

**RESOLUTION NO. 44-09-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, APPROVING A SITE PLAN FOR THE CONSTRUCTION OF A 20,215 SQUARE FOOT PETSMART STORE, SUBJECT TO CONDITIONS OF APPROVAL, TO BE LOCATED ON A 2.75 ACRE PARCEL GENERALLY LOCATED AT THE NORTHEAST CORNER OF CONGRESS AVENUE AND WATERTOWER ROAD WITHIN THE C-2 ZONING DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Petsmart, (“Applicant”) is the lessee of a 2.75 acre lease parcel of land owned by Congress Avenue Properties, Ltd. (“Owner”); and

**WHEREAS**, the Owner’s property is generally located at the Northeast corner of Congress Avenue and Watertower Road in the Town of Lake Park, Florida, the legal description of which is attached hereto and incorporated herein as **Exhibit “A”** and its general location is as shown on **Exhibit “B”** which is attached hereto and incorporated herein (“subject property”); and

**WHEREAS**, the Applicant has submitted an application for approval of a site plan approval for the construction of a 20,215 square foot Petsmart Department Store on the subject property; and

**WHEREAS**, the Town of Lake Park’s Planning and Zoning Commission has reviewed the Application and has made its recommendation to the Town Commission; and

**WHEREAS**, the Town Commission has conducted a quasi-judicial public hearing to consider the Application; and

**WHEREAS**, at this hearing, the Town Commission considered the evidence presented by the Town Staff, the Applicant, and other interested parties and members of the public, regarding the Application’s consistency with the Town’s Comprehensive Plan, and whether it meets the Town’s Land Development Regulations, and

**WHEREAS**, at the hearing the Town Commission determined that certain conditions as set forth herein, are necessary for the Application to be consistent with the Town’s Comprehensive Plan and to meet the Town’s Land Development Regulations; and

**WHEREAS**, the Applicant , the Owner, and their successors and assigns shall be subject to the conditions contained in Section 2.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:**

**Section 1:** The whereas clauses are incorporated herein as true and correct as the findings of fact and conclusions of law of the Town Commission.

**Section 2.** The Town Commission hereby approves the Applicant's site plan for a Petsmart Store subject to the following conditions:

1. Construction is permitted only between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday. Construction on holidays is permitted only upon the written approval of the Community Development Director.
2. Prior to any disturbance of the public right of way along Congress Avenue and Watertower Road, the Applicant /Owner shall obtain the written approvals of the Directors of the Town's Public Works and Community Development Departments prior to any construction.
3. Prior to any disruption of the nearby entrance/exit and parking areas along Congress Avenue and Watertower Road the Applicant/Owner shall obtain the written approval of the Community Development Director.
4. Any disruption beyond the boundaries of the Site shall require the Applicant or Owner's contractor to employ commonly accepted practices that ensures the safety and well being of the general public.
5. All approved landscaping shall be properly maintained by the Applicant/Owner. The Applicant/Owner shall guarantee all new landscape material installed on the Site as required by the approved Site Plan and Town Code for a minimum of three months from the date of the issuance of the Certificate of Occupancy by the Town. It shall be the responsibility of the Applicant/Owner to replace any and all dead or dying landscape material at any time the Site is not in compliance with the landscape requirements of the approved Site Plan and/or the Town Code, and also to comply with all property maintenance standards and requirements of the Town Code applicable to the Site.
6. Safe and adequate pedestrian passage shall be maintained in front of the construction site along Congress Avenue and Watertower Road.

7. The Applicant/Owner shall ensure that any and all contractors use commonly accepted practices to reduce airborne dust and particulates during the construction phase.
8. All dumpsters shall be enclosed as noted on the Site Plan and enclosure doors kept shut at all times. All dumpsters shall be acquired from the approved franchise supplier for the Town of Lake Park.
9. Prior to issuance of the Certificate of Occupancy, the Applicant/Owner shall provide certification from the Landscape Architect of record that the plant installations on site are in accordance with the Site Plan, including the landscape plans approved by the Town Commission.
10. Prior to the issuance of any building permit, copies of all other required permits from other agencies including but not limited to Palm Beach County Health Department, Palm Beach County Land Development Division, South Florida Water Management Division and the State of Florida Department of Environmental Protection shall be provided to the Town by the Applicant and/or the Owner.
11. The Applicant/Owner shall provide the Director of the Community Development Department with documentation from Palm Beach County that the proposed 20,215 square foot retail department store satisfied the County's Traffic Performance Standards ("TPS") and meets all traffic concurrency requirements, prior to site plan approval. Current approval has an expiration date of December 2009. An updated letter dated August 28, 2009 has been received and is being responded to. An extended build-out date of 2013 has been granted and is reflected on PBC Traffic letter dated September 9, 2009.
12. A light shield is required is required for the wall lighting on the south elevation, facing Watertower Road, and must be reflected on the plans prior to finalizing site plan approval.
13. Landscape plans shall include the following, prior to finalizing site plan approval:
  1. Add "Park" to the tree and palm trimming note. Reflected on sheet LP-1.
  2. Add some Flowering color trees to parking islands that contain the Dahoon holly trees. Recommend Southern Magnolia (DD Blanchard), Queen crepe Myrtle or Golden rain tree from the Town of Lake Park List. Queen Crape Myrtle will be added. Reflected on sheet LP-1.
  2. Add and label the clear site triangles on the landscape plans. Reflected on sheet LP-3.
  3. Change the on center spacing for the Muhly grass, Myrsine, Simpson stopper and Macho fern to 24".

4. Pursuant to Seacoast agreement, two holly trees are being provided, with a root barrier, in the open area between the two existing live oaks proposed for removal on the west of the entrance of Water tower Road. Reflected on sheet LP-1.
  5. Add vines to the three trellises along the north side of the building similar to the south side. Bougainvillea has been noted on the south side and Black Magic on the north side. Reflected on sheet LP-1.
  6. Maintain the Kohl's ground cover consistency and intensity along Petsmart's section of Congress Avenue.
14. The Petsmart store shall be constructed in compliance with the following plans on file with the Town's Community Development Department or authorized revisions as noted below:
- b. Master Plan, Site Plan & Architectural Elevations/Floorplan referenced as sheet MP-1/SP-1, and SK1/A4.0/A2.0 respectively, dated 10/05/09 and 10/07/09 respectively prepared by Gentile Holloway O'Mahoney & Associates, Inc. who is the Planner of record and Barry Jay Greenberg who is the Architect of record for the Project, received and dated by the Department of Community Development on 10/07/09.
  - c. Engineering Plans, referenced as sheets C-1 thru C-11 dated 10/05/09 prepared by Smiley & Associates, Inc., received and dated by the Department of Community Development on 10/07/09.
  - d. Landscape plans referenced as sheets L-P1 through L-P3 dated 10/05/09 and prepared by Gentile Holloway O'Mahoney & Associates, Inc., who is the landscape architect of record received and dated by the Department of Community Development on 10/07/09.
  - e. Irrigation plan referenced as sheet IR-1, IR-2 and IR-3 dated 09/28/09, prepared by Gentile Holloway O'Mahoney & Associates, Inc, received and dated by the Department of Community Development on 10/07/09.
  - f. Photometric plan referenced as sheet PH-1, PH-2 and PH-3 dated 10/01/09, prepared by William E. Pino, received and dated by the Department of Community Development on 10/07/09.
15. Any revisions to the approved Site Plan, landscape plan, architectural elevations, signs, statement of use, or other detail submitted as part of the Application, including, but not limited to, the location of the proposed improvements or additional, revised, or deleted colors, materials, or structures, shall be submitted to the Community Development Department and shall be subject to its review and approval, unless the Town Code or a condition of approval requires Town Commission approval.
16. The owner of record or authorized agent shall initiate the bona fide and continuous development of the property within 18 months from the effective date of development approval. Such development shall be completed within 18 months from the effective date of initiation of development as defined

herein; unless there is a grant of extension as otherwise provided for in the Town of Lake Park Code of Ordinances Section 67-42 *Expiration of development approvals*.

17. Cost Recovery. All fees and costs, including legal fees, incurred by the Town in reviewing the Application and billed to the Applicant shall be paid to the Town within 10 days of receipt of an invoice from the Town. Failure by the Applicant to reimburse the Town within the 10 days may result in the automatic revocation of any and all land development approvals by the Town and any other appropriate measures that the Town deems necessary and appropriate to secure payment.
18. A pre-construction meeting is required prior to the commencement of construction, once the building permit is issued.
19. Labeling the existing berm. Reflected on sheet LP-1.
20. Specifying the material for the trellis' (metal preferred). Applicant has agreed to aluminum or metal and will reflect the material on the building permit plans.
21. Specifying the different vine types on the north and south side trellis'. Bougainvillea has been noted on the south side and Black Magic on the north side. Reflected on sheet LP-1.
22. Specify the building material/colors and provide samples reflected on color elevations.

**Section 3:** This Resolution shall become effective upon adoption.

## EXHIBIT A

### Legal Description

Legal Description: A PARCEL OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER (NE 1/4) OF SECTION 19, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BOUNDED ON THE NORTH BY THE SOUTH LINE OF NORTHLAKE SQUARE EAST, AS RECORDED IN PLAT BOOK 103, PAGES 196 THROUGH 199, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BOUNDED ON THE EAST BY THE EAST LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 19; BOUNDED ON THE SOUTH BY THE RIGHT OF WAY LINE FOR WATER TOWER ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 10739, PAGE 6, PUBLIC RECORDS OF PALM BEACH OF PALM BEACH COUNTY; FLORIDA; BOUNDED ON THE WEST BY THE EAST RIGHT OF WAY LINE FOR CONGRESS AVENUE AS RECORDED IN SAID OFFICIAL RECORDS BOOK 10739, PAGE 6. CONTAINING A TOTAL OF CONTAINING A TOTAL OF 641,824 SQUARE FEET OR 14.73 ACRES, MORE OR LESS



The foregoing Resolution was offered by Vice-Mayor Carey who moved its adoption. The motion was seconded by Commissioner Osterman and upon being put to a roll call vote, the vote was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	—	✓
VICE-MAYOR JEFF CAREY	✓	—
COMMISSIONER ED DALY	✓	—
COMMISSIONER PATRICIA OSTERMAN	✓	—
COMMISSIONER KENDALL RUMSEY	✓	—

The Town Commission thereupon declared the foregoing Resolution NO. 44-09-09 duly passed and adopted this 23 day of September, 2009.

TOWN OF LAKE PARK, FLORIDA

BY: [Signature]  
DESCA DUBOIS  
MAYOR

ATTEST:

[Signature]  
VIVIAN M. LEMLEY  
TOWN CLERK



Approved as to form and legal sufficiency:

BY: [Signature]  
THOMAS J. BAIRD  
TOWN ATTORNEY