

RESOLUTION NO. R-2013-1519

RESOLUTION APPROVING ZONING APPLICATION DOA-2013-00769
(CONTROL NO. 1977-00048)
a Development Order Amendment
APPLICATION OF 441 Southern LLC
BY Creech Engineers Inc., AGENT
(Western Plaza)

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

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

WHEREAS, Zoning Application DOA-2013-00769 was presented to the Board of County Commissioners at a public hearing conducted on October 24, 2013;

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

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order Amendment Request;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law; and

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA-2013-00769, the petition of 441 Southern LLC, by Creech Engineers Inc., agent, for a Development Order Amendment to reconfigure the Site Plan and add square footage in the Multiple Use Planned Development (MUPD) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on October 24, 2013, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Steven L. Abrams, Mayor	-	Aye
Commissioner Priscilla A. Taylor, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on October 24, 2013.

Filed with the Clerk of the Board of County Commissioners on November 1, 2013

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

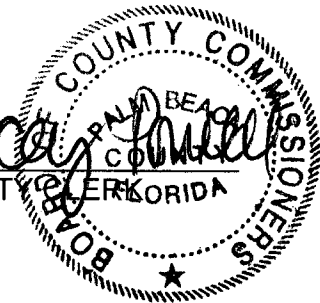


EXHIBIT A

LEGAL DESCRIPTION

WESTERN PLAZA – ENTIRE CENTER

PARCEL 1

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 44 SOUTH, RANGE 42 EAST, TRACTS 21 AND 22, BLOCK 8 AND TRACT 5 AND 6, BLOCK 10, THE PALM BEACH FARMS CO., PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, ON PAGES 45 THROUGH 54, SAID PARCEL OF LAND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID TRACT 6, BLOCK 10 (SAID SOUTH LINE OF TRACT 6 ALSO BEING A NORTH LINE OF WESTWOODS, P.U.D. RECORDED IN PLAT BOOK 34 ON PAGES 131 THROUGH 134) WITH A LINE 40 FEET EAST OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST LINE OF SAID TRACT 6; THENCE NORTH 89 DEGREES 22'39" EAST (ALL BEARINGS CITED HEREIN ARE RELATED TO THE ASSUMED MERIDIAN USED FOR THE PLAT OF WESTWOODS) ALONG THE SOUTH LINE OF SAID TRACT 6 AND THE NORTH LINE OF WESTWOODS, P.U.D., A DISTANCE OF 720.00 FEET; THENCE NORTH 02 DEGREES 58'25" EAST ALONG THAT PORTION OF THE WEST LINE OF SAID WESTWOODS, P.U.D. LYING WEST OF LOTS 40 THROUGH 49, A DISTANCE OF 1660.22 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THOSE LANDS DESCRIBED IN THE QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 2831 ON PAGE 1927 (SAID SOUTH LINE BEING A LINE 130 FEET SOUTH OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE CENTERLINE OF THE OF THE WEST PALM BEACH CANAL. THE CENTERLINE OF THE WEST PALM BEACH CANAL IS THE SAME AS THAT WHICH IS SHOWN ON THE RIGHT-OF-WAY AND TOPO MAP FOR THE WEST PALM BEACH CANAL, DRAWING NUMBER W.P.B.-3, SHEET 9 OF 19, PREPARED JUNE 1956 AND REVISED MARCH 29, 1961 BY THE CENTRAL AND SOUTHERN FLORIDA CONTROL DISTRICT); NORTH 88 DEGREES 29'34" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 749.99 FEET TO THE INTERSECTION WITH THE EAST LINE OF THOSE LANDS DESCRIBED IN QUIT CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 2819 ON PAGE 1155 (SAID EAST LINE BEING A LINE 40 FEET EAST OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST TRACT LINES AFOREMENTIONED TRACTS 21 AND 22, BLOCK 8 AND TRACT 6, BLOCK 10); THENCE SOUTH 01 DEGREES 53'41" WEST ALONG SAID EAST LINE, A DISTANCE OF 1186.02 FEET; THENCE SOUTH 01 DEGREES 57'46" WEST CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 500.46 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL OF THAT CERTAIN ABANDONED 50 FOOT PALM BEACH FARMS CO., ROAD RIGHT-OF-WAY LYING BETWEEN BLOCKS 8 AND 10 AND CONTAINED WITHIN THE ABOVE DESCRIBED PARCEL OF LAND, SAID RIGHT-OF-WAY WAS ABANDONED UNDER RESOLUTION NO. R-78-209 AND IS RECORDED IN OFFICIAL RECORDS BOOK 2831 ON PAGES 1619 AND 1620.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD AND TO A TEMPORARY EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 2831 ON PAGES 1924 THROUGH 1926.

TOGETHER WITH PARCEL 2:

THE WEST 40.00 FEET OF TRACT 21, LYING SOUTH OF WEST PALM BEACH CANAL AND WEST 40.00 FEET OF TRACT 22, ALL IN BLOCK 8, AND THE WEST 40.00 FEET OF TRACT 6, BLOCK 10, ALL OF THE ABOVE SHOWN ON THE PLAT OF PALM BEACH FARMS CO., PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGES 45 TO 54.

SUBJECT TO EXISTING EASEMENTS, RESTRICTIONS, RESERVATIONS AND

RIGHTS-OF-WAY OF RECORD.

TOGETHER WITH PARCEL 3:

COMMENCING AT THE INTERSECTION OF SOUTH LINE OF TRACT 6, BLOCK 10, THE PALM BEACH FARMS CO.; PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, ON PAGES 45 THROUGH 54; (SAID SOUTH LINE OF TRACT 6 ALSO BEING A NORTH LINE OF WESTWOODS, P.U.D., RECORDED IN PLAT BOOK 34 ON PAGES 131 THROUGH 134) WITH A LINE 40.00 FEET EAST OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST LINE OF SAID TRACT 6; THENCE SOUTH 89 DEGREES 22'39" WEST (ALL BEARINGS CITED HEREIN ARE RELATED TO THE ASSUMED MERIDIAN USED FOR THE PLAT OF WESTWOODS, P.U.D.) ALONG THE PROJECTION OF THE SOUTH LINE OF SAID TRACT 6 AND SAID NORTH LINE OF WESTWOODS, P.U.D.; A DISTANCE OF 40.04 FEET TO THE POINT OF BEGINNING.

THENCE CONTINUE SOUTH 89 DEGREES 22'39" WEST, A DISTANCE OF 71.87 FEET TO THE EAST FACE OF THE EAST GUARD RAIL OF STATE ROAD NO. 7, THENCE ALONG SAID GUARD RAIL THE FOLLOWING THREE COURSES AND DISTANCES: NORTH 01 DEGREES 52'19" EAST, A DISTANCE OF 342.25 FEET, THENCE NORTH 00 DEGREES 58'13" EAST, A DISTANCE OF 298.90 FEET, THENCE NORTH 00 DEGREES 12'26" WEST, A DISTANCE OF 210.99 FEET TO INTERSECT THE WEST LINE SAID SECTION 6; THENCE NORTH 01 DEGREES 53'41" EAST. ALONG THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 838.59 FEET TO INTERSECT THE SOUTHERLY RIGHT-OF-WAY LINE OF THE C-51 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 2831, PAGE 1927; THENCE SOUTH 88 DEGREES 29'34" EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 85.10 FEET TO INTERSECT THE WEST LINE OF TRACTS 21 AND 22, BLOCK 8; AND TRACT 6, BLOCK 10, THE PALM BEACH FARMS CO., PLAT NO. 3; THENCE SOUTH 01 DEGREES 53'41" WEST ALONG SAID WEST TRACT LINES, A DISTANCE OF 1185.73 FEET; THENCE SOUTH 01 DEGREES 57'46" WEST ALONG SAID WEST LINE OF TRACT 6 A DISTANCE OF 502.24 FEET TO THE POINT OF BEGINNING.

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

TOGETHER WITH PARCEL 4:

A PARCEL OF LAND LYING IN TRACTS 21 AND 22, BLOCK 8 AND TRACTS 5 AND 6, BLOCK 10, THE PALM BEACH FARMS CO., PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, ON PAGES 45 THROUGH 54, SAID PARCEL OF LAND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF SAID TRACT 6, BLOCK 10 (SAID SOUTH LINE OF TRACT 6 ALSO BEING A NORTH LINE OF WESTWOODS, P.U.D. RECORDED IN PLAT BOOK 34 ON PAGES 131 THROUGH 134 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA) WITH A LINE 40.00 FEET EAST OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST LINE OF SAID TRACT 6; THENCE NORTH 89 DEGREES 22'39" EAST (ALL BEARINGS CITED HEREIN ARE RELATED TO THE ASSUMED MERIDIAN USED FOR THE PLAT OF WESTWOODS) ALONG THE SOUTH LINE OF SAID TRACT 6 AND SAID NORTH LINE OF WESTWOODS, P.U.D., A DISTANCE OF 720.00 FEET; THENCE NORTH 02 DEGREES 58'25" EAST ALONG THAT PORTION OF THE WEST LINE OF SAID WESTWOODS, P.U.D. LYING WEST OF LOTS 40 THROUGH 49, A DISTANCE OF 1660.22 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THOSE LANDS DESCRIBED IN THE QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 2831 AN PAGE 1927 (SAID SOUTH LINE BEING A LINE 130.00 FEET SOUTH OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE CENTERLINE OF THE WEST PALM BEACH CANAL. THE CENTERLINE OF THE WEST PALM BEACH CANAL IS THE SAME AS THAT WHICH IS SHOWN ON THE RIGHT-OF-WAY AND TOPO MAP FOR THE WEST PALM BEACH CANAL, DRAWING NUMBER W.P.8.-3, SHEET 9 OF 19, PREPARED JUNE 1956 AND REVISED MARCH 29, 1961 BY THE CENTRAL AND SOUTHERN

FLORIDA FLOOD CONTROL DISTRICT); THENCE NORTH 88 DEGREES 29'34" WEST ALONG THE SOUTH LINE, A DISTANCE OF 100.03 FEET; THENCE SOUTH 02 DEGREES 58'25" EAST ON A LINE 100.00 FEET WEST OF AS MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE WEST LINE OF SAID WESTWOODS, P.U.D., LYING WEST OF LOTS 40 THROUGH 49, A DISTANCE OF 1505.32 FEET; THENCE SOUTH 46 DEGREES 10'32" WEST, A DISTANCE OF 85.18 FEET; THENCE SOUTH 89 DEGREES 22'39" WEST, A DISTANCE OF 675.217 FEET TO THE EAST FACE OF THE EAST GUARDRAIL OF STATE ROAD NO. 7; THENCE SOUTH 01 DEGREES 52'19" WEST ALONG SAID EAST FACE OF GUARDRAIL, A DISTANCE OF 100.10 FEET; THENCE NORTH 89 DEGREES 22'39" EAST, A DISTANCE OF 111.91 FEET TO THE POINT OF BEGINNING.

CONTAINS 1,431,495 SQUARE FEET OR 32.863 ACRES MORE OR LESS.

THE ABOVE DESCRIBED PARCELS NOW KNOWN AS:

WESTERN PLAZA M.U.P.D., AS RECORDED IN PLAT BOOK 115, PAGES 102-105, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THAT PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORD BOOK 8167, PAGE 899-903, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

VICINITY SKETCH

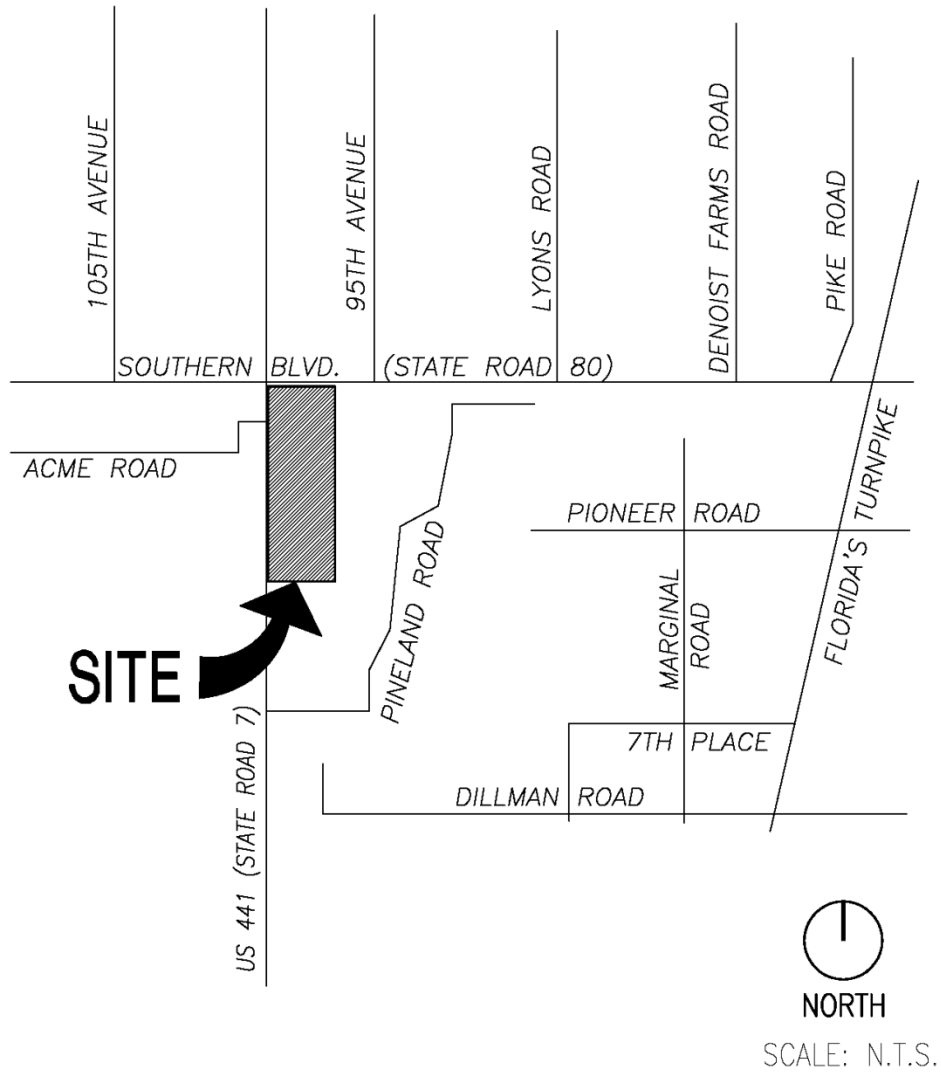


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All Petitions Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48 which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2003-0098 (Petition 1977-48E), have been consolidated as contained herein. The petitioner 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 Resolutions R-R-2011-0429 (Control 1977-00048), have been consolidated as contained herein. The Property Owner(s) 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 Condition 2 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48 which currently states:

The approved Preliminary Site Plan is dated December 13, 2010. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

The approved Preliminary Site Plan is dated August 22, 2013. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

3. Prior to Site Plan Review Committee certification, the petitioner shall submit a Unity of Control for review and approval by the Zoning Division and the County Attorney. Prior to the issuance of the first building permit, the petitioner shall record the Unity of Control. (Previous All Petitions Condition 3 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (DRC:ZONING-Atty) [Note: COMPLETED]

4. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to provide a minimum of twenty-five (25) foot wide aisle along the rear parking area of the proposed Home Depot store. Terminal islands shall be provided for all parking spaces. (Previous All Petitions Condition 4 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (DRC: ZONING-Zoning) [Note: COMPLETED]

5. The proposed landscaping and signs for the redevelopment portion of the site shall comply with the Village of Royal Palm Beach Code, unless the County's requirements (Conditions of Approval) exceed the Village code. Prior to final DRC certification of the site plan, the petitioner shall obtain written confirmation from the Village of Royal Palm Beach that the proposed landscaping and signage in the affected area are consistent with the Village code. (Previous All Petitions Condition 5 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (DRC/ONGOING:ROYAL PALM BEACH Zoning)

6. Resolution No. R-77-483, adopted April 28, 1977 is hereby repealed. (Previous All Petitions Condition 6 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (ONGOING:ZONING-Zoning)

ARCHITECTURAL REVIEW

1. All delivery and/or loading areas shall be screened from view by an eight- (8) foot high wing wall consistent with the color and character of the principle structure. This condition is applicable to the new Home Depot store only. (DRO: ZONING - Zoning) : (Previous ARCH Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48)

2. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning) (Previous ARCH Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048)

ENGINEERING

1. Prior to site plan certification, the Property Owner shall demonstrate, in a manner and form acceptable to the County Attorney, its legal right to discharge into the existing lake within the Westwood subdivision east and south of the subject property. (DRO: COUNTY ATTY-Eng) (Previous Condition E.1 of Zoning Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

2. Prior to issuance of any building permits, the Property Owner shall fund up to \$7551.85 plus all expenses necessary for the installation of an aeration system in the existing lake within the Westwood Subdivision. (BLDG PERMIT: MONITORING- Eng) (Previous Condition E.2 of Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

3. Previous Condition E.3 of Zoning Resolution R-2011-0429, Control No. 1977-00048, which currently states:

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

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

b. signalization, if warranted, as determined by the County Engineer and approved by the Florida Department of Transportation. (ONGOING:ENGINEERING-Eng)

c. Any right-of-way required for the construction of these improvements shall be funded entirely by the Property Owner. (ONGOING: ENGINEERING - Eng)

Is hereby amended to read:

Property Owner shall construct at the intersections of State Road 7 and the project's south and the north entrances:

a. A right turn lane south approach shall be constructed prior to issuance of a Certificate of Occupancy, unless a permit from the Florida Department of Transportation for any portion of Engineering Condition No. 4 cannot be obtained in which case this portion of the condition shall not be enforced, subject to review by the County Engineer. (CO:MONITORING-Eng) [Note: COMPLETED]

b. Signalization, if warranted, as determined by the County Engineer and approved by the Florida Department of Transportation. (ONGOING:ENGINEERING-Eng)

c. Any right-of-way required for the construction of these improvements shall be funded entirely by the Property Owner. (ONGOING: ENGINEERING - Eng)

4. The Property Owner shall construct at the project's entrance road and State Road 80 concurrent with on site paving and drainage improvements.

- a. left turn lane, east approach
- b. right turn lane, west approach
- c. signalization, if warranted, as determined by the County Engineer and approved by the Florida Department of Transportation.

Any right-of-way required for this construction shall be funded in its entirety by the Property Owner. Should any of these turn lanes not be permitted by the Florida Department of Transportation, then that portion of the condition shall not be enforced, subject to concurrent review by the County Engineer. (ONGOING: ENGINEERING-Eng) (Previous Condition E.4 of Zoning Resolution R-2011-0429, Control No. 1977-00048) [Note: E.4.a and E.4.b COMPLETED]

5. LANDSCAPE WITHIN THE MEDIAN OF STATE ROADS

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

a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING- Eng) (Previous Condition E.5.a of Zoning Resolution R-2011-0429, Control No. 1977-00048)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO:MONITORING-Eng) (Previous Condition E.5.b of Zoning Resolution R-2011-429, Control No. 1977-00048)

c. At the Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner-installed landscaping, payment for the maintenance may be provided to the County. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. In the event that the County installs trees, irrigation, and sod under its OTIS program along this project's frontage prior to the Property Owner installing this landscaping and irrigation, then the option for the Property Owner to install and maintain shall no longer be available without Board of County Commissioners approval, and the Property Owner shall contribute to the County's beautification program, as outlined in the second part of this condition, as follows:

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

NOTE: Payments under this program do not guarantee the installation of landscaping and irrigation along this project's frontage during any particular time frame. (ONGOING:ENGINEERING-Eng) (Previous Condition E.5.c of Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

6. Prior to issuance of a building permit the Property Owner shall convey a temporary roadway construction easement along State Road 7 to Palm Beach County.

Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.6 of Zoning Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

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

a. Previous Condition E.7 of Zoning Resolution R-2011-0429, Control No. 1977-00048, which currently states: No Building Permits for the site may be issued after December 31, 2013. 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 Art. 2.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, 2014. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING- Eng)

8. The Property Owner shall either:

- i. Construct a south approach U-turn lane and new directional median opening on SR 7 in the vicinity of Acme Road or as approved by FDOT. 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; or,
- ii. Make a payment pursuant to Article 12.B.2.F.1 to the Palm Beach County Board of County Commissioners in an amount as determined by the County Engineer for the cost to design and construct the above turn lane improvement. The improvements will then be constructed as part of the County's scheduled road construction project at the intersection of SR 80 and SR 7.

Design and construction costs associated with this improvement expended pursuant to part i above or the payment made pursuant to part ii above shall be road impact fee creditable.

a. Permits required from FDOT for this construction shall be obtained or payment shall be made pursuant to part ii above prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.8.a of Zoning Resolution R-2011-0429, Control No. 1977-00048)

b. If option i is chosen, construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E.8.b of Zoning Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

9. Prior to issuance of the first building permit for the Chick-Fil-A, the Property Owner shall create the proposed Chick-Fil-A parcel as a lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.9 of Zoning Resolution R-2011-0429, Control No. 1977-00048) [Note: COMPLETED]

HEALTH

1. Owners and operators of facilities generating hazardous, toxic or industrial wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer

system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP) the Palm Beach County Health Department and the agency responsible for sewerage works is used. (ONGOING: HEALTH-Health) (Previous Condition Health 1 of Resolution R-2011-429; Control 1977-00048)

2. Sewer service is available to the property. Therefore no onsite sewer treatment and disposal system (OSTDS) shall be permitted for this property. (ONGOING: HEALTH-Health) (Previous C00-42-44-06-11-000-0015; condition Health 2 of Resolution R-2011-429; Control 1977-00048)

3. Water service is available to the property. Therefore, no onsite potable water well system shall be permitted. (ONGOING: HEALTH-Health) (Previous Condition Health 3 of Resolution R-2011-429; Control 1977-00048)

LANDSCAPE - GENERAL-LANDSCAPE - GENERAL-STANDARD (FOR OVERALL SITE, EXCEPT HOME DEPOT)

1. Simultaneously with application submittal to the Site Plan Review Committee, the petitioner shall submit an alternative landscape betterment plan for the landscape buffers along the eastern property line. This alternative landscape betterment plan shall include the landscape plans for the western buffer of the Westwoods Planned Unit Development (Zoning Petition No. 77-47). The alternative landscape betterment plan buffer shall equal or exceed thirty-five (35) feet and shall receive landscape treatment meeting the requirements of Section 500.35.E of the Landscape Code. This plan shall be subject to approval by the Zoning Division. (Previous Landscape Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING-LANDSCAPE-Zoning)

2. Prior to the issuance of a building permit, the developer shall submit a copy of the approved alternative landscape betterment plan which meets or exceeds the requirements stated in Condition No. 12 above. No Certificate of Occupancy shall be issued until the landscape plan has been installed and received approval from the Zoning Division. (Previous Landscape Condition 2 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE-Zoning) [Note: COMPLETED].

3. All trees required to be planted on the entire site shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (Previous Landscape Condition 3 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE Zoning)

LANDSCAPE - GENERAL-LANDSCAPE - GENERAL-LANDSCAPING STANDARD FOR HOME DEPOT, AFFECTED AREA

4. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (Previous Landscape Condition 4 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE Zoning)

5. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previous Landscape Condition 5 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE - Zoning)

6. All shrub or hedge material shall be planted in overlapping, continuous masses, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:

- a. eighteen (18) to twenty-four (24) inches groundcover and small shrub;
- b. twenty-four (24) to thirty-six (36) inches medium shrub;
- c. forty-eight (48) to seventy-two (72) inches large shrub; and,
- d. these heights shall be continuously maintained to achieve the hierarchical effect. This condition does not apply to the five (5) foot wide buffer. (Previous Landscape Condition 6 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE Zoning)

7. All trees and palms material shall be planted in a meandering and naturalistic pattern. (Previous Landscape Condition 7 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE - Zoning)

8. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (Previous Landscape Condition 8 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE - Zoning)

LANDSCAPE - GENERAL-LANDSCAPE - INTERIOR-HOME DEPOT - AFFECTED AREA ONLY

9. The minimum width of the landscaping median within the parking lot of the affected area shall be ten (10) feet including curbs, and shall consist of the following:

- a. one (1) canopy tree and appropriate ground cover shall be planted for each twenty-five (25) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center.
- b. shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. Shrubs may be exempted in areas where fire hydrants or any above or underground utilities are located. (Previous Landscape Condition 9 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE-Zoning)

10. Foundation planting or grade level planters for the existing (Retail A) and the new Home Depot buildings shall be provided along the front and side facades to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet on the north and south sides of each building. Foundation planting shall only be applicable for the south side of Retail A. The minimum width of the required landscape areas shall be eight (8) feet on the west faade of each building;
- b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of the north and south sides of each structure; The length of the required landscaped areas for the west faade shall be no less than forty (40) percent of the total length of the structure; and
- c. Landscape areas shall be planted with a minimum equivalent of one tree or palm for each twenty (20) linear foot of building facade and appropriate shrub or ground cover. (Previous Landscape Condition 10 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DRC/CO:ZONING/LANDSCAPE-Zoning)

LANDSCAPE - GENERAL-LANDSCAPE - INTERIOR-LANDSCAPING INTERIOR, HOME DEPOT - AFFECTED AREA ONLY

11. Landscaping along the (interior) sides of the existing concrete walls, which are

located along the south and east buffers, shall consist of the following:

- a. one (1) canopy tree planted for each twenty (20) feet of the property line;
- b. one (1) vine (ficus pumila or similar specie) planted at five (5) feet on center; and
- c. tree requirements may be exempted in areas where the existing landscape strip is below five (5) feet in width. (Previous Landscape Condition 11 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO:LANDSCAPE Zoning)

12. Landscaping along the east and west portions of the existing detention area shall consist of the following, (planting requirements for each area):

- a. minimum planting area for each portion - 3,000 sq. ft.
- b. a minimum of five (5) canopy trees;
- c. a minimum of five (5) flowering trees; and,
- d. a minimum of one (1) shrub per fifteen (15) sq. ft. of the planting area. (Previous Landscape Condition 12 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (CO:LANDSCAPE-Zoning)

13. . Landscaping along divider medians along both sides of the middle access driveway at SR7/US 441 shall be landscaped with the following:

- a. a minimum of two (2) sets of trellis/shaded structure shall be provided for the landscape divider medians. Each structure shall have a minimum of six (6) feet in width and eighty (80) feet in length. Vines shall be planted adjacent to each structure;
- b. a minimum of four (4) foot wide pedestrian walkway paved with decorative pavers shall be provided under each set of trellis;
- c. one shrub for each two (2) linear feet of the length of each median. Shrub shall be a minimum height of eighteen (18) inches at installation, and shall be maintained at a maximum height of thirty (30) inches; and,
- d. prior to final DRC certification of the site plan, the petitioner shall revise the site plan to reflect the locations of these required trellis /shaded structures pursuant to Condition I.5.a. (Previous Landscape Condition 13 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-48) (DRC/CO: ZONING/LANDSCAPE-Zoning)

14. . Landscaping for the divider median in the middle access driveway at SR7/US 441 shall consist of the following:

- a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median.
- b. one (1) Royal palm for each thirty-five (35) linear feet of the median; and,
- c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (Previous Landscape Condition 14 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE - Zoning)

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

- a. one (1) canopy trees for each ten (10) linear feet of the island; and,
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (Previous Landscape Condition 15 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: LANDSCAPE - Zoning)

16. Landscaping at the base of the existing (Home Depot) sign along Southern Boulevard shall consist of the following:

- a. minimum planting area for each portion- 600 sq. ft.;
- b. a minimum of five (5) flowering trees; and,
- c. a minimum of one (1) shrub per fifteen (15) sq. ft. of the planting area. (Previous Landscape Condition 16 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO:LANDSCAPE-Zoning)

LANDSCAPE - GENERAL-LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE

EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

17. To mitigate compatibility with adjacent residential, landscaping and buffering along the east property line shall be upgraded to include:

a. A minimum fifteen (15) foot wide landscape buffer strip free and clear of all utility easements or other encumbrances that may impede the required landscaping; and,

b. One (1) native canopy tree planted every twenty (20) feet on center. (Previous Landscape Condition 17 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO:LANDSCAPE-Zoning)

18. Prior to November 1, 1994, the petitioner shall pay up to \$10,000 of invoices upon presentation by the Westwood Property Owners Association (WPOA) for landscaping along the property line abutting the existing shopping center. The petitioner shall be relieved of any portion of this responsibility not installed by the WPOA prior to November 1, 1994. (Previous Landscape Condition 18 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DATE:MONITORING-Zoning) [Note: Completed].

LIGHTING-LIGHTING-LIGHTING HOME DEPOT - AFFECTED AREA ONLY

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (Previous Lighting Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO/ONGOING: BLDG/CODE ENF - Zoning)

LIGHTING

2. All outdoor, freestanding lighting fixtures shall not exceed thirty (30) feet in height measured from finished grade to highest point. (Previous Lighting Condition 2 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: BLDG - Zoning)

3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (Previous Lighting Condition 3 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF-Zoning)

PLANNING

1. Prior to final Development Review Certification, the site plan shall be revised to include notations indicating the existing or proposed/future location of sidewalks along State Road 7 and Southern Boulevard. (DRO:PLANNING-Planning) (Previous Planning Condition 1 of Resolution 2011-429, Control No. 1997-00048)[Note: COMPLETED]

SIGNS

1. No off-premise signs shall be permitted on site (Previous Sign Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING:BLDG.- Zoning)

2. The existing freestanding point of purchase (WalMart) sign located on SR7/US441 shall be replaced and, shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point twenty-five (25) feet;

b. maximum sign face area per side one hundred (100) sq. ft.;

c. maximum number of signs one (1) sign;

d. location within fifty (50) feet of the central access point of the MUPD;

e. Sign shall be limited to identification of tenant only. (Previous Sign Condition 2 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: BLDG-Zoning)

3. Wall signs for the Home Depot Store shall be limited to the western facade of the Home Depot building and individual lettering size shall be limited to sixty (60) inches

high. Wall sign shall be limited to only identification of tenant, and limited to the following identification Home Depot". This condition shall not apply to directional signs. (Previous Sign Condition 4 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: BLDG-Zoning)

4. Directional wall signs for the Home Depot Store shall be limited to the western faade of the Home Depot building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of the following:

a. Nursery; and

b. Contractor's pick-up. (Previous Sign Condition 4 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (CO: BLDG-Zoning)

5. Prior to final DRC certification of the site plan, the petitioner shall submit a master signage program for the Home Depot store. (Previous Sign Condition 5 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DRC-ZONING-Zoning)

USE LIMITATIONS

1. Outdoor speaker or public address systems, which are audible from any property line, shall not be permitted on site. (Previous Use Limitation Condition 1 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF - Zoning)

2. To mitigate compatibility with adjacent residential area, no pick up or deliveries shall be allowed on the site, including solid waste pickup, prior to 7:00 a.m. nor later than 10:00 p.m. (Previous Use Limitation Condition 2 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF - Zoning)

3. Retail business activity for the Home Depot store shall not be allowed on site, excluding deliveries, prior to 6:30 a.m. nor continue later than 10:00 p.m. daily. (Previous Use Limitation Condition 3 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF - Zoning)

4. Storage or placement of any material, pallets, refuse, equipment or debris shall not be permitted in the rear of the facility. (Previous Use Limitation Condition 4 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF - Zoning)

5. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within fifteen (15) feet of the east property line and shall be confined to the areas designated on the site plan. (Previous Use Limitation Condition 5 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DRC/ ONGOING: ZONING / CODE ENF-Zoning)

6. Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space located on the site plan dated October 16, 2002. No idling of engines shall be permitted. (Previous Use Limitation Condition 6 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF-Zoning)

7. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (Previous Use Limitation Condition 7 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF - Zoning)

8. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to incorporate an enclosed outdoor storage at the rear of the facility. (Previous Use Limitation Condition 8 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (DRC:ZONING Zoning)

9. No outdoor retail business activities shall be permitted on the site unless permitted by Special permits. No permanent outdoor display shall be permitted on site. (Previous

Use Limitation Condition 9 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING:ZONING Zoning)

10. Hours of deliveries for the Home Depot store (Petition 1977-048E) shall be limited from 7:00 a.m. to 8:00 p.m. daily. (Previous Use Limitation Condition 10 of Resolution R-2011-0429, PDD/DOA/R-2010-01719, Control 1977-00048) (ONGOING: CODE ENF-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; 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; the 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 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 of Approval; 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

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.