

RESOLUTION NO. R-2012- 1349

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2012-01263
(CONTROL NO. 1978-00220)
a Development Order Amendment
APPLICATION OF Weingarten Nostat Inc
BY Jon E Schmidt & Associates, AGENT
(Wendys at Boca Lyons)

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-2012-01263 was presented to the Board of County Commissioners at a public hearing conducted on September 27, 2012; 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-2012-01263, the petition of Weingarten Nostat Inc, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to reconfigure the site plan, add square footage and add a Requested Use 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 September 27, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair

- Aye

Commissioner Steven L. Abrams, Vice Chairman - Aye
Commissioner Karen T. Marcus - Aye
Commissioner Paulette Burdick - Aye
Commissioner Burt Aaronson - Aye
Commissioner Jess R. Santamaria - Aye
Commissioner Priscilla A. Taylor - Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 27, 2012.

Filed with the Clerk of the Board of County Commissioners on September 27th, 2012

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



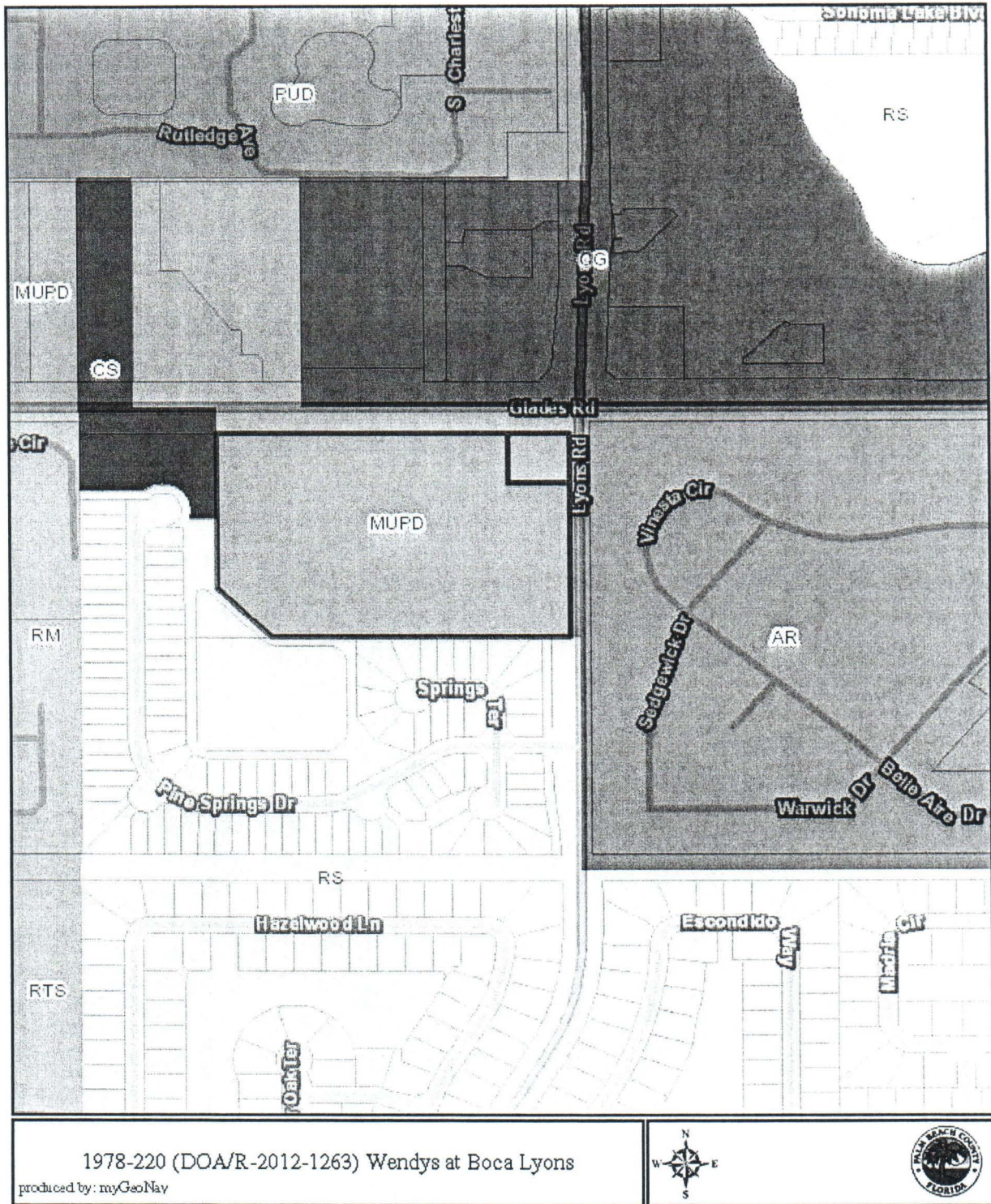
EXHIBIT A

LEGAL DESCRIPTION

**Legal Description
Boca Lyons Shopping Plaza
Palm Beach County (PBC) Development Review Officer (DRO) Submittal
Original Submittal: May 16, 2012**

Being all of Tract "A" of the Boca Lyons Shopping Plaza M.U.P.D as recorded in Plat Book 115, Pages 117 and 118, Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH



1978-220 (DOA/R-2012-1263) Wendys at Boca Lyons
produced by: myGeoNav

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous All Petition Condition 1 of Resolution 2011-1453, Control No. 1978-220 which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-78-1279 (Control 1978-00220), are hereby revoked. All previous approvals for the Large Scale Shopping Center and the Special Exception for an Auto Service Station are carried forward. The property owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2011-1453 (Control No. 1978-220), 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 Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The approved Preliminary Site Plan is dated July 11, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for Building A shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the facade elevations prepared by Wakefield Beasley & Associates and dated May 16, 2012. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. Property owner shall construct a 6 foot concrete sidewalk along the west side of Lyons Road along the entire property frontage. 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. These improvements shall be completed concurrently with the onsite paving and grading.

a. The sidewalk shall be permitted prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)

b. The sidewalk shall be completed prior to issuance of the first certificate of occupancy. (CO: MONITORING - Eng) (Previous Condition E1 of Resolution R-2011-1453, Control No. 1978-220)

2. The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer

for the expanded intersection right of way on Lyons Road, measured from the centerline of the road, and a 40-foot corner clip at the intersection of Glades Road and Lyons Road. All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. 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, including a topographic survey. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the property owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT/ONGOING: MONITORING-Eng) (Previous Condition E2 of Resolution R-2011-1453, Control No. 1978-220)
[NOTE: COMPLETED]

3. In conjunction with the widening of Lyons Road from 4-lanes to 6-lanes and within ninety (90) days of a request by the County Engineer, the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Lyons Road at the project's middle entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. 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, including a topographic survey. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (ONGOING: ENGINEERING-Eng) (Previous Condition E3 of Resolution R-2011-1453, Control No. 1978-220)

SIGNS

1. 1. New or replacement ground mounted freestanding signs fronting on Glades Road and Lyons Road shall be limited as follows:

- maximum sign height, measured from finished grade to highest point - ten (10) feet;
- maximum sign face area per side - one hundred (100) square feet;
- maximum number of signs - two (2) per frontage; and,
- style - monument style only; (BLDG PERMIT: BLDG - Zoning) (Previous All Petition Condition 1 of Resolution 2011-1453, Control No. 1978-220)

2. Ground Mounted Outparcel signs may be installed per Unified Land Development Code (ULDC) requirements. (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 2 of Resolution 2011-1453, Control No. 1978-220)

3. Prior to Final Site Plan approval by the Development Review Officer (DRO) the property owner shall provide a Master Sign Plan which includes all ground mounted freestanding signs fronting on Glades Road and Lyons Road. (DRO: Zoning- Zoning) (Previous Sign Condition 3 of Resolution 2011-1453, Control No. 1978-220) COMPLETE

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)