

RESOLUTION NO. R-2001- 0980

RESOLUTION APPROVING ZONING PETITION DOA1 995063(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF COSTCO WHOLESALE CORP
BY KIERAN KILDAY , AGENT
(Costco a.k.a. Apples & Oranges)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA95-063(B) was presented to the Board of County Commissioners at a public hearing conducted on June 25, 2001; and

WHEREAS, the Board of County Commissioners have considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, The testimony shows that they meet the Performance Standards of Section 6.8 of the ULDC; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. Petitioner has demonstrated that they meet all of the standards of Section 5.3 of the Unified Land Development Code (ULDC), which the Board must consider.
3. The evidence has demonstrated that there are changed circumstances and conditions that require an amendment. The decrease in square footage from the previous approval results in less parking, less traffic and reduced signage. It also results in increased landscaping and increased open space.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by Section 6.8 of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.

6. This Development **Order Amendment**, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
7. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code. There is a net decrease of 2,804 trips from the previous approval.
8. This Development **Order Amendment**, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment. The Development Order Amendment provides better protection for the Yamato Scrub.
9. This Development **Order Amendment**, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition **DOA95-063(B)**, the petition of Costco Wholesale Corp by Kieran Kilday, agent, for a Development Order Amendment (**DOA**) to redesignate land uses, reconfigure site plan and amend conditions of approval 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June **25, 2001**, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Warren H. Newell, Chairman	-	Nay
Carol A. Roberts, Vice Chair	-	Aye
Karen T. Marcus		Aye
Mary McCarty		Nay
Burt Aaronson		Aye
Tony Masilotti	-	Aye
Addie L. Greene		Aye

The Chairman thereupon declared that the resolution was duly passed and adopted on June **25, 2001**.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

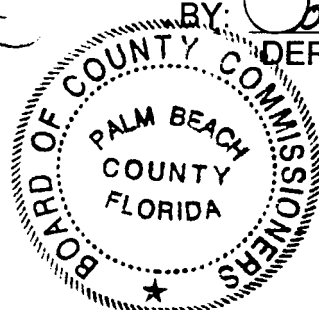


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND IN THE SOUTHWEST ONE - QUARTER (SW 1/4) OF SECTION 31, TOWNSHIP 46 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 31; THENCE NORTH $89^{\circ}11'28''$ EAST, ALONG THE SOUTH BOUNDARY OF SAID SECTION, 990.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF CONGRESS AVENUE AS DESCRIBED IN OFFICIAL RECORDS BOOK 1883, PAGE 580, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT BEING COINCIDENT WITH THE NORTH WEST CORNER OF CONGRESS CORPORATE CENTRE RECORDED IN PLAT BOOK 55, PAGE 123, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND ALSO BEING THE POINT OF BEGINNING; THENCE NORTH $00^{\circ}50'32''$ WEST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 250.11 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF A TANGENT CURVE BEING CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1849.86 FEET, A DELTA OF $06^{\circ}36'28''$, AN ARC DISTANCE OF 213.34 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL A SAID BOCA CONGRESS CENTER, M.U.P.D. PHASE 1; THENCE ALONG THE EASTERLY LINE OF SAID PHASE AT THE FOLLOWING THREE (3) COURSES AND DISTANCES: 1. THENCE NORTH $20^{\circ}24'18''$ EAST, 50.00 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST (A RADIAL LINE FROM SAID POINT BEARS SOUTH $82^{\circ}43'34''$ EAST); 2. THENCE ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 1837.86 FEET, A CENTRAL ANGLE OF $12^{\circ}09'30''$ AND AN ARC DISTANCE OF 390.00 FEET; 3. THENCE NORTH $70^{\circ}34'04''$ WEST, 12.00 FEET TO A POINT ON THE ARC OF A TANGENT CURVE CONCAVE TO THE SOUTHEAST AND A POINT IN THE SAID EASTERLY LINE OF CONGRESS AVENUE (THE LAST COURSE BEING RADIAL TO SAID CURVE); THENCE ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 1849.86, A CENTRAL ANGLE OF $27^{\circ}24'33''$ AN ARC DISTANCE OF 884.94 FEET; THENCE NORTH $46^{\circ}50'29''$ EAST, 645.22 FEET TO POINT ON THE EAST BANK AS DEPICTED ON THE EASEMENT DEED AS RECORDED IN OFFICIAL RECORDS BOOK 5483, PAGE 1795, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA SAID POINT ALSO BEING ON THE EAST BOUNDARY OF THAT PARCEL DESCRIBED IN THE QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 6472, PAGE 441, OF SAID PUBLIC RECORDS; THENCE SOUTH $06^{\circ}47'05''$ WEST 740.76 FEET; THENCE SOUTH $00^{\circ}55'24''$ WEST 287.91 FEET; THENCE SOUTH $08^{\circ}53'47''$ EAST 378.37 FEET (THE LAST THREE COURSES DESCRIBED BEING COINCIDENT WITH SAID EAST TOP OF BANK AND EAST BOUNDARY); THENCE SOUTH $89^{\circ}11'28''$ WEST, ALONG A LINE PARALLEL WITH SAID SOUTH BOUNDARY OF SECTION 31, A DISTANCE OF 420.56 FEET; THENCE SOUTH $06^{\circ}51'20''$ EAST 660.00 FEET TO A POINT ON SAID SOUTH BOUNDARY SECTION 31; THENCE SOUTH $89^{\circ}11'28''$ WEST, ALONG SAID SOUTH BOUNDARY 676.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 27.77 ACRES OR 1,209,521 SQUARE FEET, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

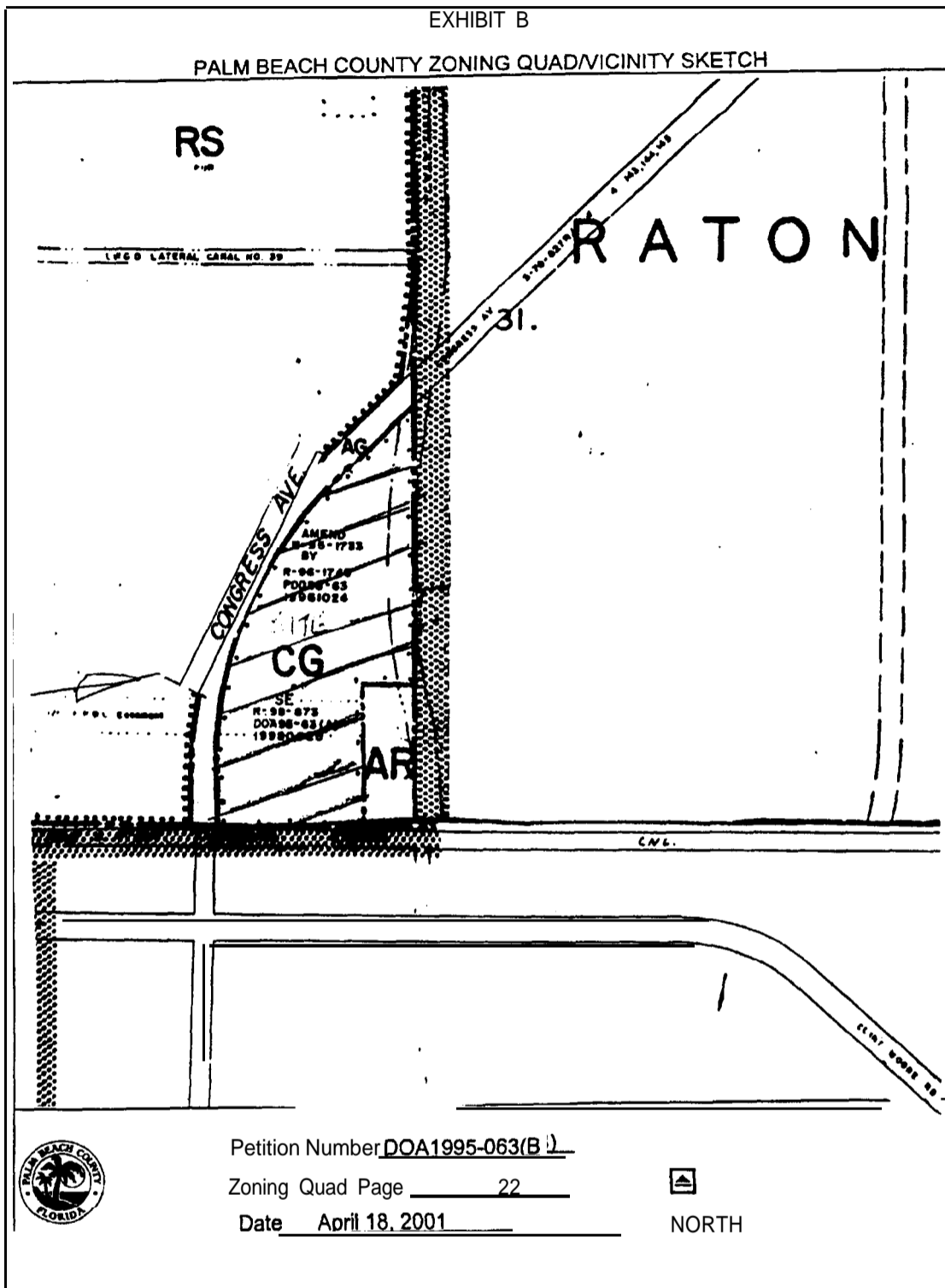


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will remain in effect unless expressly modified. Many of the new Architectural Control conditions will replace the previous Building and Site Design conditions. Staff has also included several of the previous conditions pending site plan modifications and alternative building elevations.

A. ALL PETITIONS

1. Condition A. 1 of Resolution R-98-0873, Petition **DOA95-63(A)** which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-95-1733 (Petition 95-63), 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: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-98-0873 (Petition **DOA1** 995-063(A)) 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 herein. (ONGOING: MONITORING - Zoning)

2. Condition A.2 of Resolution R-98-0873, Petition **DOA95-63(A)** 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 site plan is dated June 15, 1998. 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. (ONGOING: ZONING)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated May 29, 2001. 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. (ONGOING: ZONING)

B. ARCHITECTURAL CONTROL

1. The proposed Costco building shall be designed and constructed to be generally consistent with the facade elevations by Mulvanny G.2 dated June 11, 2001. Deviations from these elevations may be permitted to comply with applicable architectural conditions of approval. (BLDG PERMIT: BLDG - Zoning)

2. Prior to final DRC site plan certification, revised exterior elevations of all buildings shall be approved by the Zoning Division and shall include the following:
 - a. All roof top mechanical and electrical equipment, including satellite dishes, shall be screened completely on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure;
 - b. Similar architectural character and treatment shall be provided on all sides of the building;
 - c. All building entries shall be easily identifiable and integrated into the building's architecture;
 - d. Exterior treatment of the building elevations shall consist of two different building materials, textures, or finishes at a maximum of 80% for the primary treatment and minimum of 20% for the secondary treatment(s);
 - e. Design of gutters and downspouts shall be architecturally integrated into the architectural design of the building. Painting of the gutters and downspout shall not constitute architectural integration;
 - f. In relation to the north and east elevations, facades greater than **seventy-five (75)** feet in length shall incorporate numbers (1) and (2) below every seventy-five (75) linear feet and in relation to the south and west elevations, facades greater than fifty (50) feet in length shall incorporate numbers (1) and (2) below every fifty (50) linear feet:
 - (1) recesses and projections a minimum of sixteen (16) inches in depth
 - (2) a peak roof form, such as a hip-on-deck or mansard roof, on fifty (50) percent of the recesses and projections. The peak roof treatment shall vary in height and shall be proportioned to the building height such that it is no less than one-fourth (**1/4**) of the total building facade height;
 - g. Additional architectural treatments such as decorative columns, arches, and use of barrel tile, etc. shall be continued on all facades, to avoid the appearance of blank walls. (DRC/BLDG PERMIT: ZONING)
3. All loading areas, garage doors, overhead doors, and outdoor storage areas shall be screened from view from the adjacent properties by an eight (8) foot high wall, designed to be compatible with architectural treatment of the principal building. (DRC/BLDG PERMIT: ZONING/ BLDG-Zoning)
4. Prior to final DRC Site Plan certification, pedestrian amenities shall be indicated for each 100,000 gross square feet of floor area or fraction thereof, and incorporated in the overall development to create a pedestrian friendly atmosphere. Examples include, but are not limited to: public art, clock tower, **water feature/fountain**, outdoor patio/courtyard, and/or outdoor furniture. The cost of each amenity shall be a minimum of one (1) percent of the total cost of construction. (DRC: ZONING)
5. Pedestrian amenities shall be constructed prior to the issuance of Certificate of Occupancy for the retail building. (CO: BLDG - Zoning)

6. The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes, and rooftop equipment screening shall not exceed thirty-six (36) feet, excluding decorative roof treatment for the main entrance only which may exceed this height up to an overall building height of forty-six (46) feet. All heights shall be measured from finished grade to highest point. (DRC/BLDG PERMIT: ZONING - Bldg)

C. BUILDING AND SITE DESIGN

1. Condition B.1 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

Total gross floor area of any individual tenant shall be limited to a maximum of 60,000 square feet. (DRC: BLDG - Zoning)

Is hereby deleted. [REASON: Requested by petitioner.]

2. Condition 8.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

A maximum of three (3) out-parcels shall be permitted on-site. A maximum of one (1) out-parcel may have vehicular circulation on all four (4) sides.

Is hereby amended to read:

Only one (1) out-parcel shall be permitted on-site and limited to a maximum 5,860 sq. ft. bank with one drive thru lane. (DRC: BLDG - Zoning)

3. Condition B.3 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

All structures shall be consistent in architectural design, details, colors and materials. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

4. Condition B.4 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

Similar architectural character and treatment, such as color, material and roof treatment, shall be provided on all sides of the buildings. Canopies and awnings shall not be required along the sides and rear of the two primary buildings. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

5. Condition B.5 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

All ground level air conditioning and mechanical equipment 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. The roof line shall be extended to the height necessary to fully screen from view all roof mounted equipment on all sides. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

6. Condition B.6 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas along the eastern property line.

Is hereby amended to read:

Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF)

7. Condition B.7 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall be screened from view on all sides in a manner consistent with the color, character and architectural style of the principal structure and shall be confined to areas designated on the site plan. (DRC: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

8. Condition B.8 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

The petitioner shall submit plans to the City of Boca Raton Community Appearance Board for informal review and advisory comments. (Condition satisfied by Petitioner on November 28, 1995)

Is hereby amended to read:

Prior to final site plan certification, the petitioner shall submit elevations, by Mulvanny G.2 dated June 11, 2001, to the City of Boca Raton Community Appearance Board for informal review and advisory comments. These comments shall be incorporated into the final site plan and elevations. In the event that an issue cannot be resolved between the Community Appearance Board and the petitioner, the petition shall be presented to the Board of County Commissioners as an Administrative Inquiry for a final decision. (DRC: ZONING)

9. Condition 8.9 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

No drive in/drive through restaurants shall be permitted. Out parcels restaurants shall not be permitted indoor or outdoor play areas. Out parcels restaurants shall not have outdoor seating. (ZONING / BLDG - Zoning)

Is hereby deleted. [REASON: New Condition C.2.]

10. **No vehicular use, parking, landscaping or other improvements shall be located within the LWDD easements along the south and east property lines, unless permitted by the LWDD. (ZONING) (Previously Condition B. 10 of Resolution R-98-0873, Petition DOA95-63(A))**

11. Condition B. 11 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

The petitioner shall vary the front facade of all structures with the use of such features as archways, canopies and building off-sets so that there is no more than 300 feet between these distinguishing architectural features, such as those shown on the preliminary architectural elevations date November 20, 1995. The purpose of this requirement is to prevent the perception of a long, straight building with no architectural relief. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

12. Condition B.12 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

There shall be no external rain leaders on any building except on the east side of the two primary buildings. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition B.2.]

13. **There shall be no external ladders mounted on any building. (BLDG. PERMIT: BLDG -Zoning) (Previously Condition B.13 of Resolution R-98-0873, Petition DOA95-63(A))**

14. **The petitioner shall provide an on site, covered dropoff area to accommodate public transportation. The covered dropoff area shall have consistent architectural and landscape treatment as the remainder of the shopping center. (BLDG. PERMIT: BLDG - Zoning) (Previously Condition B.14 of Resolution R-98-0873, Petition DOA95-63(A))**

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. **Prior to DRC certification of the site plan, the petitioner shall submit to ERM for review and approval a Preservation and Relocation Plan. This plan shall:**

a. **Demonstrate how significant native vegetation is incorporated into the site design.**

b. **Identify by number all native vegetation relocated to the preservation areas, buffer areas, and parking islands.**

c. **Detail tree protection procedures and guidelines for excavating and dewatering within fifty (50) feet of preserved vegetation.**

- d. **Provide for selective pruning of tree branches less than fifteen (15) feet in height overhanging proposed vehicular circulation areas. No removal of these branches shall occur without prior approval from ERM. (DRC: ERM) (Previously Condition C.1 of Resolution R-98-0873, Petition DOA95-63(A))**
2. **Prior to DRC certification of the site plan, the petitioner shall submit to ERM for review and approval a Listed Species Relocation Plan. This plan shall:**
 - a. **Demonstrate how the listed species are incorporated into the site design.**
 - b. **Identify by name and quantity the listed species relocated to the preservation areas or other designated receiversites. (DRC: ERM) (Previously Condition C.2 of Resolution R-98-0873, Petition DOA95-63(A))**
3. **Prior to DRC certification of the site plan, the petitioner shall submit to ERM for review and approval a Tree Well and Aerator/Feeder Plan. This plan shall:**
 - a. **Detail the construction of each tree well including well size, width, depth, material composition, and safety measures to protect the public.**
 - b. **Detail the placement of each aerator/feeder including tree size, distance from tree, depth, number required and topological and finish grade elevations. (DRC: ERM) (Previously Condition C.3 of Resolution R-98-0873, Petition DOA95-63(A))**
4. **Prior to DRC certification of the site plan, the petitioner shall submit the Landscape plan to ERM and the Zoning Division for review and approval. This plan shall:**
 - a. **Incorporate the relocated and preserved vegetation within the construction areas and assigned tree survey numbers.**
 - b. **Denote any changes or deviation approved by ERM from the Preservation and Relocation Plan. (DRC: ERM/ZONING) (Previously Condition C.4 of Resolution R-98-0873, Petition DOA95-63(A))**
5. **Prior to DRC certification of the site plan, the petitioner shall submit to ERM for review and approval the Preserve Management Plan. (DRC: ERM) (Previously Condition C.5 of Resolution R-98-0873, Petition DOA95-63(A))**
6. **Prior to DRC site plan certification the Petitioner shall modify the site plan and coordinate with the Department of Environmental Resources Management to establish a building elevation that will permit the raising of the water level in the E-4 canal as determined by ERM. (DRC: ERM)**
7. **All existing native vegetation presently shown on the site plan shall be preserved in place and incorporated into the final plan prior to DRC site plan certification. (DRC: ERM)**

E. ENGINEERING

1. **Prior to the issuance of any building permits, including the proposed ATM, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for the construction of a right turn lane along Congress Avenue at the project's middle entrance. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer and shall be in addition to the standard 120' Right-of-way. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG. PERMIT: MONITORING - Eng) (Complete) (Previously Condition E. 1 of Resolution R-98-0873, Petition DOA95-63(A))**

2. **Property Owner shall construct a right turn lane south approach on Congress Avenue at the project's middle entrance. This construction shall be provided concurrent with the paving and drainage improvements for building permits greater than 35,000 square feet. Any and all costs associated with this turn lane construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations.**
 - a) **Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit for paving and drainage improvements for building permits greater than 35,000 square feet. (BLDG. PERMIT: MONITORING - Eng) (Previously Condition E.2.a of Resolution R-98-0873, Petition DOA95-63(A))**

 - b) **Construction shall be completed prior to the issuance of Certificates of Occupancy for more than 35,000 square feet of building area. (CO: MONITORING - Eng) (Previously Condition E.2.b of Resolution R-98-0873, Petition DOA95-63(A))**

The Property Owner may elect to proceed with turn lane construction (and/or driveway turn-out and/or median improvement construction in accordance with the approved Site Plan) for the Project at an earlier date in conjunction with the six-laning improvements for Congress Avenue (by others), subject to compliance with County's access management standards and permitting requirements. It shall be the property owners responsibility to contract with Palm Beach County's Roadway Production Division and Peninsula Park\Carr to affect the inclusion of the required plan changes in the design and construction of the Congress Avenue Road widening project. (Previously Condition E.2 of Resolution R-98-0873, Petition DOA95-63(A))

3. **Condition E.3 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:**

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project, Zoning Petition 95-63, which is to be paid at the time of issuance of the Building Permit presently is **\$502,150.00** (9,130 trips X \$55.00 per trip) (BLDG. PERMIT: IMPACT FEE COORD)

Is hereby deleted. [REASON: Code Requirement]

4. **The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the project's entrance road (across from the main entrance to the Boca Golf and Tennis Club) and Congress Avenue. Should signalization not be warranted after 36 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.** (ONGOING: ENG - Bldg) (Previously Condition E.4 of Resolution R-98-0873, Petition DOA95-63(A))
5. Condition E.5 of Resolution R-95-1733, Petition 95-63 was deleted by R-98-0873.
6. Condition E.6 of Resolution R-95-1 733, Petition 95-63 **was** deleted by R-98-0873.
7. **Prior to June 4, 1996, the Property Owner shall make a voluntary contribution to the County of \$100,000 to assist in funding other road improvements in the area.** (DATE: MONITORING - Eng) (Complete) (Previously Condition E.7 of Resolution R-98-0873, Petition DOA95-63(A))
8. **Building permits shall not be issued for more than 1180 net external trips per day (14,750 square feet of general retail or equivalent land uses as approved by the County Engineer) until a contract has been let for the construction of Military Trail from West Atlantic Avenue to Clint Moore Road to a 6-lane divided section, including the following improvements (and signal modifications to accommodate these improvements) at the intersection of Military Trail/ Clint Moore Rd.:**

a) second left turn lane, south approach; and

b) second left turn lane, north approach

NOTE: These improvements are scheduled in Palm Beach County's 5-Year Road Program for FY 1996197. (BLDG PERMIT: BLDG - Eng) (Previously Condition E.8 of Resolution R-98-0873, Petition DOA95-63(A))

9. a) **Property Owner shall have entered into a Public Facilities Agreement ("PFA") with Palm Beach County prior to approval of Zoning Petition 95-63(A). The PFA shall govern the project phasing based upon the following criteria and subject to agreements included in the PFA.** (ENGINEERING) (Previously Condition E.9.a of Resolution R-98-0873, Petition DOA95-63(A))
- b) **This project shall be phased as follows:**

building permits shall not be issued for more than 1633 net external trips per day (24,650 square feet of general retail or equivalent land uses as approved by the County Engineer) until a contract has been let for construction of Yamato Road as a 6-lane divided section between Congress Ave. to Military Trail. The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (REVISED TRAFFIC STUDY: MONITORING-Eng) (Previously Condition E.9.b of Resolution R-98-0873, Petition DOA95-63(A))

- c) **The Property Owner shall post surety for the Yamato Road construction with the Office of the Land Development Division in accordance with the terms of PFA (anticipated to be July 25, 1998. Surety shall be in the amount of \$1.29608 million dollars. (DATE: MONITORING-Eng) (Previously Condition E.9.c of Resolution R-98-0873, Petition DOA95-63(A))**
- d) **Traffic impact fee credit shall be provided in the amount of \$1.5 million dollars. This amount reflects the funding provided for in condition 9(c) above and the funds previously expended by the property owner. (DATE: MONITORING - Zoning) (Previously Condition E.9.d of Resolution R-98-0873, Petition DOA95-63(A))**

- 10. Condition E.10 of Resolution R-95-I 733, Petition 95-63 was deleted by R-98-0873.
- 11. **In addition to the conditions related to offsite roadway requirements set forth above, Property Owner shall be solely responsible for the cost of design, permitting, and construction of turn lane improvements along Congress Ave. necessary to provide direct access to the project site in conjunction with proposed project development activities. (ONGOING: ENG) (Previously Condition E. 11 of Resolution R-98-0873, Petition DOA95-63(A))**
- 12. Condition E. 12 of Resolution R-95-I 733, Petition 95-63 was deleted by R-98-0873.
- 13. Condition E.13 of Resolution R-95-I 733, Petition 95-63 which currently states:

LANDSCAPE WITHIN MEDIAN

- A. **Prior to issuance of a building permit for more than 1000 square feet of commercial area, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of Congress Avenue right-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. The property owner shall also be responsible to supplement 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. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the**

“Low Cost Planting Concept” outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. (BLDG PERMIT: MONITORING - Eng) (Previously Condition E.13.A of Resolution R-98-0873, Petition DOA95-63(A))

- B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All 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 before the issuance of a Certificate of Occupancy for more than 1000 square feet of commercial area. (BLDG - Eng) (Previously Condition E.13.B of Resolution R-98-0873, Petition DOA95-63(A))**
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy for more than 1000 square feet of commercial area. (BLDG - Co Atty) (Previously Condition E.13.C of Resolution R-98-0873, Petition DOA95-63(A))**

Is hereby amended to read:

LANDSCAPE WITHIN MEDIAN OF CONGRESS AVENUE

- 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 Congress Avenue. 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 heal-in 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. (BLDG PERMIT: MONITORING - Eng)**

- 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 Homeowners'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 prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)
- C. If the Developer does not enter into an agreement with Palm Beach County to assume the 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. (BLDG PERMIT: MONITORING-Eng)
14. **Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County a 10' wide (typical) temporary and non-exclusive roadway construction easement along the project's entire Congress Avenue frontage. Construction within this easement by County (and/or its agents) shall conform to Palm Beach County Standards and shall be consistent with project Development Order conditions including, but not limited to: ERM restrictions; landscaping and berm requirements; and, any obligations with regard to existing easement rights of others. County (and/or its agents) shall be responsible for: a) Protecting all native vegetation, landscaping, irrigation, utilities, drainage, sidewalk, paving, signage, fencing and/or other above/below ground improvements within said easement area; b) Taking all reasonable precautions to prevent the discharge of hazardous materials/wastes within/adjacent to the easement area; and, c) Providing for the repair, replacement or reconstruction (as appropriate) of any damage to existing native vegetation, landscaping and/or other facilities within/adjacent to the easement as impacted by the proposed construction activities.** (BLDG PERMIT: MONITORING - Eng) (Previously Condition E.14 of Resolution R-98-0873, Petition DOA95-63(A))
15. The Property Owner shall have a traffic study prepared for the Costco Building once the Costco Building has been in operation for 12 months. This **traffic** study shall be for 2 consecutive 24 hour time periods, and shall include a generation analysis, an origin and destination study, and a determination of the pass by trips to and from the site. The methodology for this study shall be approved by the Traffic Director. This study shall be submitted to the **Traffic** Division 13 months after the issuance of the Certificate of Occupancy. (ENGINEERING)

16. Delivery trucks shall not be permitted the use of the main entrance for deliveries into the site. Costco shall co-ordinate deliveries to the site with their vendors to ensure compliance with this condition of approval. Truck route **Signage** shall be shown on the final site plan approved by the DRC. All signs shall be installed prior to the issuance of a certificate of occupancy. (CO:MONITORING-Eng)

F. HEALTH

1. No vehicle maintenance including oil changing or repair will take place at this site. (ONGOING: CODE ENF/HEALTH)
2. 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)
3. 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)

G. LANDSCAPE

1. Condition D. 1 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

All landscaping shall be installed and maintained in accordance with the cross sections, buffer widths and landscape design concepts represented in the Regulating Plan dated July 25, 1995 and revised November 20, 1995, except as modified below:

- a. **The landscape buffer, north of the FP&L substation, shall become a Type A landscape buffer/Area 1.**
- b. **The eastern buffer abutting the E4 canal shall be a Type B/Area 4 buffer except where adjacent to preserve areas where it will become a Type A/Area 1.**
- c. **Type D landscape buffer/Areas 1 and 2 (Congress Ave.)**
 - (1) **Minimum four (4) foot high visual screen at time of installation measured from the sidewalk grade consisting of layered plantings and berming.**

Is hereby amended to read:

All landscaping shall be installed and maintained in accordance with the cross sections, buffer widths and landscape design concepts as shown in Kilday & Associates Conceptual Landscape Plan dated **May 29, 2001.** (LANDSCAPE-Zoning)

2. Condition D.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

The Congress Avenue buffer shall be completed for each phase of the shopping center prior to the issuance of the first certificate of occupancy for that phase. (CO: MONITORING - Zoning)

Is hereby amended to read:

The Congress Avenue buffer shall be completed prior to the issuance of the certificate of occupancy for the Costco building. (CO: MONITORING - Zoning)

3. Condition D.3 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

Landscaping on Congress Avenue (exclusive of preserve and/or vegetation relocation receiving zones) shall consist of the following:

- a. **Total quantity of trees shall average one tree per 200 square feet of buffer area.**
- b. **The total quantity of required trees under Table 6.8-3 of the ULDC (one tree per 300 sq. ft. of buffer area shall comply with the following minimum tree height and canopy requirements:**
 - I) Fifty (50) percent twelve (12) foot high with six (6) foot canopy;**
 - ii) Forty (40) percent fourteen (14) foot high with seven foot (7) foot canopy; and**
 - iii) Ten (10) percent sixteen (16) foot high with eight (8) foot canopy.**
- c. **Remainder of trees provided shall be a minimum ten (10) foot high with four (4) foot canopy to allow flexibility in the proposed Alternative Landscape Betterment Plan. Palms may be substituted as permitted per ULDC requirements.**
- d. **Minimum twenty (20) foot width. (LANDSCAPE-Zoning)**

Is hereby amended to read:

Landscaping on Congress Avenue (exclusive of preserve and/or vegetation relocation receiving zones) shall consist of the following:

- a. Total quantity of trees shall average one tree per 200 square feet of buffer area.
- b. The total quantity of required trees under Table 6.8-3 of the ULDC (one tree per 300 sq. ft. of buffer area shall comply with the following minimum tree height and canopy requirements:
 - I) Fifty (50) percent twelve (12) foot high with six (6) foot canopy;
 - ii) Forty (40) percent fourteen (14) foot high with seven foot (7) foot canopy; and

- iii) Ten (10) percent sixteen (16) foot high with eight (8) foot canopy.
 - c. Remainder of trees provided shall be a minimum ten (10) foot high with four (4) foot canopy to allow flexibility in the proposed Kilday & Associates Conceptual Landscape Plan dated May 29, 2001. Palms may be substituted as permitted per ULDC requirements.
 - d. Minimum fifty (50) foot width with six (6) foot high continuous berm. (LANDSCAPE-Zoning)
- 4. **Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress and egress to the site. The minimum width of this median shall be six (6) feet. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median.** (CO: LANDSCAPE-Zoning) (Previously Condition 0.4 of Resolution R-98-0873, Petition DOA95-63(A))
- 5. Condition D.5 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

The petitioners shall provide an eight (8) foot visual screen consisting of a berm or fence with landscaping along the west side of the existing FPL transmission poles located in the rear of the shopping center. (CO: BLDG - Zoning)

Is hereby amended to read:

The petitioner shall provide an eight (8) foot visual screen consisting of a berm **or fence** with landscaping along the west side of the existing FPL transmission poles located on the east property line as allowed by, and consistent with FPL Guidelines. (CO: BLDG - Zoning)
- 6. **Planting design along Congress Avenue shall include flowering trees.** (CO: LANDSCAPE-Zoning) (Previously Condition D.6 of Resolution R-98-0873, Petition DOA95-63(A))

H. LIGHTING

- 1. **All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. Low intensity back lighted or interior lighted signs may be permitted.** (BLDG. PERMIT: BLDG / CODE ENF - Zoning) (Previously Condition F.I of Resolution R-98-0873, Petition DOA95-63(A))
- 2. **All outdoor lighting fixtures shall be "shoe-box" style and thirty (30) feet in height, measured from finished grade to highest point. All lighting fixtures shall be directed downward at ninety (90) degrees or less.** (BLDG PERMIT: BLDG -Zoning) (Previously Condition F.2 of Resolution R-98-0873, Petition DOA95-63(A))

3. **All outdoor lighting shall be extinguished no later than 12:00 p.m., excluding security lighting only.** (ONGOING: CODE ENF) (Previously Condition F.3 of Resolution R-98-0873, Petition DOA95-63(A))
4. **All lighting fixtures shall be of a consistent source.** (BLDG PERMIT: BLDG - Zoning) (Previously Condition F.4 of Resolution R-98-0873, Petition DOA95-63(A))
5. **Wall mounted security lights shall be of a design that does not project light onto adjacent property or public right-of-ways.** (BLDG PERMIT: BLDG - Zoning) (Previously Condition F.5 of Resolution R-98-0873, Petition DOA95-63(A))

i. MUPD

1. **Prior to site plan certification, the petitioner shall record in the public records covenants ensuring architectural compatibility between buildings and signage for the entire subject property. The covenants shall be in a form acceptable to the County Attorney and shall not be removed, altered, changed or amended without written approval from the County.** (DRC: COUNT/ATTORNEY-Zoning) (Previously Condition G. 1 of Resolution R-98-0873, Petition DOA95-63(A))

2. Condition G.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

Total gross floor area shall be limited to a maximum of 246,900 square feet and construction may be implemented by Developer in two phases. Phase-I development shall consist of construction of an unmanned, remote "ATM" banking facility in a 1.37 +/- acre area along with associated landscaping, paving and signage as identified on the Preliminary Development Plan as set forth on exhibits identified as the Boca Congress Center Master Plan and Site Plan, as last revised by Winston Lee & Associates on June 15, 1998. (DRC: ZONING)

Phase-I development activities, as referenced in the previous paragraph, shall constitute the initial, but not necessarily the ultimate, construction improvements within the Phase-I area, and shall include:

- a. **Construction and landscaping of the perimeter berm along Congress Avenue conforming to previous approvals and limited to an area extending from the south side of the entrance drive to the north boundary of the FPL Easement Area;**
- b. **Compliance with requirements of the previous County Environmental Resource Management approvals to the minimum extent necessary to complete Phase-I development;**
- c. **Easements as may be required, both within and outside the Phase-I area, to provide for public utility improvements and/or drainage facilities; and,**
- d. **No water or sewer service requirements since Phase-I facilities will not be manned.**

Developer shall within fifteen (15) days of County's amendment of Development Order conditions apply for, and DRC shall thereafter expeditiously process final certification of exhibits identified as the Boca Congress Center Master Plan and Site Plan, as last revised by Winston Lee & Associates on June 15, 1998, reflecting the proposed Phase -I development activities. The Phase-I ATM shall be operational no later than March 31, 1999, and shall remain operational until replaced by any future development.

Developer shall have three years in which to commence development of a subsequent phase or phases of Project development following the first building inspection of Phase-I as set forth in Section 5.8, Table 5.8-1, Planned Development District: Non-Planned Unit Development. (DRC/DATE: ZONING/MONITORING - Code Enf/Zoning)

Is hereby amended to read:

Total gross floor area shall be limited to a maximum of 156,523 square feet and construction may be implemented by Developer in two phases. Phase-I development shall consist of construction of an unmanned, remote "ATM" banking facility in a 1.37 +/- acre area along with associated landscaping, paving and **signage** as identified on the Preliminary Development Plan as set forth on exhibits identified as the **Boca** Congress Center Master Plan and Site Plan, as last revised by Kilday & Associates on **May 29, 2001**. (DRC: ZONING)

Phase-I development activities, as referenced in the previous paragraph, shall constitute the initial, but not necessarily the ultimate, construction improvements within the Phase-I area, and shall include:

- a. Construction and landscaping of the perimeter berm along Congress Avenue conforming to previous approvals and limited to an area extending from the south side of the entrance drive to the north boundary of the FPL Easement Area;
- b. Compliance with requirements of the previous County Environmental Resource Management approvals to the minimum extent necessary to complete Phase-I development;
- c. Easements as may be required, both within and outside the Phase-I area, to provide for public utility improvements **and/or drainage facilities**; and,
- d. No water or sewer service requirements since Phase-I facilities will not be manned.

Developer shall within fifteen (15) days of County's amendment of Development Order conditions apply for, and DRC shall thereafter expeditiously process final certification of exhibits identified as the **Boca** Congress Center Master Plan and Site Plan, as last revised by Kilday & Associates on May 29, 2001, reflecting the proposed Phase -I development activities. The Phase-I ATM shall be operational no later than March 31, 1999, and shall remain operational until replaced by any future development.

Developer shall have three years in which to commence development of a subsequent phase or phases of Project development following the first building inspection of Phase-I as set forth in Section 5.8, Table 5.8-1, Planned Development District: Non-Planned Unit Development. (DRC/DATE: ZONING/MONITORING-Code Enf/Zoning) [REASON: Phase I-ATM already constructed.]

3. Condition G.3 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

To ensure consistency with the site plan dated June 15, 1998 presented to the Board of County Commissioners, no more than ten (10) percent of the total approved square footage shall be administratively relocated.
(DRC: ZONING)

Is hereby amended to read:

To ensure consistency with the site plan dated **May 29, 2001**. presented to the Board of County Commissioners, no more than ten (10%) percent of the total approved square footage shall be administratively relocated. (DRC: ZONING)

J. SIGNS

1. Condition H.1 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

All point of purchase, free standing, entry and out parcel identification signs shall conform to the recommendation by the City of Boca Raton Community Appearance Board as referenced in the letter provided by the petitioner dated December 4, 1995. All freestanding signs shall not exceed a maximum of twelve (12) feet in height measured from finished grade to highest point.

Is hereby amended to read:

There shall be only one (1) monument style sign with a maximum ten (10) feet in height located at the main entrance on Congress Avenue. This sign shall conform to the December 4, 1995 recommendations by the City of Boca Raton Community Appearance Board. Sign height shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

2. Condition H.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently state:

There may be a maximum of three free standing project identification signs and total of two freestanding outparcel identification signs.
(BLDG PERMIT: BLDG - Zoning)

Is hereby deleted. [REASON: New Condition J.1.]

3. Condition H.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:

The building signs shall be designed as a unified sign program for the entire project, utilizing consistent size and placement. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted. [Reason: New Condition J.6]

4. **Signs may only advertize the business name. No product identification shall be allowed on signs.** (BLDG PERMIT: BLDG - Zoning)(Previously Condition H.4 of Resolution R-98-0873, Petition DOA95-63(A))
5. **Signs may not utilize exposed neon, nor shall exposed neon be allowed as an architectural feature.** (BLDG PERMIT: BLDG - Zoning)-(Previously Condition H.5 of Resolution R-98-0873, Petition DOA95-63(A))
6. No wall signs permitted. (BLDG PERMIT: BLDG-Zoning)
7. The main (central) entrance on Congress Avenue shall be posted with a “No truck traffic allowed” sign. (ONGOING: DRC/CODE ENF)

K. USE LIMITATIONS

1. Hours of operation for the wholesale discount facility shall be limited from **10:00** a.m. to **8:30** p.m. Monday through Friday, **9:30** a.m. to 6:00 p.m. on Saturday and 10:00 a.m. to 6:00 p.m. on Sunday.
2. No other uses shall be allowed on site except a wholesale discount club with general repair (tire center) and a separate financial institution. (ONGOING: CODE ENF-Zoning)
3. Prior to final site plan approval, the Petitioner shall record a deed restriction on the subject property, as approved by the Zoning Division and The County Attorney’s office. The deed restriction shall be enforceable by the **Boca** Golf and Tennis Property Owners Association and shall not be amended without their written consent. The deed restriction shall limit the uses and vertical design to the plan approved by the Board of County Commissioners, as amended by the final approved site plan. The deed restriction shall provide that no gas station shall be permitted on the property, nor shall there be cross access of any existing or future adjacent gas stations. (DRC: Zoning/Co Att)

L. WATER UTILITIES

1. **The Property Owner shall provide for the cost of design, preparation/dedication of easement(s), permitting, construction, inspection, testing, and certification of an Emergency Water Interconnect (“EWI”) - including associated water main extensions - between PBCWUD and City of Boca Raton (“City”) potable water systems, within or adjacent to the eastern right-of-way line of Congress Avenue expected to cost in the excess of \$100,000.00.**
 - a) **Developer’s obligations shall include the preparation/granting of a utility easement (approximately 20’ by 20’) to PBCWUD and/or City along the Project’s Congress Avenue frontage at a location acceptable to PBCWUD and City that does not impair development or the limits/scope of improvements shown on the approved Site Plan.** (ONGOING: PBCWUD) (Previously Condition I. 1 .a of Resolution R-98-0873, Petition DOA95-63(A))

- b) **Developer shall complete construction of the EWI in conjunction with the proposed six-laning improvements to Congress Avenue (to be provided by others) and prior to the issuance of the first certificate of occupancy for the shopping center, unless construction of the EWI is delayed or canceled by PBCWUD and/or the City, or as a result of delays associated with construction of the six-lane section of Congress Avenue. (CO: MONITORING - PBCWUD) (Previously Condition E.1 .b of Resolution R-98-0873, Petition DOA95-63(A))**
- c) **Developer shall not be entitled to any credits against the Project's PBCWUD Developer's Agreement fees for costs associated with the EWI, and shall not be entitled to any main "oversizing" credits associated with required EWI main extensions. (ONGOING: PBCWUD) (Previously Condition I. 1 .c of Resolution R-98-0873, Petition DOA95-63(A))**
- d) **The EWI facilities shall consist of:**
 - 1) **The extension of the existing PBCWUD 12" water main, located to the north of the northern driveway entrance to the Boca Golf & Tennis Club from the west side of Congress Avenue east and south to the northeast corner of the Project and proposed interconnection location as agreed by PBCWUD and the City;**
 - 2) **The extension of the existing City 16" water main, located in the approximate center of Congress Avenue, to the proposed interconnection location;**
 - 3) **Interconnection of the PBCWUD 12" water main and the existing City 16" water main, along with the installation of metering devices; and,**
 - 4) **Installation of fencing and/or landscaping improvements as may be required around the water system interconnect easement area. (ONGOING: PBCWUD) (Previously Condition 1.1 .d of Resolution R-98-0873, Petition DOA95-63(A))**

M. 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) (Previously Condition J. 1 of Resolution R-98-0873, Petition DOA95-63(A))**
- 2. **Condition J.2 of Resolution R-98-0873, Petition DOA95-63(A) which currently states:**

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; 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 ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or**
- d. **Referral to code enforcement; and/or**
- e. **Imposition of entitlement density or intensity.**

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Is hereby amended to read:

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; 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 ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of **PZ&B** or the Code Enforcement Division 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING-Zoning)