

RESOLUTION NO. R-2010- 1766

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2010-00144
(CONTROL NO. 1995-00063)
a Development Order Amendment
APPLICATION OF Costco Wholesale Corp
BY BOHLER Engineering, AGENT
(Boca Congress Center/ Costco Gas)

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; and

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

WHEREAS, Zoning Application DOA/R-2010-00144 was presented to the Board of County Commissioners at a public hearing conducted on August 26, 2010; and

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; and

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA/R-2010-00144, the petition of Costco Wholesale Corp, by BOHLER Engineering, agent, for a Development Order Amendment to modify/delete Conditions of Approval (Building and Site Design, MUPD, Signs, and Use Limitations), to reconfigure the site plan and add square footage in the MUPD Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on August 26, 2010, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Burt Aaronson, Chair	-	Aye
Commissioner Karen T. Marcus, Vice Chair	-	Absent
District 2	-	
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 26, 2010.

Filed with the Clerk of the Board of County Commissioners on October 29th, 2010

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



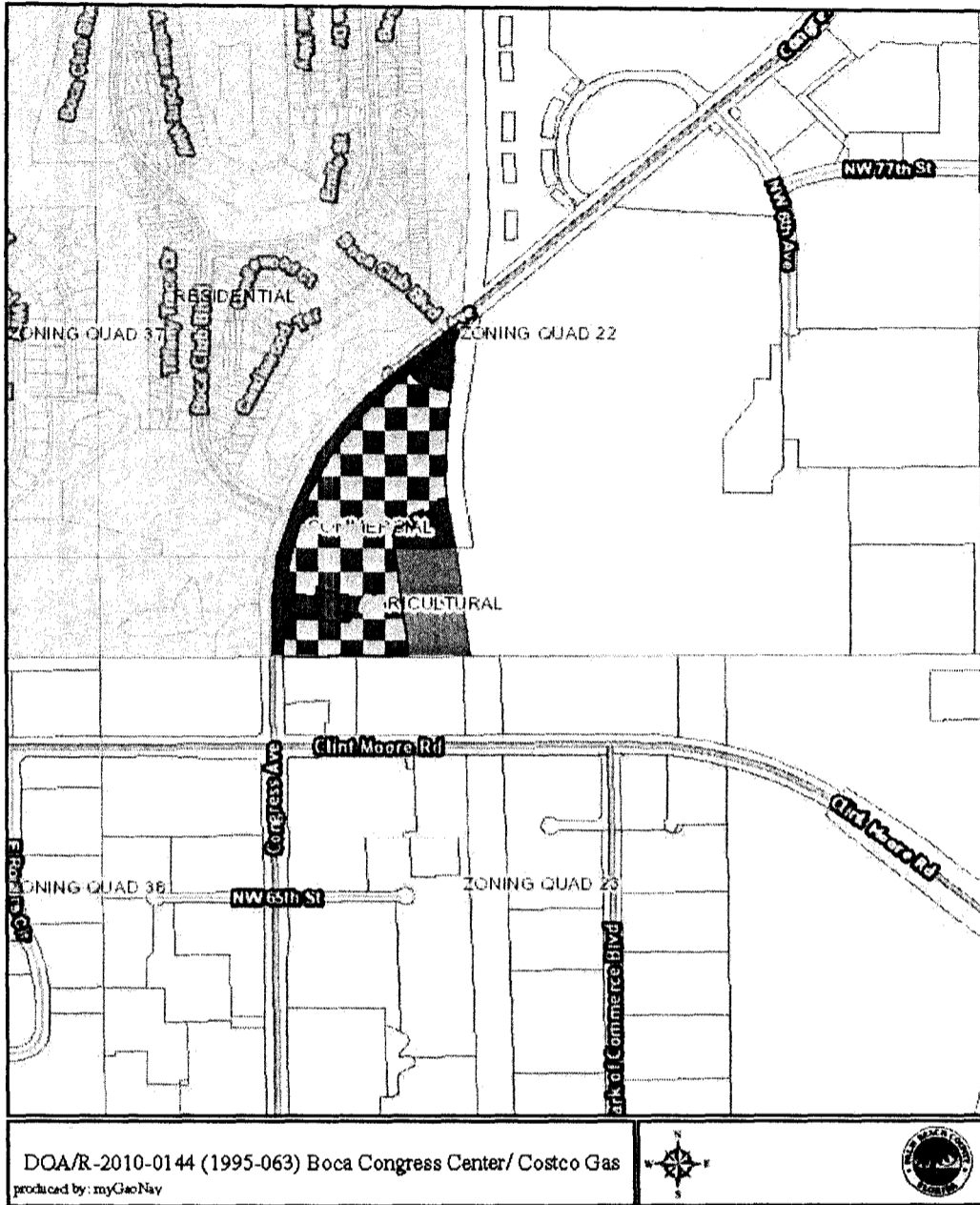
The seal is circular with the text "PALM BEACH COUNTY COMMISSIONERS" around the perimeter and "FLORIDA" at the bottom. A star is located at the bottom center of the seal.

EXHIBIT A
LEGAL DESCRIPTION

ALL OF THE PLAT OF BOCA CONGRESS CENTER, M.U.P.D. – PHASE 2, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 94, PAGES 6 THROUGH 8, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINS 27.77 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



DOA/R-2010-0144 (1995-063) Boca Congress Center/ Costco Gas
produced by: myGeoNav

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petition Condition 1 of Resolution 2001-0980 and 2001-1359, Control 1995-063B, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-1998-0873, (Control 1995-063) have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E 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 Resolution R-2001-0980, (Control 1995-063) and R-2001-1359, (Control 1995-063) have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

2.Previous Condition A.2 of Resolution R-2001-0980, Control 95-063, 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 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)

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 Preliminary Master Plan for the Boca Congress Center MUPD/ Costco is dated June 14, 2010 and the approved Preliminary Site Plan is dated June 21, 2010. 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-Zoning)

ARCHITECTURAL REVIEW

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 PERMT: BLDG - Zoning) (Previous condition Architectural Control B.1 of Resolution R-2001-0980, Control 95-063)

2.Condition Architectural Control B.2.of Resolution R-2001-0980, Control 95-063, which currently states:

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;

(3)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)

Is hereby deleted. [REASON: Code requirement]

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. (BLDG PERMIT: BLDG - Zoning) (Previous condition Architectural Control B.3 of Resolution R-2001-0980, Control 95-063)

4.Condition Architectural Control B.1 of Resolution R-2001-0980, Control 95-063, which currently states:

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)

Is hereby deleted. [REASON: Code Requirement]

5.Pedestrian amenities shall be constructed prior to the issuance of Certificate of Occupancy for the retail building. (CO: BLDG - Zoning)(Previous condition Architectural Control B.1 of Resolution R-2001-0980, Control 95-063)

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. (BLDG PERMIT: ZONING - Bldg) (Previous condition Architectural Control B.6 of Resolution R-2001-0980, Control 95-063)

8.Prior to building permit approval, all buildings and structures within the development shall have architectural elevations approved by the Architectural Review Section consistent with the Design Guidelines, Art.5.C. of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (BLDG: ARCH REVIEW - Zoning)

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) (Previous Condition E. 1 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

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.

- i. 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)
- ii. 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)

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. (Previous Condition E. 2 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

3. 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: ENGINEERING - Eng) (Previous Condition E. 4 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

4. 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) (Previous Condition E. 7 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

5. 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.:

- i. second left turn lane, south approach; and
- ii. second left turn lane, north approach

NOTE: These improvements are scheduled in Palm Beach County's 5- Year Road Program for FY 1996-1997. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E. 8 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

6. 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)

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)

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)

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)

(Previous Condition E. 9 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

7. 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: ENGINEERING - Eng) (Previous Condition E. 11 of Resolution R-2001-980, Control No. 1995-063)

8. 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)

(Previous Condition E. 13 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

9. Prior to the issuance of a building permit, the property owner shall convey to Palm Beach

County a 10' wide (typical) temporary and nonexclusive 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) (Previous Condition E. 14 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

10. Previous Condition E.15 of Resolution R-2001-980, Control No. 1995-063, which currently states:

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. (ONGOING: ENGINEERING - Eng)

Is hereby deleted. Reason: A revised traffic study was submitted with this DOA so no future analysis is required.

11. 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) (Previous Condition E. 16 of Resolution R-2001-980, Control No. 1995-063) [Note: COMPLETED]

12. The Property owner shall modify the existing full median opening on Congress Avenue at the southern project driveway to provide a directional (left-in only) median opening. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit for the gas station. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for the gas station. (CO: MONITORING-Eng)

13. 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, 2011. 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 Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

14. Employees of the Costco Warehouse shall be required to utilize the employee parking in the rear of the building. (ONGOING: CODE ENF-Code Enf)

HEALTH

1.No vehicle maintenance including oil changing or repair will take place at this site. (ONGOING: CODE ENF/HEALTH) (Previous condition H.1. of Resolution R-2001-980; Control 1995-063)

2.Generation and disposal of any hazardous effluents 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 tenants or owners generating such effluents. (ONGOING:CODE ENF-Health) (Previous condition H.2 of Resolution R-2001-980;Control 1995-063)

3.Any toxic or hazardous waste generated at this site shall be handled and disposed of in accordance with Chapter 62-730, FAC (ONGOING:HEALTH/CODE ENF) (Previous condition H.3 of Resolution 2001-980; Control 1995-063)

LANDSCAPE - GENERAL

1.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 May29, 2001. (LANDSCAPE - Zoning) (Previous condition Landscape 1 of Resolution R-2001-0980, Control 95-063)

2.The Congress Avenue buffer shall completed prior to the issuance of the certificate of occupancy for the Costco building. (CO: MONITORING -Zoning) (Previous condition Landscape 2 of Resolution R-2001-0980, Control 95-063)

3.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 forty-five (45) foot buffer width to include a five (5) foot overlap in the existing ten (10) foot utility easement. The overall fifty (50) foot dimension will include a six (6) foot high continuous berm except where the berm height may be varied as required by FPL guidelines. (LANDSCAPE-Zoning) (Previous condition Landcsape G.3 of Resolution R-2001-1359, Control 95-063)

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 (6) 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) (Previous Condition G.4 of Resolution R-2001-0980, Control 95-063)

5.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) (Previous condition Landscape G.5 of Resolution R-2001-0980, Control 95-063)

6.Planting design along Congress Avenue shall include flowering trees. (CO:LANDSCAPE-Zoning) (Previous Condition Landscape G.6 of Resolution R-2001-0980, Control 95-063)

7.Prior to August 26, 2011, the property owner shall replace all dead and missing plant materials on the entire subject property. (DATE: LANDSCAPE - Zoning)

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) (Previous condition Lighting H.1 of Resolution R-2001-0980, Control 95-063)

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) (Previous condition Lighting H.2 of Resolution R-2001-0980, Control 95-063)

3.All outdoor lighting shall be extinguished no later than 12:00 a.m., excluding security lighting only. (ONGOING: CODE ENF) (Previous condition Lighting H.3 of Resolution R-2001-1359, Control 95-063)

4.All lighting fixtures shall be of a consistent source. (BLDG PERMIT: BLDG - Zoning) (Previous condition Lighting H.4 of Resolution R-2001-0980, Control 95-063)

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) (Previous condition Lighting H.5 of Resolution R-2001-0980, Control 95-063)

PLANNED DEVELOPMENT

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) (Previous condition MUPD I.1 of Resolution R-2001-0980, Control 95-063)

2.Previous MUPD Condition I.2 of Resolution R-2001-1359, Control 95-063

Total gross floor area shall be limited to a maximum of 156,523 square foot retail center and 5,860 square foot bank, with two (2) drive-thru lanes and one (1) ATM lane, as delineated on the Boca Congress Center Master Plan and Site Plan, as last revised by Kilday and Associates on May 29, 2001. The Site Plan shall expire pursuant to the provisions of Article 5, Section 5.8 of the ULDC. (DRC: ZONING)

Is hereby amended to read:

Total gross floor area shall be limited to a maximum of 156,523 square foot retail center; 112 square foot auto service station with 16 fueling stations; and 5,860 square foot bank, with two (2) drive-thru lanes and one (1) ATM lane. (DRO:ZONING-Zoning)

3.To ensure consistency with the site plan dated May29, 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) (Previous condition MUPD I.2 of Resolution R-2001-0980, Control 95-063)

SIGNS

1.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) (Previous condition Signs J.1 of Resolution R-2001-0980, Control 95-063)

2. Previous Sign Condition J.1 of Resolution R-2001-0980, Control 95-063

Signs may only advertize the business name. No product identification shall be allowed on signs. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Signs may only advertize the business name. No product identification shall be allowed on signs, except if the product is indicated within the name of the business such as gas sales". (BLDG PERMIT: BLDG - Zoning)

3. Signs may not utilize exposed neon, nor shall exposed neon be allowed as an architectural feature. (BLDG PERMIT: BLDG Zoning) (Previous condition Signs J.5 of Resolution R-2001-0980, Control 95-063)

4. Previous Sign Condition J.6 of Resolution R-2001-1359, Control 95-063

6. All proposed wall signage shall be subject to review and approval by the Boca Raton Community Appearance Board. (BLDG PERMIT: BLDG-Zoning) (Previous condition Signs J.6 of Resolution R-2001-1359, Control 95-063)

Is hereby deleted. [Reason: Code Requirement]

5. The main (central) entrance on Congress Avenue shall be posted with a No truck traffic allowed" sign. (ONGOING: DRC/CODE ENF)

SITE DESIGN

1. Only one (1) out-parcel shall be permitted on-site and limited to a maximum 5,860 sq. ft. bank with two drive thru lanes and one ATM lane. (DRC: BLDG - Zoning) (Previous condition Building and Site Design C.2 of Resolution R-2001-1359, Control 95-063)

2. 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) (Previous Condition Building and Site Design 6 of Resolution R-2001-0980, Control 95-063)

3. Previous Building and Site Design Condition 8 of Resolution R-2001-0980, Control 95-063)

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. (DRC: ZONING)

Is hereby deleted. [Reason: No longer applicable]

4. 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) (Previous condition Building and Site Design 10 of Resolution R-2001-0980, Control 95-063)

5. There shall be no external ladders mounted on any building. (BLDG. PERMIT: BLDG - Zoning) (Previous Condition Building and Site Design 13 of Resolution R- 2001-0980, Control 95-063)

6. The petitioner shall provide an on site, covered drop off area to accommodate public transportation. The covered drop off area shall have consistent architectural and landscape treatment as the remainder of the shopping center. (BLDG. PERMIT: BLDG - Zoning) (Previous condition Building and Site Design 14 of Resolution R-2001-0980, Control 95-063)

USE LIMITATIONS

1. Previous Use Limitation K.1 of Resolution R-2001- 0980, Control 95-063

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.

Is hereby amended to read:

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. Hours of operation for the gas station shall be limited from 6:00 a.m. to 9:30 p.m. Monday through Friday, 6:00 a.m. to 8:00 p.m. on Saturday and 6:00 a.m. to 7:00 p.m. on Sunday. (ONGOING: CODE ENF - ZONING)

2. Previous condition Use Limitations K.2 of Resolution R-2001-0980, Control 95-063

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)

Is hereby amended to read:

No other uses shall be allowed on site except a wholesale discount club with general repair (tire center) and an 112 square foot auto service station with 16 fueling stations and a separate financial institution. (ONGOING: CODE ENF-Zoning)

2. Hours of operation for the auto service station shall be limited from 6:00 a.m. to 9:30 p.m. Monday through Friday, 6:00 a.m. to 8:00 p.m. on Saturday and 6:00 a.m. to 7:00 p.m. on Sunday. (ONGOING: CODE ENF - ZONING)

3. Previous condition Use Limitations K.3 of Resolution R-2001-1359, Control 95-063

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 structure 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)

Is hereby deleted. [Reason: No longer applicable]

COMPLIANCE

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

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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; 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 (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 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)