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RESOLUTION NO. 94-12-07

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA APPROVING A SITE PLAN FOR A 98,165 SQUARE FOOT RETAIL DEPARTMENT STORE GENERALLY LOCATED ON 10.94± ACRES AT THE NORTHEAST CORNER OF CONGRESS AVENUE AND WATERTOWER ROAD IN THE TOWN OF LAKE PARK, FLORIDA, AND WHICH IS LEGALLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Congress Avenue Properties, Inc., is the owner (the "Owner") of a 10.94± acre parcel of real property, the legal description of which is attached hereto and incorporated herein as **Exhibit "A"** (the "subject property" or the "Site"); and

WHEREAS, the subject property is generally located at the southeast corner of Congress Avenue and Watertower Road in the Town of Lake Park, Florida (the "Town"); and

WHEREAS, Kimley-Horn & Associates, Inc., as agent for the Owner (the "Applicant") has submitted an application for the approval of a site plan for a proposed Kohl's retail department store consisting of one (1) building (the "Project") on the subject property (the "Application"); and

WHEREAS, the Town of Lake Park's Planning and Zoning Board has reviewed the Application and has presented its recommendations to the Town Commission; and

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

WHEREAS, at this hearing the Town Commission considered the evidence presented by the Town Staff, the Applicant, the Owner, and other interested parties and members of the public as to the Application's consistency with the Town's Comprehensive Plan; and

WHEREAS, at this hearing, the Town Commission considered the evidence presented by the Town Staff, the Applicant, the Owner and other interested parties and members of the public regarding whether the Application meets the Town's Land Development Regulations, including specifically Section 67-38 of the Town Code; and

36 WHEREAS, the Town Commission has determined that the conditions
37 incorporated herein, are necessary in order for the Application to be consistent with the
38 Town's Comprehensive Plan and to meet the Town's Land Development Regulations;
39 and

40 WHEREAS, the conditions as set forth below shall apply to the Owner, the
41 Owner's tenants, and the Owner's successors and/or assigns.

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

44 Section 1. The whereas clauses are hereby incorporated as true and correct as the
45 findings of fact and conclusions of law of the Town Commission.

46 Section 2. The Town Commission hereby approves a Site Plan for a 98,165
47 square foot department store consisting of one building on subject property, subject to the
48 conditions described below.

49 1) The Owner shall install all improvements in compliance with the attached
50 plans/drawings, which are also on file with the Town's Community Development
51 Department and/or the authorized revisions as noted below:

52 A) Site Plan & Architectural Elevations referenced as sheet C-106 and A3
53 respectively, dated 11-13-07 and 11-12-07 respectively prepared by
54 Kimley-Horn and Associates, Inc., who is the land planner of record for
55 the Project, and Scott & Goble Architects, who is the architect of record
56 for the Project, received and dated by the Department of Community
57 Development on 11-14-07.

58 B) Engineering Plans, referenced as sheets C-200 thru C-203 and C-300 thru
59 C-307 dated 11-13-07 prepared by Kimley-Horn and Associates, Inc.,
60 received and dated by the Department of Community Development on 11-
61 14-07.

62 C) Landscape plans referenced as sheets L-100 through L-102 and L-103
63 dated 11-13-07 and prepared by Kimley Horn and Associates, Inc., who is
64 the landscape architect of record for the Project, received and dated by the
65 Department of Community Development on 11-14-07.

- 66 D) Irrigation plan referenced as sheet L-200 and L-201 dated 11-13-07,
67 prepared by Kimley Horn and Associates, received and dated by the
68 Department of Community Development on 11-14-07.
- 69 E) Paint chips as provided by the Applicant to the Department of Community
70 Development and dated 11-12-07.
- 71 2) Any revisions to the approved Site Plan, Engineering Plan, Landscape and
72 Irrigation Plans, elevations, signs, statement of use or other details submitted as
73 part of this Application, including but not limited to, the location of the proposed
74 improvements or additional, revised or deleted colors, materials, or structures,
75 shall be submitted to the Town's Community Development Department
76 (hereinafter the "Department") and be subject to its review and approval, unless
77 the Town Code requires Town Commission approval.
- 78 3) Upon re-submittal of final plans, the Department shall review all conditions of
79 approval for compliance by the Owner. Furthermore, any condition, which is
80 established by, or is associated with the resubmittal of final plans, shall be subject
81 to the Department's review and approval.
- 82 4) Upon submittal of final plans and prior to the issuance of any development
83 permits, the Owner shall revise the Site Plan to:
- 84 a) Indicate all to show exterior parking lot and other light fixture details.
85 b) Include pavers and/or textured surfaces on all driveway bbs.
86 c) Show a sidewalk extension extending into the building both from
87 Watertower Road and Congress Avenue.
88 d) Show additional architectural variations along the western side and
89 wrapped through to the eastern side of the building.
90 e) Show the maintenance height for the landscaping at a minimum of four
91 feet on the approved Site Plan and Landscape Plan.
- 92 5) Construction shall be allowed only between the hours of 7:00 a.m. and 7:00 p.m.
93 unless otherwise approved in writing by the Community Development Director.
- 94 6) Any disturbance of the public right of way along Congress Avenue and
95 Watertower Road shall require review and written approval from the Town's
96 Public Works and Community Development directors prior to any construction.

- 97 7) Any disruption to any of the nearby entrance/exit and parking areas along
98 Congress Avenue and Watertower Road shall require prior written approval by
99 the Community Development Director.
- 100 8) Any disruption beyond the boundaries of the Site shall require the Owner's
101 contractor(s) to employ commonly accepted practices that ensures the safety and
102 well being of the general public.
- 103 9) All approved landscaping shall be properly maintained by the Owner. The Owner
104 shall guarantee all new landscape material installed on the Site as required by the
105 approved Site Plan and Town Code for a minimum of three months from the date
106 of the issuance of the Certificate of Occupancy by the Town. It shall be the
107 responsibility of the Owner to replace any and all dead or dying landscape
108 material at any time the Site is not in compliance with the landscape requirements
109 of the approved Site Plan and/or the Town Code, and also to comply with all
110 property maintenance standards and requirements of the Town Code applicable to
111 the Site.
- 112 10) All trees planted under FP&L power lines are required to comply with the FP&L
113 Right Tree Right Place guidelines.
- 114 11) Safe and adequate pedestrian passage shall be maintained in front of the
115 construction site along Congress Avenue and Watertower Road.
- 116 12) The Owner shall ensure that any and all contractors use commonly accepted
117 practices to reduce airborne dust and particulates during the construction phase.
- 118 13) All dumpsters shall be enclosed as noted on the Site Plan and enclosure doors
119 kept shut at all times. All dumpsters shall be acquired from the approved
120 franchise supplier for the Town of Lake Park.
- 121 14) Prior to issuance of the Certificate of Occupancy, the Applicant shall provide
122 certification from the Landscape Architect of record that the plant installations on
123 site are in accordance with the Site Plan, including the landscape plans approved
124 by the Town Commission.
- 125 15) Prior to the issuance of any building permit, copies of all other required permits
126 from other agencies including but not limited to Palm Beach County Health
127 Department, Palm Beach County Land Development Division, South Florida

128 Water Management Division and the State of Florida Department of
129 Environmental Protection shall be provided to the Town by the Applicant and/or
130 the Owner.

131 16) The Applicant must provide the Town with documentation from Palm Beach
132 County that the proposed 98,165 square foot retail department store satisfied the
133 County's Traffic Performance Standards ("TPS") and meets all traffic
134 concurrency requirements.

135 17) The Applicant shall provide onsite security, ~~which shall consist of a minimum of~~
136 ~~one (1) off duty armed law enforcement officers OR security officer at least one-~~
137 ~~half hour before the store opens until at least one half hour after the store closes~~
138 ~~each day that the store is open.~~ In addition, adequate security shall be provided as
139 per the Palm Beach County Sheriff's Office (PBSO) Crime Prevention Through
140 Environmental Design ("CPTED") standards. The PBSO reviewed the site plan
141 and issued a letter with recommendations dated November 15, 2007. In
142 accordance with those suggestions the applicant will provide for at a minimum,
143 the installation of an additional light fixture to the eastside of the Site by the nine
144 (9) parking spaces along the 20' maintenance easement of sheet C-106; wall
145 packs lighting affixed to the building by the loading dock; foxtail palms to be
146 planted away from the light fixtures to prevent any blocked lighting; a digital
147 video recorder to be installed ~~with a 48 DVR camera system~~ that has internet
148 capabilities and that can give facial recognition and color rendition; tilt pan
149 cameras for the exterior of the building and the parking lot; an alarm system with
150 motion detectors, glass breakage sensors, and silent panic alarms for areas that
151 handle money excluding individual POS stations.

152 18) All signage for the Project must comply with the requirements of the Town's Sign
153 Code.

154 19) The following items/uses are prohibited outside the confines of the buildings or
155 on the exterior portions of the subject property:

156 a) Food service/drink/vending or other similar food dispensing
157 units/machines.

158 b) Other vending machines dispensing all types of merchandise, products,
159 goods, handbills, advertising magazines, etc.

160 c) Public telephones shall be exempt from these provisions.

161 20) The Owner or the Owner's authorized agent shall initiate the bona fide and
162 continuous development of the property within 18 months from the effective date
163 of development approval. Such development shall be completed within 18
164 months from the effective date of initiation of development as defined herein;
165 unless there is a grant of extension as otherwise provided for in the Town of Lake
166 Park Code of Ordinances Chapter 67, Section 67-42 "*Expiration of development*
167 *approvals*".

168 21) Cost Recovery. All fees and costs, including professional fees and legal fees at
169 the rate of \$195.00 per hour, incurred by the Town in reviewing the Project and
170 billed to the Owner shall be paid to the Town within 10 days of receipt of an
171 invoice from the Town, and in no case later than 15 days from the date of the
172 issuance of the invoice by the Town. The Owner's failure to reimburse the Town
173 within the 10 day time period, may result in the automatic revocation of any and
174 all land development approvals by the Town, and any other appropriate measures
175 that the Town deems necessary and appropriate to secure payment.

176 22) Overnight storage or parking of delivery vehicles, trucks or trailers is prohibited
177 on site, except within designated loading areas indicated on the site plan.

178

179 **Section 3.** This Resolution shall take effect upon adoption.


180 **Section 4:** This Resolution shall become effective upon adoption.

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

	AYE	NAY
MAYOR PAUL W. CASTRO	<u>X</u>	___
VICE-MAYOR ED DALY	<u>Absent</u>	___
COMMISSIONER CHUCK BALIUS	<u>X</u>	___
COMMISSIONER JEFF CAREY	<u>X</u>	___
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	___

The Town Commission thereupon declared the foregoing Resolution NO. 94-12-07 duly passed and adopted this 19 day of December, 2007.

TOWN OF LAKE PARK, FLORIDA

BY: 
PAUL W. CASTRO
MAYOR

ATTEST:


VIVIAN MENDEZ
TOWN CLERK

TOWN OF LAKE PARK
(TOWN SEAL)
SEAL

FLORIDA

Approved as to form and legal sufficiency:


BY: 
THOMAS J. BAIRD
TOWN ATTORNEY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 34.03 C (SOUTHERLY PORTION)

O.R.B. 12416 PAGE 162

A PARCEL OF LAND LOCATED IN THE NORTHWEST ONE-QUARTER (NE ¼) 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 NORHTLAKE SQUARE EAST, AS RECORDED IN PLAT BOOK 109, PAGE 198, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BOUNDED ON THE EAST LINE OF THE NORHTEAST ONE-QUARTER (NE1/4) OF SAID SECTION 19; BOUNDED ON THE SOUTH BY THE NORTH RIGHT OF WAY LINE FOR WATER TOWER ROAD AS RECORDED IN OFFICAL RECORDS BOOK 10739, PAGE 6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BOUNDED ON THE WEST BY THE EAST RIGHT OF WAY LINE FOR CONGRESS AVENUE AS RECORDED IN OFFICAL RECORDS BOOK 10739, PAGE 6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLROIDA.