a. sign details that are consistent with the exhibits presented to the Board of County Commissioners on April 22, 2004;
- b. final details for all buildings, structures, and all other elements requiring review and approval by the Architectural Review Section; and,
- c. all details shall be consistent with the elevations approved by the Architectural Review Section. (DRO: ZONING - Zoning) (Previous Condition Planned Development - MUPD 4 of Resolution R-2009-1826, Control No. 2003-007)

## PLANNING

1. The maximum gross buildable area of commercial uses on the northern 8.15 acre portion of the site shall be limited to a maximum of 49,940 square feet. (ONGOING: PLANNING - Planning) (Previous Condition Planning1 of Resolution R-2009-1826, Control No. 2003-007)

2. Prior to final DRO approval of the site plan, the northern 8.15-acre portion of the site shall provide pedestrian and vehicular cross access with the remaining 30.07-acre southern portion of the site. (DRO: PLANNING -Planning) (Previous Condition Planning 2 of Resolution R-2009-1826, Control No. 2003-007)

3. Prior to final DRO approval of the site plan, the northern 8.15-acre portion of the site shall be developed consistent with the remaining 30.07-acre southern portion of the site under one unified site plan. (DRO: PLANNING - Planning) (Previous Condition Planning 3 of Resolution R-2009-1826, Control No. 2003-007)

4. The site plan shall be limited to one directional median access point onto State Road 7, and at a location to be reviewed and approved by FDOT and the County Engineer. Additional right turn access points may also be permitted subject to review and approval by FDOT and the County Engineer. (Previous Condition Planning 4 of Resolution R-2009-1826, Control No. 2003-007) (DRO: PLANNING/ENG - Planning)

## SIGNS

1. Condition Signs 1 of Resolution R-2009-1826, Control No. 2003-007, which currently states:

Freestanding point of purchase signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet for sign A and eight (8) feet for all other signs. No ornaments shall be permitted atop any sign;
- b. maximum sign face area per side - one hundred and fifty (150) square feet for sign A and one hundred (100) square feet for all other signs;
- c. maximum number of signs - three (3) for the frontage of State Road 7/U.S. 441 and two (2) for the frontage of Lantana Road, for a total of five (5) for the entire site;
- d. style - monument style only;
- e. location - within one hundred (100) feet to the south of the southernmost entrance from State Road 7/U.S. 441 for sign A; one (1) sign within one hundred (100) feet to the south of the north and central entrance from State Road 7/U.S. 441; and one (1) sign within fifty (50) feet of each entrance from Lantana Road;
- f. content each sign along the frontage of Lantana Road shall be limited to one (1) tenant only; and,
- g. Signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)

Is hereby amended to read:

Ground Mounted Freestanding signs, with the exception of outparcel identification signs, shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet for sign A and eight (8) feet for all other signs. No ornaments shall be permitted atop any sign;
- b. maximum sign face area per side - one hundred and fifty (150) square feet for sign A and one hundred (100) square feet for all other signs;
- c. maximum number of signs - three (3) for the frontage of State Road 7/U.S. 441 and two (2) for the frontage of Lantana Road, for a total of five (5) for the entire site;
- d. style - monument style only; and,
- e. location - within one hundred (100) feet to the south of the southernmost entrance from State Road 7/U.S. 441 for sign A; one (1) sign within one hundred (100) feet to the south of the north and central entrance from State Road 7/U.S. 441; and one (1) sign within fifty (50) feet of each entrance from Lantana Road. (CO: BLDG - Zoning)

2. Wall signs shall be limited to the south and west facades of each building. Individual lettering size for buildings B, C, D and E shall be limited to a maximum height of twenty-four (24) inches. Individual lettering size for building A shall be limited to a maximum height of seventy-two (72) inches for the west facade, and a maximum height of forty-eight (48) inches for the south facade. Wall signs shall be limited to identification of tenants only, unless otherwise authorized herein or subject to variance approval by the Board of Adjustment, and comply with all ULDC regulations. (CO: BLDG - Zoning) (Previous Condition Signs 2 of Resolution R-2009-1826, Control No. 2003-007)

3. Wall signs for building A that consist of a logo only shall be limited to a maximum diameter of nine (9) feet for the west facade and six (6) feet for the south facade. These signs shall be subject to compliance with all applicable ULDC regulations. (CO: BLDG - Zoning) (Previous Condition Signs 3 of Resolution R-2009-1826, Control No. 2003-007)

4. Wall signs shall be limited to channel letters only. Painted wall signs shall be prohibited. (BLDG PERMIT: BLDG - Bldg) (Previous Condition Signs 4. of Resolution R-2009-1826, Control No. 2003-007)

5. Entrance wall signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign length - sixteen (16) feet;
- c. maximum number of signs - one (1) on each side of the applicable entrance drives and one (1) additional sign, for a total of five (5) for the entire site;
- d. style - monument style only; and,
- e. location within thirty (30) feet of the central entrance from State Road 7/U.S. 441 measured from edge of pavement; within thirty (30) feet of the westernmost entrance from Lantana Road measured from edge of pavement; and in the general vicinity of the southwest corner of the site. (CO: BLDG - Zoning) (Previous Condition Signs 5 of Resolution R-2009-1826, Control No. 2003-007)

## SITE DESIGN

1. Prior to final DRO approval, the site plan shall be amended to indicate medians as follows:

- a. within all access driveways from State Road 7/U.S. 441 and Lantana Road;
- b. the width of these medians shall be a minimum of ten (10) feet excluding curb;
- c. the length of each median shall be subject to approval by the DRO and County Engineer; and,
- d. the requirement for any median shall be subject to approval by the County Engineer. (DRO: ZONING - Zoning) (Previous Condition Site Design 1 of Resolution R-2009-1826, Control No. 2003-007) [NOTE: COMPLETE]

2. Prior to final approval by the DRO, the site plan shall be revised to indicate decorative pavement (paver blocks or stamped concrete) as follows:

- a. at all points of ingress/egress from State Road 7/U.S. 441 and Lantana Road;
- b. this pavement shall begin at the property line or base building line, whichever may apply; extend a minimum distance of fifty (50) feet into the interior area of the site; and cover the entire surface of the required driveway area and any adjacent four-way intersection; and,

c. the same pavement shall be provided at each applicable location. (DRO: ZONING - Zoning) (Previous Condition Site Design 2 of Resolution R-2009-1826, Control No. 2003-007)

#### USE LIMITATIONS

1. Retail business activity shall not be allowed on the property, including deliveries, prior to 7:00 a.m. nor continue later than 10:00 p.m. Monday through Saturday. Retail business activity and deliveries on Sunday shall not be allowed prior to 8:00 a.m. nor continue later than 9:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 1 of Resolution R-2009-1826, Control No. 2003-007)

2. Outdoor display, storage or placement of any material, refuse, equipment or debris shall not be permitted on the property, unless authorized herein. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation N.2. of Resolution R-2009-1826, Control No. 2003-007)

3. Outside vendors and the storage of rental trucks/trailers shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 3 of Resolution R-2009-1826, Control No. 2003-007)

4. Repair or maintenance of vehicles shall not be permitted. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 4 of Resolution R-2009-1826, Control No. 2003-007)

5. Outdoor retail business activities shall not be allowed, excluding deliveries and enclosed garden center area only. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 5 of Resolution R-2009-1826, Control No. 2003-007)

6. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation N.6. of Resolution R-2009-1826, Control No. 2003-007)

7. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 7 of Resolution R-2009-1826, Control No. 2003-007)

8. Shopping carts for all buildings and uses on the property shall be stored within the buildings and/or behind an opaque screening wall that is attached to the building. Outdoor cart storage within the designated cart corrals shall be permitted only during business hours. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 8 of Resolution R-2009-1926, Control No. 2003-007)

9. All delivery vehicles shall be required to access the site from State Road 7/U.S. 441 only. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 9. of Resolution R-2009-1826, Control No. 2003-007)

10. All delivery vehicles shall be in the off position while loading, unloading or standing idle, unless required to refrigerate perishable items. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 10 of Resolution R-2009-1826, Control No. 2003-007)

11. Condition Use Limitation 11 of Resolution R-2009-1826, Control No. 2003-007, which currently states:

No fast food or drive-thru restaurant shall be permitted. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Approval of Application DOA/R-2011-939 to allow a Type 1 Restaurant with a drive thru.]

12. Upon completion of phase 1, all construction traffic shall be required to access the site from State Road 7/U.S. 441 only. (ONGOING: CODE ENF - Zoning) (Previous Condition Use Limitation 12 of Resolution R-2009-1826, Control No. 2003-007)

## COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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. (ONGOING: MONITORING - Zoning)

EXHIBIT C-2  
Requested Use

ALL PETITIONS

1. Development of the site shall be generally consistent with the Preliminary Site Plan dated May 23, 2011 and approved by the Board of County Commissioners. Modification of the site design may be allowed pursuant to Conditions of Approval or in accordance with Article 2 of the Unified Land Development Code (ULDC). Replacement of a use by another use listed as permitted by right or permitted subject to approval by the Development Review Officer (DRO) may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by Conditions of Approval or the ULDC must be approved by the Board of County Commissioners or Zoning Commission. (ONGOING: ZONING-Zoning )

USE LIMITATIONS

1. The Type I Restaurant may be replaced with a permitted use subject to the approval of the Development Review Officer (DRO), pursuant to an approved traffic equivalency statement. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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. (ONGOING: MONITORING - Zoning)



DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared  
Gary R. Koolik, hereinafter referred to as "Affiant," who  
being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [x] managing member [position—  
e.g., president, partner, trustee] of Mission Lakes LLC [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 7900 Glades Road Suite 320 Boca Raton, FL 33434

3. Attached hereto as Exhibit "B" is a complete listing of the names and  
addresses of every person or entity having a five percent or greater interest in the  
Property. Disclosure does not apply to an individual's or entity's interest in any entity  
registered with the Federal Securities Exchange Commission or registered pursuant to  
Chapter 517, Florida Statutes, whose interest is for sale to the general public.

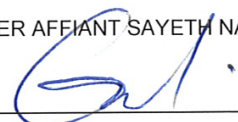
4. Affiant acknowledges that this Affidavit is given to comply with Palm  
Beach County policy, and will be relied upon by Palm Beach County in its review of  
application for Comprehensive Plan amendment or Development Order approval  
affecting the Property. Affiant further acknowledges that he or she is authorized to  
execute this Disclosure of Ownership Interests on behalf of any and all individuals or  
entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this  
disclosure to reflect any changes to ownership interests in the Property that may occur  
before the date of final public hearing on the application for Comprehensive Plan  
amendment or Development Order approval.

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

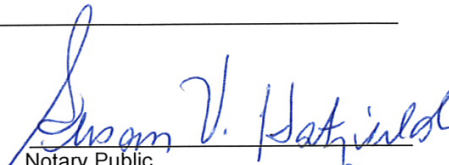
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Gary Koolik, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9 day of June, 2011, by Gary Koolik, [ ☒ ] who is personally known to me or [ ☐ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



  
\_\_\_\_\_  
Notary Public  
Susan V. Hatfield  
(Print Notary Name)  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 9-21-2014

## EXHIBIT "A"

## PROPERTY

**MISSION LAKES M.U.P.D.  
LEGAL DESCRIPTION OF RETAIL OUTPARCEL IV**

A PARCEL OF LAND BEING PART OF TRACTS "C", "RA" AND "O", MISSION LAKES M.U.P.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE, NORTH 01°27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 1238.97 FEET FOR A POINT OF BEGINNING;

THENCE, CONTINUE NORTH 01°27'15" EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 566.05 FEET TO THE NORTHWEST CORNER OF SAID PLAT; THENCE, NORTH 88°57'24" EAST, ALONG THE NORTH BOUNDARY OF SAID PLAT, A DISTANCE OF 466.42 FEET TO A BOUNDARY CORNER OF SAID PLAT; THENCE, SOUTH 01°02'31" EAST, CONTINUING ALONG THE BOUNDARY OF SAID PLAT, A DISTANCE OF 735.86 FEET TO A BOUNDARY CORNER OF SAID PLAT; THENCE, SOUTH 88°57'24" WEST, DEPARTING SAID PLAT BOUNDARY, A DISTANCE OF 182.51 FEET; THENCE, NORTH 00°03'27" EAST, A DISTANCE OF 39.19 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 120.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 88°27'34", A DISTANCE OF 185.27 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 88°24'07" WEST, A DISTANCE OF 195.07 FEET TO THE POINT OF BEGINNING.

CONTAINING: 306689 SQUARE FEET OR 7.04 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address	Percentage of Interest
George T Elmore	1320 North Ocean Blvd. Delray Beach, FL 33483	33%
Ebb & Flow	4152 W. Blue Heron Blvd # 107 Riviera Beach FL 33404	33%
William R Boose, III	2444 San Pietro Circle, PBG FL 33410 -	33%
Meritage LLC	7900 Glades Rd Suite 320 Boca Raton, FL 33434	33%
Harold B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Ralph B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Myriam Weinstein	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Individuals owning less than 5% each	7900 Glades Rd BR FL 33434 -	12%
TOTAL		100%

FORM # 09

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Gary R. Koolik, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [✓] managing member \_\_\_\_\_ [position—  
e.g., president, partner, trustee] of Mission Lakes I LLC \_\_\_\_\_ [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit “A” (the “Property”).  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 7900 Glades Road Suite 320 Boca Raton, FL 33434

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

Disclosure of Beneficial Interest Ownership form

Created 01/22/2007  
Updated 01/31/2007

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Gary Koolik  
Gary Koolik, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9 day of June, 2011, by Gary Koolik, [☒] who is personally known to me or [☐] who has produced \_\_\_\_\_ as identification and who did take an oath.



Susan V. Hatfield  
Notary Public

Susan V. Hatfield  
(Print Notary Name)  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 9-21-2014

EXHIBIT "A"

PROPERTY

MISSION LAKES M.U.P.D.  
LEGAL DESCRIPTION OF OUTPARCEL I

A PARCEL OF LAND BEING PART OF TRACTS "C" AND "O", MISSION LAKES M.U.P.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE, NORTH 01°27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 557.05 FEET; THENCE, SOUTH 89°56'33" EAST, DEPARTING SAID PLAT BOUNDARY, A DISTANCE OF 343.40 FEET; THENCE, SOUTH 00°03'27" WEST, A DISTANCE OF 572.55 FEET TO THE INTERSECTION THEREOF WITH THE SOUTH BOUNDARY OF SAID PLAT; THENCE, NORTH 88°23'30" WEST, ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 74.32 FEET; THENCE, NORTH 69°36'25" WEST, CONTINUING ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 18.63 FEET; THENCE, NORTH 88°23'30" WEST, CONTINUING ALONG SAID SOUTH BOUNDARY, A DISTANCE OF 265.31 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 197.237 SQUARE FEET OR 4.53 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD



EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address	Percentage of Interest
George T Elmore	1320 North Ocean Blvd. Delray Beach, FL 33483	33%
Ebb & Flow	4152 W. Blue Heron Blvd # 107 Riviera Beach FL 33404	33%
William R Boose, III	2444 San Pietro Circle, PBG FL 33410 -	33%
Meritage LLC	7900 Glades Rd Suite 320 Boca Raton, FL 33434	33%
Harold B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Ralph B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Myriam Weinstein	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Individuals owning less than 5% each	7900 Glades Rd BR FL 33434 -	12%
TOTAL		100%

PALM BEACH COUNTY - ZONING DIVISION

FORM # 09

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared  
Gary R. Koolik, hereinafter referred to as "Affiant," who  
being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [x] managing member [position—  
e.g., president, partner, trustee] of Mission Lakes II LLC [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 7900 Glades Road Suite 320 Boca Raton, FL 33434

3. Attached hereto as Exhibit "B" is a complete listing of the names and  
addresses of every person or entity having a five percent or greater interest in the  
Property. Disclosure does not apply to an individual's or entity's interest in any entity  
registered with the Federal Securities Exchange Commission or registered pursuant to  
Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm  
Beach County policy, and will be relied upon by Palm Beach County in its review of  
application for Comprehensive Plan amendment or Development Order approval  
affecting the Property. Affiant further acknowledges that he or she is authorized to  
execute this Disclosure of Ownership Interests on behalf of any and all individuals or  
entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this  
disclosure to reflect any changes to ownership interests in the Property that may occur  
before the date of final public hearing on the application for Comprehensive Plan  
amendment or Development Order approval.


Disclosure of Beneficial Interest Ownership form

Created 01/22/2007  
Updated 01/31/2007

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Gary Koolik, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9 day of June, 20 11, by Gary Koolik, [ ☒ ] who is personally known to me or [ ☐ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



  
\_\_\_\_\_  
Notary Public

Susan V. Hatfield  
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 9-21-2014

EXHIBIT "A"

PROPERTY

**MISSION LAKES M.U.P.D.  
LEGAL DESCRIPTION OF BANK OUTPARCEL III**

A PARCEL OF LAND BEING PART OF TRACTS "C" AND "O", MISSION LAKES M.U.P.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE, NORTH 01°27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 920.35 FEET FOR A POINT OF BEGINNING;

THENCE, CONTINUE NORTH 01°27'15" EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 318.63 FEET; THENCE, SOUTH 88°24'07" EAST, DEPARTING SAID WEST BOUNDARY, A DISTANCE OF 195.07 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 120.00 FEET; THENCE, SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 88°27'34", A DISTANCE OF 185.27 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 00°03'27" WEST, A DISTANCE OF 39.19 FEET; THENCE, NORTH 88°57'24" EAST, A DISTANCE OF 15.00 FEET TO INTERSECTION THEREOF WITH THE THE WESTERLY BOUNDARY OF TRACT "RA" AS SHOWN ON SAID PLAT; THENCE, SOUTH 00°03'27" WEST, ALONG SAID WESTERLY BOUNDARY OF TRACT "RA" AND ITS SOUTHERLY PROLONGATION, A DISTANCE OF 163.42 FEET; THENCE, NORTH 88°24'14" WEST, A DISTANCE OF 334.66 FEET TO THE POINT OF BEGINNING.

CONTAINING: 100156 SQUARE FEET OR 2.30 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address	Percentage of Interest
George T Elmore	1320 North Ocean Blvd. Delray Beach, FL 33483	33%
Ebb & Flow	4152 W. Blue Heron Blvd # 107 Riviera Beach FL 33404	33%
William R Boose, III	2444 San Pietro Circle, PBG FL 33410 -	33%
Meritage LLC	7900 Glades Rd Suite 320 Boca Raton, FL 33434	33%
Harold B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Ralph B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Myriam Weinstein	7900 Glades Rd Suite 320 Boca Raton, FL 33434 -	7%
Individuals owning less than 5% each	7900 Glades Rd BR FL 33434 -	12%
TOTAL		100%

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE  
DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared  
Gary R. Koolik, hereinafter referred to as "Affiant," who  
being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [✓] managing member [position—  
e.g., president, partner, trustee] of Mission Lakes III LLC [name and type of  
entity—e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership  
interest in real property legally described on the attached Exhibit "A" (the "Property").  
The Property is the subject of an application for Comprehensive Plan amendment or  
Development Order approval with Palm Beach County.

2. Affiant's address is: 7900 Glades Road Suite 320 Boca Raton, FL 33434  
\_\_\_\_\_.

3. Attached hereto as Exhibit "B" is a complete listing of the names and  
addresses of every person or entity having a five percent or greater interest in the  
Property. Disclosure does not apply to an individual's or entity's interest in any entity  
registered with the Federal Securities Exchange Commission or registered pursuant to  
Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm  
Beach County policy, and will be relied upon by Palm Beach County in its review of  
application for Comprehensive Plan amendment or Development Order approval  
affecting the Property. Affiant further acknowledges that he or she is authorized to  
execute this Disclosure of Ownership Interests on behalf of any and all individuals or  
entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this  
disclosure to reflect any changes to ownership interests in the Property that may occur  
before the date of final public hearing on the application for Comprehensive Plan  
amendment or Development Order approval.

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

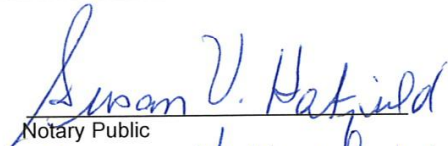
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Gary Koolik, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9 day of June, 2011, by Gary Koolik, [ ☒ ] who is personally known to me or [ ☐ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



  
\_\_\_\_\_  
Notary Public  
Susan V. Hatfield  
(Print Notary Name)  
NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 9-21-2014



**EXHIBIT "A"**

**PROPERTY**

**MISSION LAKES M.U.P.D.  
LEGAL DESCRIPTION OF RESTAURANT OUTPARCEL II**

A PARCEL OF LAND BEING PART OF TRACTS "C" AND "O", MISSION LAKES M.U.P.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 106, PAGE 129, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHWEST CORNER OF SAID PLAT; THENCE, NORTH 01\_27'15" EAST, ALONG THE WEST BOUNDARY OF SAID PLAT, A DISTANCE OF 557.05 FEET FOR A **POINT OF BEGINNING**;

THENCE, CONTINUE NORTH 01\_27'15" EAST, ALONG SAID WEST BOUNDARY, A DISTANCE OF 363.30 FEET; THENCE, SOUTH 88\_24'14" EAST, DEPARTING SAID WEST BOUNDARY, A DISTANCE OF 334.66 FEET TO THE INTERSECTION THEREOF WITH THE WESTERLY BOUNDARY OF SAID TRACT "RA"; THENCE, SOUTH 00\_03'27" WEST, ALONG SAID WESTERLY BOUNDARY OF TRACT "RA" AND ITS SOUTHERLY PROLONGATION, A DISTANCE OF 354.20 FEET; THENCE, NORTH 89\_56'33" WEST, A DISTANCE OF 343.40 FEET TO THE **POINT OF BEGINNING**.

CONTAINING: 121,607 SQUARE FEET OR 2.79 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS AND RIGHTS-OF-WAY OF RECORD

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address	Percentage of Interest
Ebb & Flow 4152 W. Blue Heron Blvd # 107	Riviera Beach FL 33404	33.4%
William R Boose, III	2444 San Pietro Circle, PBG FL 33410	- 33.4%
Meritage LLC	7900 Glades Rd Suite 320 Boca Raton, FL 33434	66.6%
10 individuals	owning less than 5% each 7900 Glades Rd BR FL 33434	- 20.6%
Harold B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434	- 14%
Ralph B Jacobsohn	7900 Glades Rd Suite 320 Boca Raton, FL 33434	- 13%
Myriam Weinstein	7900 Glades Rd Suite 320 Boca Raton, FL 33434	- 13%
Gary R Koolik	7900 Glades Rd Suite 320 Boca Raton, FL 33434	- 6%
TOTAL		100%