

RESOLUTION NO. R-2019- 1239

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2018-01003
(CONTROL NO. 2000-00020)
a Development Order Amendment
APPLICATION OF PS Florida One, Inc.
BY Keith and Associates, Inc., Saul Ewing Arnstein & Leher LLP, AGENT
(Cypress Lake Preserve MUPD)

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 pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application ZV/DOA-2018-01003 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2019;

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 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

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;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 ZV/DOA-2018-01003, the Application of PS Florida One, Inc., by Keith and Associates, Inc., Saul Ewing Arnstein & Leher LLP, Agent, for a Development Order Amendment to reconfigure the Site Plan to add square footage; and, modify Conditions of Approval (Building and Site Design), on a parcel of land generally described as shown on the legal description 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 August 22, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	- Absent
Commissioner Dave Kerner, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Robert S. Weinroth	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Melissa McKinlay	-

The Mayor thereupon declared that the resolution was duly passed and adopted on August 22, 2019.

Filed with the Clerk of the Board of County Commissioners on September 5th, 2019


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 FLORIDA




EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

ALL OF CYPRESS LAKES PRESERVE MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 100, AT PAGE 167 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR SANITARY SEWER UTILITY PURPOSES FOR THE BENEFIT OF PARCEL 1 CREATED BY AND MORE PARTICULARLY DESCRIBED IN THE LIFT STATION AND SANITARY SEWER EASEMENT AGREEMENT RECORDED IN O.R. BOOK 13235 PAGE 990 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR DRAINAGE PURPOSES FOR THE BENEFIT OF PARCEL 1 CREATED BY AND MORE PARTICULARLY DESCRIBED IN THE DRAINAGE AND FLOWAGE EASEMENT AND LAKE MAINTENANCE AGREEMENT RECORDED IN O. R. BOOK 13235, AT PAGE 10161 AS AMENDED BY THE CORRECTIVE DRAINAGE AND FLOWAGE EASEMENT AND LAKE MAINTENANCE AGREEMENT RECORDED IN O.R. BOOK 15135 PAGE 833, AS AMENDED BY THE SECOND CORRECTIVE DRAINAGE AND FLOWAGE EASEMENT AND LAKE MAINTENANCE AGREEMENT RECORDED IN O.R. BOOK 15548 PAGE 1045 ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 4:

NON-EXCLUSIVE EASEMENT FOR THE RIGHT OF WAY OF PEDESTRIANS AND VEHICULAR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 CREATED BY AND MORE PARTICULARLY DESCRIBED IN THE CROSS ACCESS EASEMENT RECORDED IN O.R. BOOK 16025 PAGE 109, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN UNINCORPORATED , PALM BEACH COUNTY, FLORIDA AND CONTAINING 252,930 SQUARE FEET OR 5.806 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

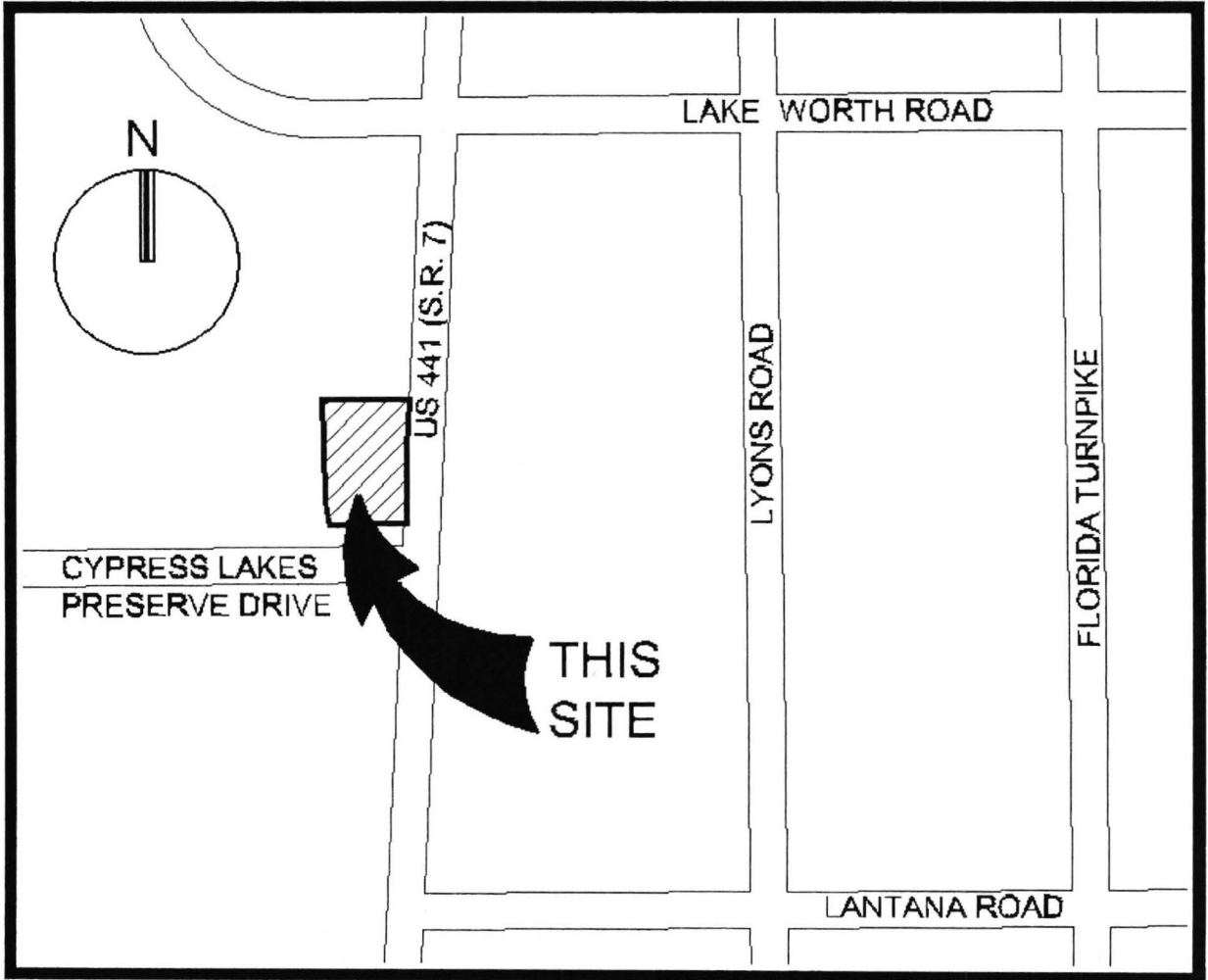


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous Condition A.1 of Resolution R-2002-843, Control No.2000-00020, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2000-1706 (Petition PDD-2000-020) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning))

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2000-1706 and Resolution R-2002-0843 have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Section 2.E of the Unified Land Development Code and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

2. Previous Condition A.2 of Resolution R-2002-843, Control No.2000-00020, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated April 4, 2002. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

The approved Preliminary Site Plan is dated July 8, 2019. 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 Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. Previous Condition B.1 of Resolution R-2002-843, Control No.2000-00020, which currently states:

At time of submittal for final DRC certification of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001. Development shall be consistent with the approved architectural elevations.

Is hereby deleted. [REASON: Code requirement]

2. Previous Condition B.2 of Resolution R-2002-843, Control No.2000-00020, which currently states:

All mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure or equivalent landscape material.

Is hereby deleted. [REASON: Code requirement]

ENGINEERING

1. Deleted per Resolution R-2002-843 (Previous Condition E.1 of Resolution R-2002-843, Control No.2000-00020)

2. LANDSCAPE WITHIN THE MEDIAN OF STATE ROAD 7

a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of SR 7 Right-of-way. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department latest revision to the Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial healing period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or April 1, 2002. (DATE: MONITORING - Engineering) [Note: COMPLETED]

c. If the County does not assume maintenance responsibility, then appropriate property owner's documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDGPM: MONITORING - Engineering) (Previous Condition E.2 of Resolution R-2002-843, Control No.2000-00020)

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

a. No Building Permits for the site may be issued after December 31, 2019, or as amended. 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 - Engineering)

HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF-Health) (Previous Condition D.1 of Resolution R-2002-843, Control No.2000-00020)

2. Any toxic or hazardous waste, which may be generated at this site, shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENFORCEMENT-Health) (Previous Condition D.2 of Resolution R-2002-843, Control No.2000-00020)

3. The owner, occupant or tenant of this facility shall participate in an oil recycling program, which ensures proper re-use or disposal of any waste oil. (ONGOING: CODE ENF - Health Department) (Previous Condition D.3 of Resolution R-2002-843, Control No.2000-00020)

LANDSCAPE - GENERAL

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

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 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; and,

Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition F.1 of Resolution R-2002-843, Control No.2000-00020)

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

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to c. eighteen (18) feet; and,

Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition F.2 of Resolution R-2002-843, Control No.2000-00020)

3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of 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 to the five (5) foot wide compatibility buffer. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition F.3 of Resolution R-2002-843, Control No.2000-00020)

4. A group of three (3) or more palm or pine trees may not supersede the requirement for canopy tree in that location, unless specified herein. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition F.4 of Resolution R-2002-843, Control No.2000-00020)

LANDSCAPE - INTERIOR

5. Previous Condition K.1 of Resolution R-2002-843, Control No.2000-00020, which currently states:

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.

Is hereby deleted. [REASON: Code requirement]

6. Previous Condition K.2 of Resolution R-2002-843, Control No.2000-00020, which currently states:

Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;

- b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover.

Is hereby amended to read:

In addition to Code requirements, and excluding Variance for the three-story building, all required foundation planting areas shall be no less than 50% of the total length of the applicable side of the building. (ONGOING: Zoning – Zoning)

LANDSCAPE - PERIMETER-ALONG EAST PROPERTY LINE ABUTTING SR 7/US 441

7. Previous Condition G.1 of Resolution R-2002-843, Control No.2000-00020), which currently states:

Landscaping along the east property line abutting SR71US 441 shall be upgraded to include:

- a. A minimum twenty-five (25) foot wide right-of-way buffer strip. No easement encroachment or width reduction shall be permitted;
- b. A continuous three (3) foot high berm measured from finished grade;
- c. One (1) canopy tree for each thirty (30) linear feet of property line;
- d. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
- e. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
- f. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
- g. One (1) large shrub for each six (6) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: removed with concurrent Variance to eliminate R-O-W Buffer]

LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

8. Landscaping along the south property line shall be upgraded to include:

- a. A minimum twenty (20) foot wide landscape buffer strip. No easement encroachment or width reduction shall be permitted;
- b. One (1) canopy tree for each twenty (20) linear feet of property line;
- c. One (1) palm or pine for each thirty (30) linear feet .of property line, with a maximum spacing of sixty (60) feet between clusters;
- d. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
- e. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and,
- f. One (1) large shrub for each six (6) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition J.1 of Resolution R-2002-843, Control No.2000-00020)

LANDSCAPE - PERIMETER-ALONG THE NORTH PROPERTY LINE (ABUTTING COMMERCIAL)

9. Landscaping along the north property line shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip. No easement encroachment or width reduction shall be permitted;
- b. One (1) canopy tree for each twenty (20) linear feet of property line;
- c. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
- d. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
- e. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
- f. One (1) large shrub for each six (6) linear feet of property line, to be installed at a

minimum height of thirty (30) inches. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition H.1 of Resolution R-2002-843, Control No.2000-00020)

LANDSCAPE - PERIMETER-ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

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

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No easement encroachment or width reductions shall be permitted;
- b. a continuous three (3) foot high berm measured from top of curb;
- c. one (1) canopy tree for each twenty (20) feet on center of property line;
- d. one (1) palm or pine tree for each thirty (30) linear feet with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches; and
- f. one (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches.
- g. one (1) large shrub for each six (6) linear feet of property line, to be installed at a minimum height of thirty (30) inches. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous Condition I.1 of Resolution R-2002-843, Control No.2000-00020)

LIGHTING

1. Previous Condition L.1 of Resolution R-2002-843, Control No.2000-00020), which currently states:

All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets.

Is hereby deleted. [REASON: Code requirement]

2. All outdoor lighting fixtures shall not exceed fifteen (15) feet in height, measured from finished grade to highest point and shall setback a minimum thirty-five (35) feet from residential. (CO: BLDG – Zoning) (Previous Condition L.2 of Resolution R-2002-843, Control No.2000-00020)

3. All outdoor lighting shall be extinguished no later than 11:00 p.m., excluding security lighting only. (ONGOING: CODE ENF – Zoning) (Previous Condition L.3 of Resolution R-2002-843, Control No.2000-00020)

4. Previous Condition L.4 of Resolution R-2002-843, Control No.2000-00020), which currently states:

The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material.

Is hereby deleted. [REASON: Code requirement]

PALM TRAN

1. Prior to final certification of the preliminary development plan or siteplan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING - Zoning) (Previous Condition M.1 of Resolution R-2002-843, Control No.2000-00020)

2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous

paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING -Eng) (Previous Condition M.2 of Resolution R-2002-843, Control No.2000-00020)

PLANNING

1. Per SCA-2018-025, condition 1: Development under the Industrial future land use designation shall be limited to a self-storage facility with accessory uses. (ONGOING: PLANNING - Planning)

2. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to include the existing or proposed location of sidewalks along State Road 7 since this site is within two (2) miles of a school. (DRC: PLANNING - Planning) [Note: COMPLETED] (Previous Condition O.2 of Resolution R-2002-843, Control No.2000-00020)

3. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to include a notation which shall read proposed cross access to be paved to the property line for future vehicular and pedestrian access to adjacent parcel at the northern property line as shown on the site plan with an arrow pointing to the adjacent northern property. (DRC: PLANNING - Planning) [Note: COMPLETED] (Previous Condition O.3 of Resolution R-2002-843, Control No.2000-00020)

3. Prior to the issuance of the certificate of occupancy, the petitioner shall construct a 20' service road to the end of the northern property line at the location shown on the site plan that reads proposed cross access. (DRC: PLANNING - Planning) [Note: COMPLETED] (Previous Condition O.4 of Resolution R-2002-843, Control No.2000-00020)

SIGNS

1. Freestanding sign fronting on SR7/US441 shall be limited as follows:

- a. Maximum sign height - ten (10) feet measured from the adjacent sidewalk to the highest point;
- b. Maximum sign face area per side - one hundred (100) square feet;
- c. Maximum number of signs - one (1);
- d. Monument style only. (CO: ZONING - Zoning) (Previous P Condition 1 of Resolution R-2002-843, Control No.2000-00020)

2. Wall signs (per single tenant) shall be limited to the eastern facade of the building. Dimension of wall signs shall be limited to a height of eighteen (18) inches. (CO: ZONING - Zoning) (Previous P Condition 2 of Resolution R-2002-843, Control No.2000-00020)

SITE DESIGN

1. Previous Condition C.1 of Resolution R-2002-843, Control No.2000-00020, which currently states:

Total gross floor area shall be limited to a maximum of 88,500 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or thousand (1,000) square feet, whichever is less, subject to approval by Traffic Division or DRC.

Is hereby deleted. [REASON: no longer applicable]

2. The minimum setback for all structures adjacent to the west property line shall be fifty (50) feet. (ONGOING: ZONING - Zoning) (Previous Condition C.2 of Resolution R-2002-843, Control No.2000-00020)

3. Previous Condition C.3 of Resolution R-2002-843, Control No.2000-00020, which currently states:

The maximum height for the two-story structure, shall not exceed thirty (30) feet and the maximum height for all one story structures shall not exceed fifteen (15) feet, including air

conditioning, mechanical equipment, and satellite dishes. All heights including air conditioning, mechanical equipment, and satellite dishes shall be measured from finished grade to highest point.

Is hereby amended to read:

The maximum height shall not exceed thirty-five (35) feet for the three-story structure and, thirty (30) feet for the two-story structure, including air conditioning, mechanical equipment, and satellite dishes. All heights including air conditioning, mechanical equipment, and satellite dishes shall be measured from finished grade to highest point. (BLDGPMT: BUILDING DIVISION - Zoning)

4. All ground or roof mounted air conditioning and mechanical equipment including satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BUILDING DIVISION - Zoning) (Previous Condition C.4 of Resolution R-2002-843, Control No.2000-00020)

5. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant 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 shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING – Co Att) [Note: COMPLETED] (Previous Condition N.2 of Resolution R-2002-843, Control No.2000-00020)

6. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate a focal point at the main access from SR71US441. The focal points shall be in the form of a fountain, trellis or columns with special planting. (DRC: ZONING - Zoning) [Note: COMPLETED] (Previous Condition N.3 of Resolution R-2002-843, Control No.2000-00020)

USE LIMITATIONS

1. Hours of operation for retail business activities, including deliveries, shall be 8:00 a.m. to 11:00 p.m. (ONGOING: ZONING - Zoning) (Previous Condition Q.1 of Resolution R-2002-843, Control No.2000-00020)

2. Outdoor retail and associated business activities shall not be allowed on site. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.2 of Resolution R-2002-843, Control No.2000-00020)

3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.3 of Resolution R-2002-843, Control No.2000-00020)

COMPLIANCE

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

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; 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; 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.