

**REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT**

**APPLICATION FOR SIGN WAIVER SW-16-09**

**NOVEMBER 15, 2016**

***Location:*** 4610 San Juan Avenue, between Hamilton Street and Roosevelt Boulevard

***Real Estate Number:*** 093811-0010

***Waiver Sought:*** Reduce the minimum sign setback from ten feet to zero feet

***Current Zoning:*** Community Commercial General-2 (CCG-2)

***Current Land Use Category:*** Commercial General Community (CGC)

***Planning District:*** Southwest, District 4

***Planning Commissioner:*** Chris Hagan

***City Council Representative:*** The Honorable Jim Love, District 14

***Applicant/Agent:*** Steven Diebenow, Esquire  
One Independent Drive, Suite 1200  
Jacksonville, Florida 32202

***Owner:*** John Winder Hughes, Jr. Trust et Al  
24 La Vista Drive  
Ponte Vedra, Florida 32082

***Staff Recommendation:*** **APPROVE**

**GENERAL INFORMATION**

Application for Sign Waiver Ordinance 2016-0683 (SW-16-09) seeks to allow for a reduction of the minimum set-back requirement from ten feet to zero feet for a new pylon sign. The original pole on which the current sign sits will remain in place, but the current sign will be replaced with an updated in-kind sign with energy efficient internal lighting that will have a reduced uplighting effect. The current sign cabinet is zero feet from the public right-of-way. The site is located along a commercial corridor of San Juan Avenue, and it is situated on the corner of Hamilton

Street and San Juan Avenue. The subject sign pole is set back from the public right-of-way about three feet. It is the cabinet of the sign that necessitates a waiver of the set-back to zero feet.

According to the Duval County Property Appraiser, the building was developed as the Wendy's fast food restaurant in 1982. The current sign was constructed prior to 1987 and is thus a legal, non-conforming sign. The reason for the present application for sign waiver is due to the fact that the sign will lose legal nonconformity once the sign is replaced.

It should be noted that the current sign and pole stand about two to three feet away from electrical and utility lines, and the new sign will remain the same distance from such lines. The location of the present and future signs will *not* be in compliance with the following Section of the Jacksonville Municipal Code of Ordinances:

Chapter 326, Part 2 (Construction Regulations) Sec. 326.201 (c) "No part of a sign shall be closer than five feet to an electric, telephone or other utility pole or line."

#### **NOTICE TO OWNER / AGENT**

Section 656.1310, Ordinance Code, sets forth procedures and criteria for evaluating waivers of the Part 13 sign regulations. Section 656.1302 of the Ordinance Code defines a sign as "*a painting, structure, projected image, or device which is placed, erected, or constructed or maintained on or in the ground or water, or on or outside of an enclosed building, boat, ship, vessel or other object or structure or affixed or painted on or inside an exterior window of a building for the purpose of display, information, advertisement or attraction of the attention of persons, including posters, pictures, pictorial or reading matter and a letter, word, model, device or representation used in the nature of an advertisement, announcement, attraction or direction...*"

#### **STANDARDS, CRITERIA AND FINDINGS**

Pursuant to Section 656.1310(a) and Section 656.133(c), Ordinance Code, an Application for Sign Waiver shall be evaluated in relation to the spirit and intent of the Zoning Code, considering the following criteria as applicable:

- (i) *Will the effect of the sign waiver be compatible with the existing contiguous signage or zoning and consistent with the general character of the area considering population, density, scale, and orientation of the structures in the area?*

No. The site is within a CCG-2 zoning district and the CGC functional land-use classification as defined by the Future Land Use Map Series (FLUMs) contained within the Future Land Use Element (FLUE) as adopted by the 2030 Comprehensive Plan. The existing signage in the area meets the required ten-foot set-back. However, the encroaching cabinet of the sign will be placed roughly thirty feet above ground level and, therefore, should not impact street-level visibility for vehicles, pedestrians, and bicyclists.

- (ii) *Would the result detract from the specific intent of the zoning ordinance by promoting the continued existence of nonconforming signs that exist in the vicinity?*

Yes. The intent of the Zoning Code is the ultimate elimination of all legal, nonconforming signs throughout the City through the enforcement of applicable sign requirements as signs are replaced. However, it is not possible to uphold the intent in this case as the subject sign cannot be moved from its present location without partially obstructing the drive aisle of the “drive-through” and food pick-up area. Furthermore, due to the height of the sign, visibility for drivers on San Juan Avenue will not be negatively impacted.

- (iii) *Could the effect of the proposed waiver diminish property values in, or negatively alter the aesthetic character of the area surrounding the site, and could such waiver substantially interfere with or injure the rights of others whose property would be affected by the same?*

No. The approval of this waiver will allow the Wendy’s restaurant, which underwent a major renovation in early 2016, to replace its main identification sign with a new sign using the updated identification branding. The proposed reduction in the required set-back should not have a negative impact on the aesthetic character of the area or diminish property values. The sign is situated in a heavily-commercialized corridor of San Juan Avenue and is not inconsistent with the signs that are common in such corridors.

- (iv) *Would the waiver have a detrimental effect on vehicular traffic or parking conditions, or result in the creation of objectionable or excessive light, glare, shadows, or other effects, taking into account existing uses and zoning in the vicinity?*

No. The requested encroachment of the cabinet of the sign will occur roughly thirty feet above ground level and about three feet from the edge of the sidewalk. Vehicular traffic and parking will not be impacted. Furthermore, the new sign cabinet will contain more efficient lighting that will have less uplighting effect than the current sign. The new sign will thus reduce the light and glare caused by the illumination of the sign during the night hours.

- (v) *Is the proposed waiver detrimental to the public health, safety or welfare, or could such waiver result in additional public expense, creation of nuisances, or cause conflict with any other applicable law?*

No and yes. The proposed waiver will not be detrimental to the public health, safety or welfare. However, the proposed waiver will conflict with Section 326.201 (c) because the current sign and pole stand about two to three feet away from electrical and utility lines, and the new sign will remain the same distance from such lines. Section 326.201 (c) orders that “No part of a sign shall be closer than five feet to an electric, telephone or other utility pole or line.” Therefore, the location of the future sign will not be in compliance with Sec. 326.201 (c) of the Zoning Code as the pole location will remain unchanged.

- (vi) *Does the subject property exhibit specific physical limitations or characteristics which could be unique to the site and which would make imposition of the strict letter of the regulation unduly burdensome?*

Yes. The property is already developed as a Wendy's restaurant. There are few other places that the sign could be placed to achieve the same effect of advertising the restaurant as the present location adjacent to San Juan Avenue does. Furthermore, if the cabinet were to meet the required ten-foot set-back, the sign would block the drive aisle of the "drive-through" area of the restaurant. The imposition of the strict letter of the regulation would be unduly burdensome to the restaurant owners as the "drive-through" would have to be completely reconfigured to allow placement of the sign in conformity with the set-back requirement.

- (vii) *Is the request based exclusively upon a desire to reduce the costs associated with compliance and is the request the minimum necessary to obtain a reasonable communication of one's message?*

No, the request is based on practical difficulties and financial concerns. However, the cost of compliance would exceed what would be reasonably expected of such an action as the traffic flow of the site and layout of the "drive-through" would have to be completely reconfigured and repaved to allow for placement of the sign in compliance with the ten-foot set-back. Given that the asphalt drive aisles and parking lot were just recently repaved this year, it would be unreasonable to request that the same be partially demolished and reconfigured to allow for the required set-back of the sign.

- (viii) *Is the request the result of violation that has existed for a considerable length of time without receiving a citation and if so, is the violation that exists a result of construction that occurred prior to the applicants acquiring the property, not being a direct result of the actions of the current owner?*

Yes. The sign was placed at its present location when the restaurant was built in 1982. It is a legal, nonconforming sign that has existed since then and will be replaced with an updated, energy-effect in-kind sign.

- (ix) *Does the request accomplish a compelling public interest, such as, for example, furthering the preservation of natural resources by saving a tree or trees?*

The request accomplishes a compelling public interest as the approval of the present waiver will allow the replacement of the older, weathered sign with a new sign that will have a minimal uplighting effect when compared to the current sign. The new sign will also improve the aesthetic nature of the area by eliminating a dilapidated sign with an updated sign.

- (x) *Would strict compliance with the regulation create a substantial financial burden when considering the cost of compliance?*

Yes. Strict compliance with the regulation would create a substantial financial burden

when considering the cost of compliance. It would exceed what would be reasonably expected of such an action as the traffic flow of the site and layout of the “drive-through” would have to be completely reconfigured and repaved to allow for placement of the sign in compliance with the ten-foot set-back. Given that a change in the configuration of the drive aisles and parking lot would affect site functionality, it would be unreasonable to request that the same be reconfigured to allow for the required set-back of the sign.

### SUPPLEMENTARY INFORMATION

Upon visual inspection of the subject property on October 26, 2016 by the Planning and Development Department, the required Notice of Public Hearing sign **was not** posted. However, upon notification of the agent, a notarized affidavit and picture were sent as proof that the signs were posted on October 3, 2016.



**Subject property viewed from San Juan Avenue showing no notice signs posted and sign location.**

*Source: Planning and Development Department*

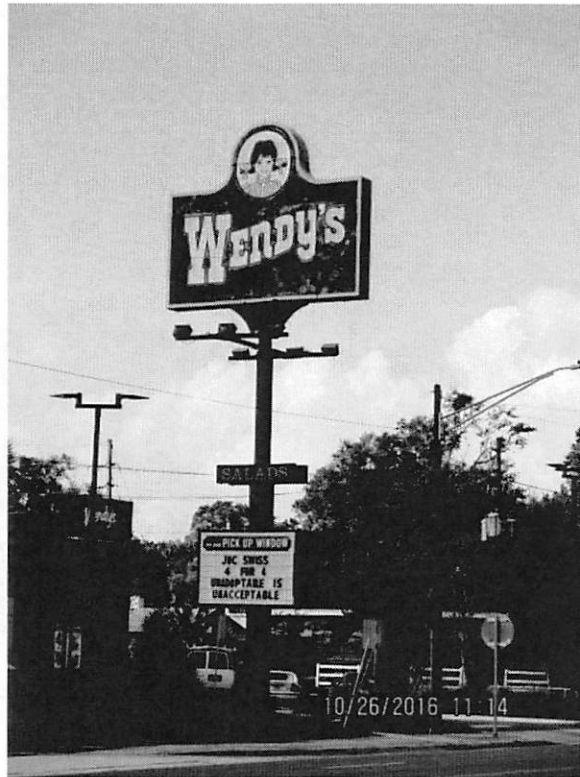
*Date: October 26, 2016*

### RECOMMENDATION

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application Sign Waiver **SW-16-09** be **APPROVED**.



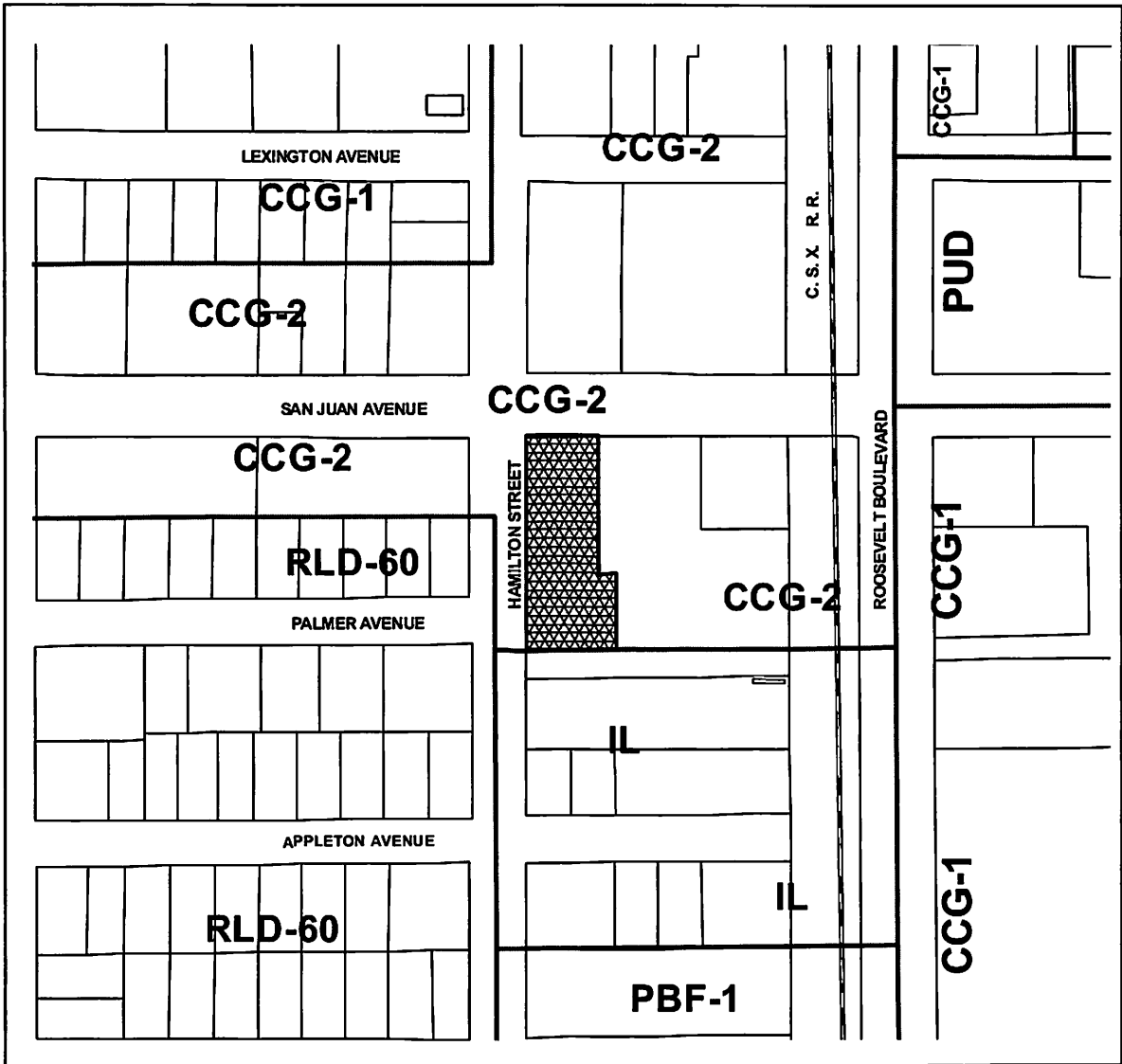
**View of Subject Property with Notice Sign Posted on October 3, 2016**

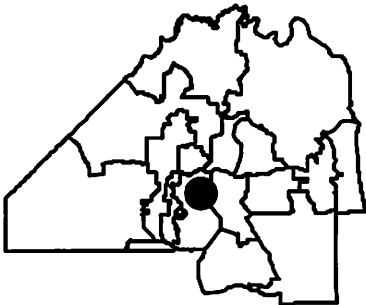



**Sign view showing close proximity to utility lines.**

*Source: Planning and Development Department*

*Date: October 26, 2016*



<p><b>REQUEST SOUGHT:</b></p>   <p><b>REDUCE SIGN SET BACK        FROM 10 FT. TO 0 FT.</b></p>	 <p><b>APPLICATION NUMBER:</b>  <b>SW-2016-0009</b></p>	 <p>0 100 Feet</p> <p><b>COUNCIL DISTRICT:</b>  <b>14</b></p> <p><b>Exhibit 2</b></p>
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1 Introduced by the Land Use and Zoning Committee:  
2  
3

4 **ORDINANCE 2016-**

5 AN ORDINANCE APPROVING SIGN WAIVER APPLICATION  
6 SW-16-09 FOR A SIGN LOCATED IN COUNCIL  
7 DISTRICT 14 AT 2001 HAMILTON STREET BETWEEN  
8 HAMILTON STREET AND ROOSEVELT BOULEVARD (R.E.  
9 NO. 093811-0010) AS DESCRIBED HEREIN, OWNED BY  
10 JOHN WINDER HUGHES, JR. TRUST, ET AL,  
11 REQUESTING TO REDUCE THE MINIMUM SETBACK FROM  
12 10 FEET TO 0 FEET IN ZONING DISTRICT  
13 COMMERCIAL COMMUNITY/GENERAL-2 (CCG-2), AS  
14 DEFINED AND CLASSIFIED UNDER THE ZONING CODE;  
15 PROVIDING A DISCLAIMER THAT THE WAIVER GRANTED  
16 HEREIN SHALL NOT BE CONSTRUED AS AN EXEMPTION  
17 FROM ANY OTHER APPLICABLE LAWS; PROVIDING AN  
18 EFFECTIVE DATE.

19  
20 **WHEREAS**, an application for a waiver of requirements for  
21 signs, on file with the City Council Legislative Services Division,  
22 was filed by John Winder Hughes, Jr. Trust, et al, the owner of  
23 property located in Council District 14 2001 Hamilton Street  
24 between Hamilton Street and Roosevelt Boulevard (R. E. No. 093811-  
25 0010) ("Subject Property"), requesting to reduce the minimum  
26 setback from 10 feet to 0 feet in Zoning District Commercial  
27 Community/General-2 (CCG-2); and

28 **WHEREAS**, the Planning and Development Department has  
29 considered the application and all the attachments thereto and has  
30 rendered an advisory recommendation ("Staff Report"); and

31 **WHEREAS**, the Land Use and Zoning Committee, after due notice



1 held a public hearing and having duly considered both the  
2 testimonial and documentary evidence presented at the public  
3 hearing, has made its recommendation to the Council;

4 **WHEREAS**, taking into consideration the above recommendations  
5 and all other evidence entered into the record and testimony taken  
6 at the public hearings, the Council has considered the criteria for  
7 sign waivers pursuant to Sec. 656.133(c), *Ordinance Code* and finds  
8 that the request is in harmony with the spirit and intent of the  
9 Zoning Code and should be approved; now therefore,

10 **BE IT ORDAINED** by the Council of the City of Jacksonville:

11 **Section 1.** The Council has considered the sign waiver  
12 criteria pursuant to Sec. 656.133(c), *Ordinance Code*, the  
13 recommendation of the Land Use and Zoning Committee, and has  
14 reviewed the Staff Report of the Planning and Development  
15 Department concerning zoning waiver SW-16-09 and finds that the  
16 waiver is in harmony with the spirit and intent of the Zoning Code.

17 **Section 2. Owner, Property and Sign Description.** The  
18 Subject Property is owned by John Winder Hughes, Jr. Trust, et al  
19 and is legally described in **Exhibit 1, attached hereto**, dated  
20 October 4, 2016. The agent is Driver, McAfee, Peek & Hawthorne, P.  
21 L., 1 Independent Drive, Suite 1200, Jacksonville, Florida 32202;  
22 (904) 301-1269. A graphic depiction of the sign(s) is **attached**  
23 **hereto as Exhibit 2.**

24 **Section 3.** Legislative Services is hereby directed to  
25 mail a copy of this legislation, as enacted, to the applicant and  
26 any other parties to this matter who testified before the Land Use  
27 and Zoning Committee or otherwise filed a qualifying written  
28 statement as defined in Section 656.140(c), *Ordinance Code*.

29 **Section 4. Disclaimer.** The sign waiver granted herein  
30 shall **not** be construed as an exemption from any other applicable  
31 local, state, or federal laws, regulations, requirements, permits  
32 or approvals. All other applicable local, state or federal permits

1 or approvals shall be obtained before commencement of the  
2 development or use and issuance of this sign waiver is based upon  
3 acknowledgement, representation and confirmation made by the  
4 applicant(s), owner(s), developer(s) and/or any authorized agent(s)  
5 or designee(s) that the subject business, development and/or use  
6 will be operated in strict compliance with all laws. Issuance of  
7 this sign waiver does not approve, promote or condone any practice  
8 or act that is prohibited or restricted by any federal, state or  
9 local laws.

10 **Section 5. Effective Date.** The adoption of this  
11 ordinance shall be deemed to constitute a quasi-judicial action of  
12 the City Council and shall become effective upon signature by the  
13 Council President and Council Secretary. Failure to exercise the  
14 waiver, if herein granted, by commencement of the use or action  
15 herein approved within one year of the effective date of this order  
16 shall render this waiver invalid and all rights arising therefrom  
17 shall terminate.

18  
19 Form Approved:

20   
21 \_\_\_\_\_

22 Office of General Counsel

23 Legislation Prepared By: Gabriel Quintas

24 G:\SHARED\LEGIS.CC\2016\Ord\Rezoning\Rez - SW-16-09.doc

# ORDINANCE

10/4/16

## Legal Description

### MAP SHOWING SURVEY OF

A PORTION OF LOT 3, ALL OF LOTS 5 AND 7, AND A PORTION OF LOTS 8 AND 9, BLOCK 22, TOGETHER WITH A PART OF THE 60 FOOT STREET RIGHT OF WAY, NOW CLOSED, LYING BETWEEN BLOCKS 22 AND 23, ACCORDING TO A "DEPLAT OF PART OF LAKE DOC PARK" RECORDED IN PLAT BOOK 8, PAGE 44 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
FOR A POINT OF BEGINNING, COMMENCE AT THE NORTHWEST CORNER OF THE AFORESAID BLOCK 22, SAID NORTHWEST CORNER BEING THE INTERSECTION OF THE SOUTHERLY LINE OF SAN JUAN AVENUE (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) AND THE EASTERLY LINE OF HAMILTON STREET (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); RUN THENCE SOUTH ALONG SAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 282.00 FEET; RUN THENCE SOUTH 89°26'00" EAST, PARALLEL WITH AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 128.00 FEET; RUN THENCE SOUTH, PARALLEL WITH AFORESAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 103.00 FEET; RUN THENCE NORTH, PARALLEL WITH AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 128.00 FEET; RUN THENCE NORTH, PARALLEL WITH AFORESAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 103.00 FEET; RUN THENCE NORTH 89°26'00" WEST, A DISTANCE OF 282.00 FEET TO A POINT IN THE AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE; RUN THENCE NORTH 89°26'00" WEST, ALONG SAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 103.00 FEET TO THE POINT OF BEGINNING.

WENDYS #01781  
 2001 HAMILTON STREET  
 JACKSONVILLE, FLORIDA 32210

**U0701-1A-WHR220**

SHEET 1 OF 2

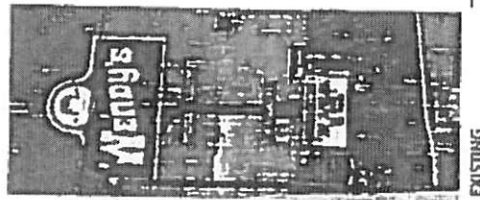
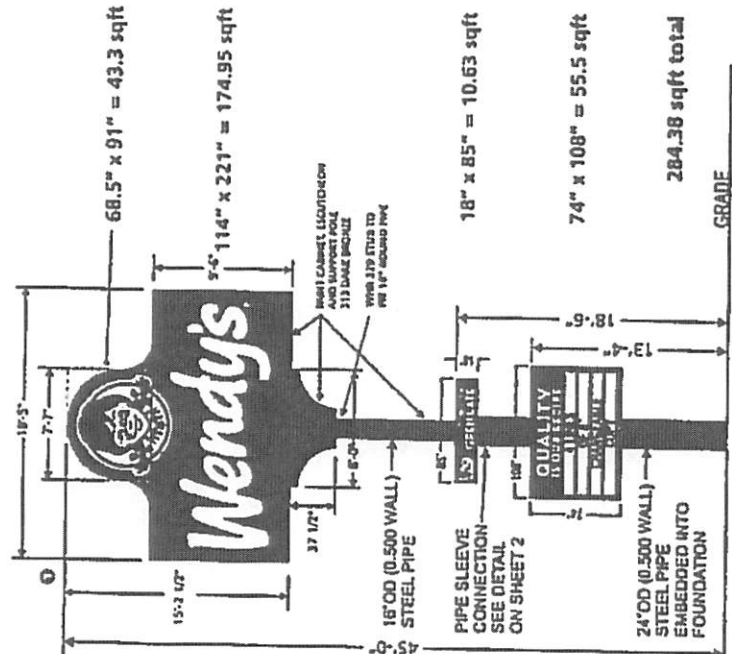
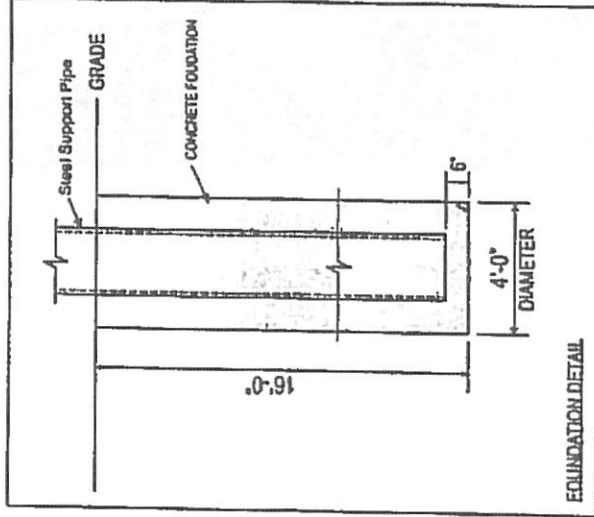
NOTES:  
 MATERIALS:  
 ALL JOINTS TO BE WELDED ALL AROUND  
 GRADE A36 STEEL SHAPES  
 GRADE A53 B STEEL PIPE  
 GRADE A25 FASTER BOLTS  
 FOUNDATION:  
 3000 PSI CONCRETE @ 28 DAYS  
 2000 PSF SOIL BEARING  
 150 PSF/LF SOIL LATERAL BEARING  
 UNDISTURBED SOIL

FLORIDA BUILDING CODE  
 5th EDITION (2014)  
 SECTION 16 WIND LOAD, ASCE 7-10  
 130 MPH WIND LOAD  
 RISK CATEGORY B  
 EXPOSURE C

ENCON SERVICES, INC.  
 2272 JAUDON ROAD  
 DOVER, FL 33527  
 813-655-3373, FLEB #9394



NATHAN P. PRESNELL, PE 77696  
 DATE SIGNED: 8/8/2016



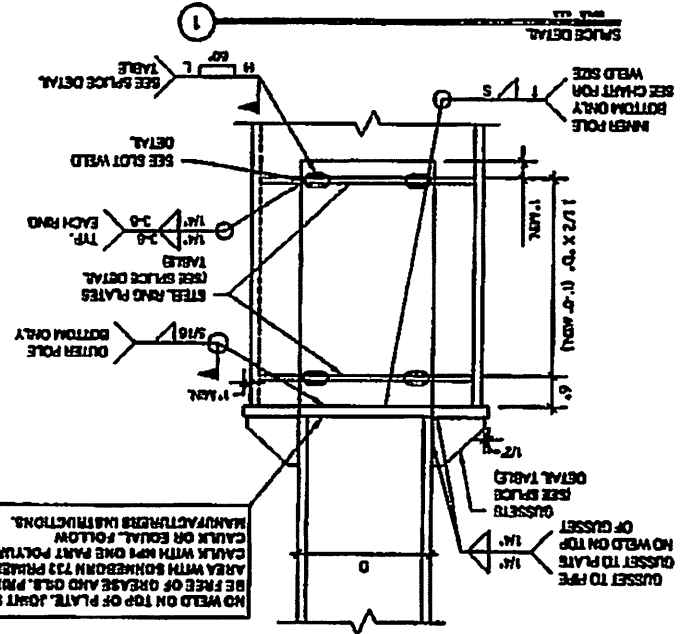
E122574

SIGN TYPE		SPECIFICATIONS		SIGN SURVEY		FRAMEWORK	
<input type="checkbox"/> DOUBLE FACE	<input type="checkbox"/> SINGLE FACE	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY
<input type="checkbox"/> REMOUNTED	<input type="checkbox"/> NEW SIGN	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY
<input type="checkbox"/> GROUND	<input type="checkbox"/> WALL	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> HANGERS METAL CABINET HANGING 315 BARE BRACKET	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY	<input type="checkbox"/> SIGN SURVEY

SIGN TO BE CONSTRUCTED TO NEC 600 STANDARD  
 SIGN TO BEAR UL LABEL  
 SIGN TO HAVE ELECTRICAL DISCONNECT ON THE EXTERIOR

**SPURCE NOTES:**

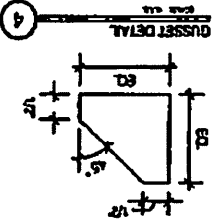
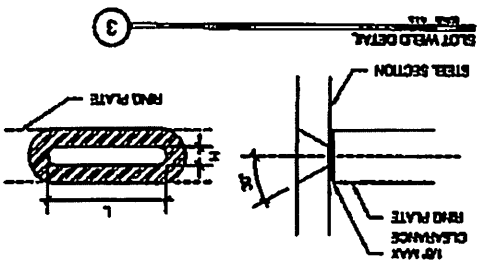
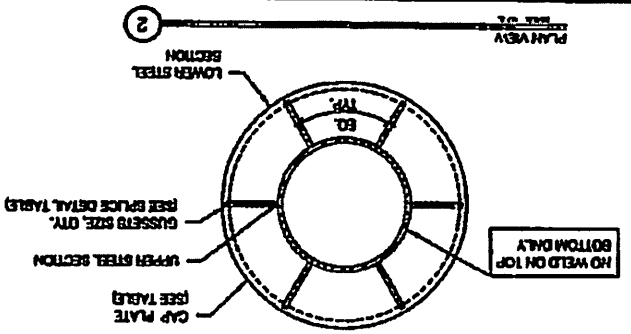
1. THIS SPURCE CONNECTION IS A CRITICAL COMPONENT OF THE STRUCTURE. CARE SHOULD BE TAKEN IN FIT UP, WELDING, AND INSTALLATION.
2. WELD = COLUMN WALL THICKNESS (MIN.) MINIMUM WELD SIZE IS DETICATED UPON THE THICKER OF THE TWO PARTS JOINED. EXCEPT THAT THE WELD SIZE NEED NOT EXCEED THE THICKNESS OF THE THINNER PART. FOR THE EXCEPTION, PARTICULAR CARE SHALL BE TAKEN TO PROVIDE SUFFICIENT FRETREAT FOR SOUNDNESS OF THE WELD.
3. WELDING DESIGN, WORKMANSHIP, PROCEDURE AND TECHNIQUES SHALL CONFORM TO ALL APPLICABLE PROVISIONS OF THE AMERICAN WELDING SOCIETY STRUCTURE WELDING CODE FOR STEEL, AWS D1.1. WELDERS SHALL BE QUALIFIED FOR THE PROCESSES USED. TYPE AND SIZE OF WELD MUST BE INSTALLED AS SHOWN ON THE DRAWING. CONTRACTOR MUST SUPPLY, WHEN REQUESTED, CERTIFICATION OF PROCEDURE, QUALIFICATION OF WELDERS AND DOCUMENT OF WELDING PROCEDURE. BOTH SHOP & FIELD WELDERS MUST FURNISH THEIR ENTRY & DATE ON CAP PLATE FOR IDENTIFICATION.
4. ALL SHOP WELDS SHALL BE ON GMAW EXCEPT SECTION WELDS OF 10,000 PSI TENSILE STRENGTH RATED AND APPROPRIATE WIRE DIAMETER SHALL BE USED FOR WELDING IN ALL POSITIONS. ALL FIELD WELDING SHALL BE GMAW WELDED USING ELECTRODES W/1000 PSI TENSILE STRENGTH RATED FOR WELDING IN ALL POSITIONS. AWS A5.1 OR AWS E7018-2 ON APPROVED EQUIVAL.
5. ALL POSITIONS, AWS A5.1 OR AWS E7018-2 ON APPROVED EQUIVAL.
6. COLUMN SURFACE NEAR WELDING AREA SHOULD BE CLEAN & DRY WHEN WELDING. CORROSION IS NOT ALLOWABLE ON THE COLUMN SURFACE.



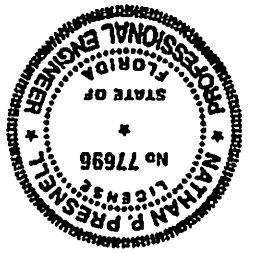
SPURCE DETAIL TABLE

SECTION (VIEW)	MAX. WALL THICKNESS	CAP PLATE THICKNESS	RAND PLATE THICKNESS	NO. OF QUSSETS	SIZE OF QUSSETS	NO. OF WELDS/PLT	1	5	5-0	3/8"	3/8"	2
UPPER STEEL SECTION (TOP)												
LOWER STEEL SECTION												

\* GAP BETWEEN WELDS REQUIRED



NO WELD ON TOP OF PLATE. JOINT SHALL BE FREE OF ORGANS AND OIL. PAINT AREA WITH ONE PART PICTURETHANE CANE OR EQUAL FLOW. MANUFACTURERS INSTRUCTIONS.



NATHAN P. PRESNELL, PE 77696  
DATE SIGNED: 8/2016

ENCON SERVICES, INC.  
2272 JAUDON ROAD  
DOVER, FL 33527  
813-655-3373, FLEB #9394

WENDYS #01781  
2001 HAMILTON STREET  
JACKSONVILLE, FLORIDA 32210  
U0701-IA-WHR220  
SHEET 2 OF 2

# APPLICATION FOR SIGN WAIVER

This application must be typed or printed in black and submitted in person with three (3) other copies for a total of four (4) copies.

Ordinance Number:
Application Number: <u>SW-15-09</u>
Notice of Violation:

Planning and Development Department,  
Zoning Section  
Ed Ball Building  
214 North Hogan Street, 2nd Floor  
Jacksonville, Florida 32202

FOR INFORMATION REGARDING THIS FORM, CALL: (904) 255-7865.  
**TO BE COMPLETED BY PLANNING AND DEVELOPMENT DEPARTMENT ONLY**

1. Date Submitted: <u>8-18-16</u>	2. Date Filed: <u>9/29/16</u>	3. Current Zoning District(s): <u>CCG-2</u>	4. Future Land Use Ma Category (FLUMs): <u>CGC</u>	5. Applicable Section of Ordinance Code: <u>656.1303 (1)(2)</u>
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6. LUZ Public Hearing Date: <u>    /    /    </u>	7. City Council Public Hearing Date: <u>    /    /    </u>
8. Neighborhood Association (If Applicable): _____	
9. Number of Signs To Be Posted: <u>3</u>	

### TO BE COMPLETED BY APPLICANT

10. Complete Property Address: <u>Wendy's</u> <u>2001 Hamilton Street, Jacksonville, FL 32210</u>	13. Between Streets: <u>Hamilton Street</u> and <u>Roosevelt Boulevard</u>
11. Real Estate Number: <u>093811-0010</u>	
12. Date lot was recorded: _____	
14. Application being sought:	
___ Increase maximum height of sign from ___ to ___ ft. (Not to Exceed 20% or 5 ft. in height, whichever is less.).	
___ Increase maximum size of sign from ___ SF to ___ SF (Maximum request 25% or 10 Sq. Ft., whichever is less).	
___ Increase number of signs from ___ to ___ (Not to exceed maximum square feet allowed).	
___ Allow for illumination or change from ___ external to ___ internal lighting:	
<input checked="" type="checkbox"/> Reduce minimum set back from <u>10</u> ft. to <u>0</u> ft. (Less than 1 ft. may be granted administratively).	

**RECEIVED**

**OCT 04 2016**

15. In whose name will the waiver be granted? Wen South LLC and John Winder Hughes Jr. Trust

Is transferability being requested? Yes: \_\_\_\_\_ No: X

16. Land Area(1/100 Acres): 0.73 acres

17. Utility Services Provider

Well: \_\_\_\_\_ City Water: JEA  
Septic Tank: \_\_\_\_\_ City Sewer: JEA

**\* \* NOTICE TO OWNER/AGENT/APPLICANT \* \* \***

Section 656.1310, Ordinance Code, sets forth procedures and criteria for evaluating waivers of the Part 13 sign regulations. Section 656.1310 of the Ordinance Code defines a sign as *"a painting, structure or device which is placed, erected, constructed or maintained on or in the ground, or on or outside of an enclosed building or other object or structure or affixed or painted on or inside an exterior window of a building for the purpose of displaying, information, advertisement or attraction of the attention of persons, including posters, pictures, pictorial or reading matter and a letter, word, model, device or representation used in the nature of an advertisement, announcement, attraction or direction."*

Section 656.1310(a)(i) through (x), Ordinance Code, provides that, with respect to action upon Applications for Sign Waivers, the City Council shall grant a waiver only if substantial competent evidence exists to support a positive finding based on each of the following criteria as applicable:

18. Provide answers to the following questions pertaining to the standards and criteria. You may attach a separate sheet if necessary. (Please note that failure by the applicant to adequately substantiate the need for the waiver and to meet the criteria set forth below may result in a denial). *SEE ATTACHED EXHIBIT*

**1. Will the effect of the sign waiver be compatible with the existing contiguous signage or zoning and consistent with the general character of the area considering population, density, scale, and orientation of the structures in the area?**

**2. Would the result detract from the specific intent of the zoning ordinance by promoting the continued existence of nonconforming signs that exist in the vicinity?**

**3. Could the effect of the proposed waiver diminish property values in, or negatively alter the aesthetic character of the area surrounding the site, and could such waiver substantially interfere with or injure the rights of others whose property would be affected by the same.**

**4. Would the waiver have a detrimental effect on vehicular traffic or parking conditions, or result in the creation of objectionable or excessive light, glare, shadows or other effects, taking into account existing uses and zoning in the vicinity?**

## EXHIBIT: STANDARDS AND CRITERIA

Section 656.1310(a)(i) through (x), Ordinance Code, provides that, with respect to action upon Applications for Sign Waivers, the City Council shall grant a waiver only if substantial competent evidence exists to support a positive finding based on each of the following criteria as applicable:

1. Will the effect of the sign waiver be compatible with the existing contiguous signage or zoning and consistent with the general character of the area considering population, density, scale, and orientation of the structures in the area?

*Yes. The sign is already existing and is compatible with the other existing intense commercial signage and character of the area. The sign will be replaced with an updated in-kind sign with energy efficient internal lighting and reduce the current uplighting effect. The site is located at the southwest corner of Hamilton Street and San Juan Avenue, one block west of Roosevelt Boulevard, along a CCG-2 zoned corridor. Similar scale and size signage advertising commercial businesses adjacent to the Wendy's location along San Juan Avenue include a TD Bank, CVS, Longhorn, Allstate, Sonoco, Gate, and Goodyear.*

2. Would the result detract from the specific intent of the zoning ordinance by promoting the continued existence of nonconforming signs that exist in the vicinity?

*No. The intent is to update the signage with an in-kind sign upgrade for energy efficiency, logo update to be consistent with the renovations, and eliminate the existing sign uplighting. This will not have an effect of promoting other non-conformities.*

3. Could the effect of the proposed waiver diminish property values in, or negatively alter the aesthetic character of the area surrounding the site, and could such waiver substantially interfere with or injure the rights of others whose property would be affected by the same.

*No. The sign is already existing. The applicant is seeking to update the logo, increase energy efficiency and improve aesthetics of the existing signage overall. Moving the sign to the required 10' setback could negatively alter the site and other properties by impacting landscaping, trees and lighting.*

4. Would the waiver have a detrimental effect on vehicular traffic or parking conditions, or result in the creation of objectionable or excessive light, glare, shadows or other effects, taking into account existing uses and zoning in the vicinity?

*No. The intent is to update the signage with an in-kind sign upgrade for energy efficiency, logo update to be consistent with the renovations, and eliminate the existing sign uplighting. Therefore, no detrimental effect on traffic, parking, light, glare, shadows or the like will occur. Moving the existing sign will impact the internal traffic flow, landscaping, trees, and create a shadow from the VUA lighting by blocking the light pole. The modern update sign replacement will align more with competitor signage in the area, such as Chick-fil-A.*

5. Is the proposed waiver detrimental to the public health, safety or welfare, or could such waiver result in additional public expense, creation of nuisances, or cause conflict with any other applicable law?

*No. In fact, the waiver will allow for a modern energy efficient update to the existing signage, thereby reducing the effects of direct uplighting to the area.*



6. Does the subject property exhibit specific physical limitations or characteristics, which would be unique to the site and which would make imposition of the strict letter of the regulation unduly burdensome?

*Yes. There are existing site and spatial constraints associated with the property. The lot is narrow and occupied predominantly by parking, VUA, drive-thru lane, building and infrastructure. Minimal clearance and setbacks exist between the adjacent business to the east, corner rights-of-way to the north and west, as well as being one block from the main traffic route on Roosevelt Boulevard. Maintaining the sign location as-is, in its existing location, will provide consistency and continuity for patron recognition, orientation and advertising from all nearby traffic and pedestrian routes.*

7. Is the request based exclusively upon a desire to reduce the costs associated with compliance and is the request the minimum necessary to obtain a reasonable communication of one's message?

*The request is based on the aforementioned responses to replace the existing signage with a new modern one with an updated logo and internal energy efficient LED lighting. Maintaining the sign location as-is, in its existing location, is the minimum needed to provide consistency and continuity for patron recognition, orientation and advertising from all nearby traffic and pedestrian routes.*

8. Is the request the result of a violation that has existed for a considerable length of time without receiving a citation and if so, is the violation that exists a result of construction that occurred prior to the applicants acquiring the property, not being a direct result of the actions of the current owner?

*No. The request is not the result of a violation.*

9. Does the request accomplish a compelling public interest, such as, for example, furthering the preservation of natural resources by saving a tree or trees?

*Yes. The request could be determined to be in the public interest for the following reasons: a) reduce energy consumption by replacing the current signage and lighting with energy efficient LEDs, b) reduce the uplighting effect by replacing the current lighting style, c) eliminate the impact to perimeter trees on the eastern property edge, and d) provide consistency and continuity for patron recognition, orientation and advertising from all nearby traffic and pedestrian routes.*

10. Would strict compliance with the regulation create a substantial financial burden when considering the cost of compliance?

*Yes. The existing sign height, size and location are critical to the financial viability of this restaurant by maintaining site line corridors. As previously mentioned, it is critical to maintain visual continuity for patron recognition, orientation and advertising from all nearby traffic and pedestrian routes, such as the main route, Roosevelt Boulevard.*

If waiver is based on economic hardship, applicant must submit the following:

- Two estimates from licensed contractors stating the cost of bringing the sign structure into compliance; and
- Any other information the applicant wished to have considered in connection to the waiver request.

     Proof of Ownership

(Note: the Council may, as a condition of the waiver, specify a time period within which the sign structure shall be required to conform to the requirements of the City's sign regulations.)

**\*\*\* NOTICE TO OWNER / AGENT \*\*\***

Please review your application. All spaces noted as "TO BE COMPLETED BY APPLICANT" must be filled in for the application to be accepted.

No application will be accepted as "Complete and filed" until all the requested information has been supplied and the required fee has been paid. The acceptance of an application as being complete does not guarantee its approval by the City Council. You (or your agent) must be present at the public hearing.

Required signs received at the time of payment must be posted on the property within five (5) working days after the filing of this application. The sign(s) must remain posted and maintained until a final determination has been made on the application. An advertising fee will be charged by the Daily Record and a separate bill must be paid by the applicant or agent. Proof of notice of publication must be submitted to City Council Legislative Services, 117 West Duval Street, Suite 430, Jacksonville, Florida 32202, (904) 630-1404, PRIOR TO THE HEARING.

Also, an agent's letter of authorization must be attached if the application is not signed by the owner of record and also if someone attends the meeting on the applicant's behalf without prior authorization.

<p><b>FILING FEES</b></p> <p><b>RESIDENTIAL DISTRICTS.....\$985.00</b></p>	<p><b>NOTIFICATION COSTS: \$7.00 PER ADDRESSEE</b></p>
<p><b>NON-RESIDENTIAL DISTRICTS..... \$927.00</b></p>	<p><b>ADVERTISING COSTS: BILLED TO OWNER /AGENT</b></p>
<p><b>*** Applications filed to correct existing zoning violations are subject to a double fee. ***</b></p>	

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND the information contained in this application, that I am the owner or authorized agent for the owner with authority to make this application, and that all of the information contained in this application, including the attachments, is true and correct to the best of my knowledge.

PLEASE PRINT:

Name and address of Owner(s)

Name: J. WINDIEG HUGHES

Address: 24 LA VISTA DR

City: Porte Verna

State: FL Zip: 32082

Email: hughescape@comcast.net

Daytime Telephone: 904.612.4452

Name and address of Authorized Agent(s)

Name: Dries M. Atee Pade & Hines

Address: 1 Ditzgenet Drive

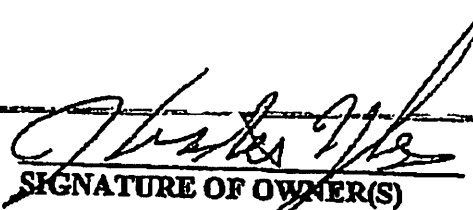
Ste 1200

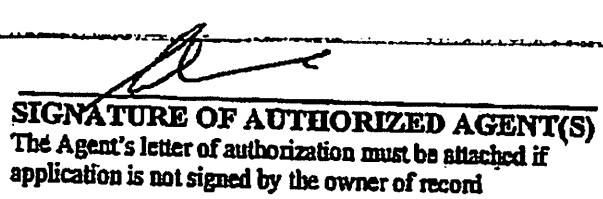
City: Jacksonville

State: FL Zip: 32202

Email: SDC.DAPH.LAW.COM

Daytime Telephone: 707 301 1269

  
SIGNATURE OF OWNER(S)

  
SIGNATURE OF AUTHORIZED AGENT(S)  
The Agent's letter of authorization must be attached if application is not signed by the owner of record

**EXHIBIT A**

**Property Ownership Affidavit**

Date: 8-17-16

**City of Jacksonville**  
City Council / Planning and Development Department  
117 West Duval Street, 4<sup>th</sup> Floor / Ed Ball Building, 214 North Hogan Street, Suite 300,  
Jacksonville, Florida 32202

Re: Ownership Certification

Gentleman:

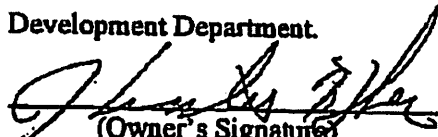
I, J. Winder Hughes hereby certify that I am

the Owner of the property described in the attached legal description, Exhibit 1 in

connection with filing application(s) for Sign Waiver

submitted to the Jacksonville Planning and

Development Department.

  
(Owner's Signature)

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing affidavit was sworn and subscribed before me this 29<sup>th</sup> day of

February (month), 2016 (year) by

John Hughes who is personally known to me or has

produced FL DL as identification.

  
(Notary Signature)



**EXHIBIT B**  
**Agent Authorization**

Date: 8-17-16

City of Jacksonville City Council / Planning and Development Department 117 West Duval Street, 4<sup>th</sup> Floor / Ed Ball Building, 214 North Hogan Street, Suite 300, Jacksonville, Florida 32202

Re: Agent Authorization for the following site location:

2001 Hamilton Street Jacksonville, FL 32210

Gentleman:

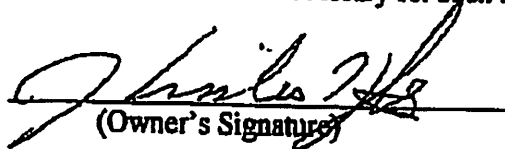
You are hereby advised that the undersigned is the owner of the property described in

Exhibit 1 attached hereto. Said owner hereby authorizes and empowers

Doug Poland, Aaron Besmer, Brad Demond, Felicia Luke, Tom Bradford *and Steven Diebenow and Brad Walter* to act as

agent to file application(s) for Sign Waiver

for the above referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change.

  
(Owner's Signature)

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing affidavit was sworn and subscribed before me this 29<sup>th</sup> day of

February (month), 2016 (year) by John Hughes

who is personally known to me or has produced FL DL as

identification.

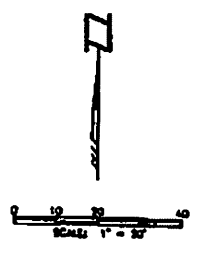
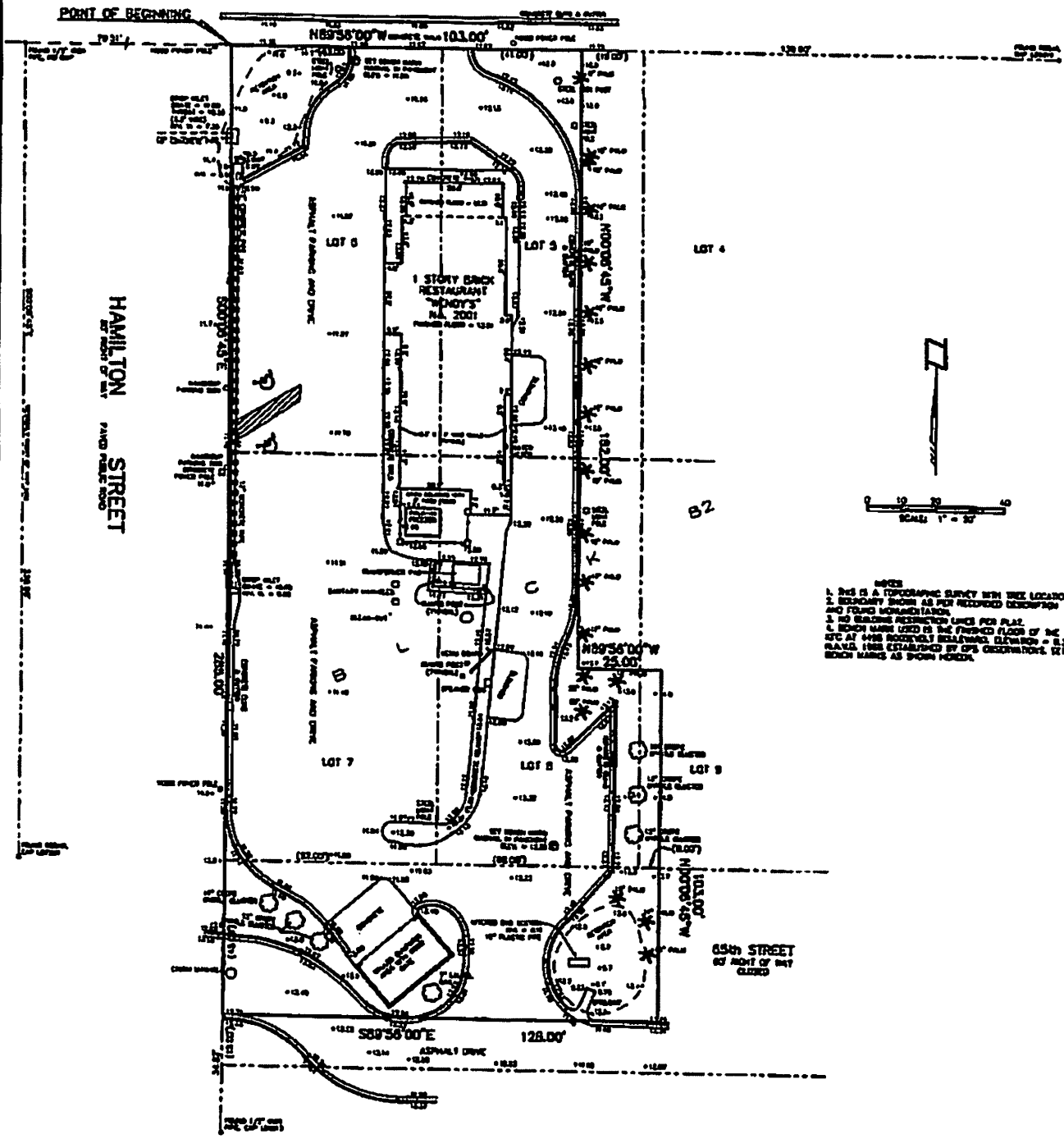
  
(Notary Signature)



**MAP SHOWING SURVEY OF**

A PORTION OF LOT 2, ALL OF LOTS 6 AND 7, AND A PORTION OF LOTS 8 AND 9, BLOCK B2, TOGETHER WITH A PART OF THE 80 FOOT STREET RIGHT OF WAY, NOW CLOSED, LYING BETWEEN BLOCKS B2 AND B3, ACCORDING TO A "TRIPLET OF PART OF LAKE DOE PARK" RECORDED IN PLAT BOOK 6, PAGE 44 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 FOR A POINT OF BEGINNING, COMMENCE AT THE NORTHWEST CORNER OF THE AFORESAID BLOCK B2, SAID NORTHWEST CORNER BEING THE INTERSECTION OF THE SOUTHERLY LINE OF SAN JUAN AVENUE (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) AND THE EASTERLY LINE OF HAMILTON STREET (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); RUN THENCE SOUTH ALONG SAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 203.00 FEET; RUN THENCE SOUTH 89°56'00" EAST, PARALLEL WITH AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 120.00 FEET; RUN THENCE NORTH, 23.00 FEET; RUN THENCE NORTH, PARALLEL WITH AFORESAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 103.00 FEET; RUN THENCE NORTH 89°56'00" WEST, A DISTANCE OF 182.00 FEET TO A POINT IN THE AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE; RUN THENCE NORTH 89°56'00" WEST, ALONG SAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 103.00 FEET TO THE POINT OF BEGINNING.

**SAN JUAN AVENUE**  
BY RIGHT OF WAY PAVED PUBLIC ROAD



- NOTES**
1. THIS IS A TOPOGRAPHIC SURVEY WITH TREE LOCATIONS.
  2. BEARING SHOWN AS PER RECORDED DESCRIPTION AND FOUND MONUMENTATION.
  3. NO BEARING INSTRUMENTS WERE USED FOR THIS SURVEY.
  4. ELEVATION SHOWN IS THE FINISHED FLOOR OF THE STRUCTURE AT 4098 BENCHMARK RELATIVE ELEVATION = 6.37 FEET. THIS ELEVATION IS BASED ON THE 1988 ESTABLISHED BY GPS COORDINATES. SEE EACH MARK AS SHOWN HEREON.

THE PROPERTY SHOWN HEREON APPEARS TO BE IN FLOOD ZONE "C" (AREA OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS WELL AS CAN BE DETERMINED FROM THE FLOOD INSURANCE RATE MAP No. 12031C0331M, REVISED JUNE 3, 2013 FOR DUVAL COUNTY, FLORIDA.

THIS SURVEY WAS MADE FOR THE BENEFIT OF MERTAGE HOSPITALITY GROUP.

THIS WOULD WITHOUT THE SIGNATURE AND THE ORIGINAL SURVEYOR SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**DOHN W. BOATWRIGHT, P.S.M.**  
 FLORIDA LIC. SURVEYOR and MAPPER No. LS 3295  
 FLORIDA LIC. SURVEYING & MAPPING BUSINESS No. LS 2872

# ORDINANCE

## Legal Description

### MAP SHOWING SURVEY OF

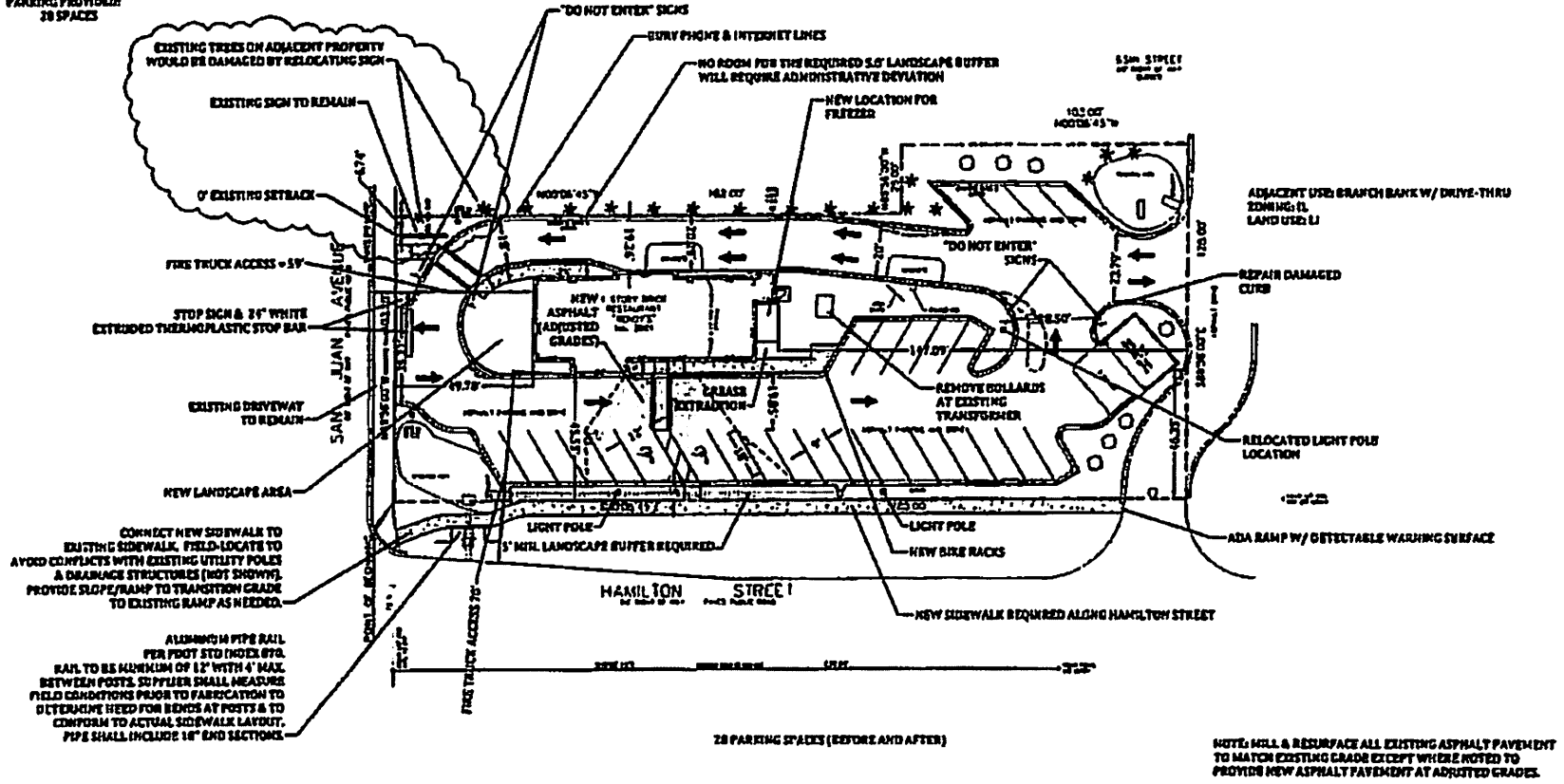
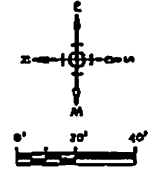
A PORTION OF LOT 5, ALL OF LOTS 6 AND 7, AND A PORTION OF LOTS 8 AND 9, BLOCK 82, TOGETHER WITH A PART OF THE 80 FOOT SIDING RIGHT OF WAY, NOW CLOSED, LYING BETWEEN BLOCKS 82 AND 83, ACCORDING TO A "REPLAT OF PART OF LINDY PARK" RECORDED IN PLAT BOOK 8, PAGE 44 OF THE CURRENT PUBLIC RECORDS OF DUALY COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
FOR A POINT OF BEGINNING, COMMENCE AT THE NORTHWEST CORNER OF THE AFORESAID BLOCK 82, SAID NORTHWEST CORNER BEING THE INTERSECTION OF THE SOUTHERLY LINE OF SAN JUAN AVENUE (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED) AND THE EASTERLY LINE OF HAMILTON STREET (AN 80 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); RUN THENCE SOUTH ALONG SAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 285.00 FEET; RUN THENCE SOUTH 89°50' EAST, PARALLEL WITH AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 128.00 FEET; RUN THENCE NORTH, PARALLEL WITH AFORESAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 103.00 FEET; RUN THENCE NORTH 89°50' WEST, A DISTANCE OF 285.00 FEET; RUN THENCE NORTH, PARALLEL WITH AFORESAID EASTERLY LINE OF HAMILTON STREET, A DISTANCE OF 128.00 FEET TO A POINT IN THE AFORESAID SOUTHERLY LINE OF SAN JUAN AVENUE; RUN THENCE NORTH 89°50' WEST, ALONG SAID SOUTHERLY LINE OF SAN JUAN AVENUE, A DISTANCE OF 103.00 FEET TO THE POINT OF BEGINNING.

SITE AREA = 0.73 ACRES  
 ZONING = CCG-2  
 FUTURE LAND USE = CCG  
 BUILDING AREA = 2,667 SF  
 LOT COVERAGE = 8%

SETBACKS:  
 FRONT (SAN JUAN) = 49.7 FT (-0 FT REQ.)  
 FRONT (HAMILTON) = 45.6 FT (-0 FT REQ.)  
 SIDE (S) = 147.1 FT (-6 FT REQ.)  
 SIDE (E) = 223.3 FT (-0 FT REQ.)

PARKING REQUIRED:  
 68 SEATS / 4 = 18 EMPLOYEES / 2 = 25 SPACES  
 PARKING PROVIDED:  
 28 SPACES

ADJACENT USE: BRANCH BANK W/ DRIVE-THRU  
 ZONING: CCG-2  
 LAND USE: CCG



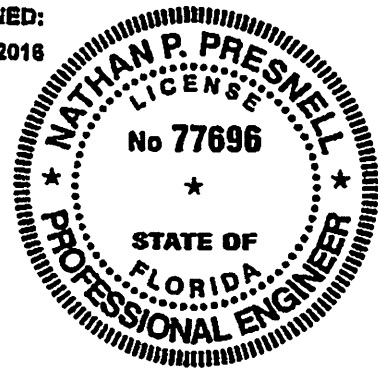


**EnCon Services, Inc.**  
Sign Design Calculations

**Job Description**  
Wendy's #01781  
2001 Hamilton Street  
Jacksonville, Florida 32210  
45'-0" pole sign  
Design per Florida Building Code, 5th Edition (2014),  
Section 16 Wind Load, ASCE 7-10, Load Case: D + 0.6W

**PREPARED BY:**  
EnCon Services, Inc., FLEB #9394  
2272 Jaudon Road, Dover, FL 33527  
813-655-3373  
Nathan P. Presnell, PE 77696

**DATE SIGNED:**  
8/8/2018



**Risk Category II**  
Kzt 1  
Exposure C  
Kd 0.85  
Kz 1.09  
V 130 mph  
Cf 1.78  
G 0.85  
Number of Poles 1  
Wind Pressure (PSF) 61

Sign	Area (sf)	Distance to Center (ft)	P = Force (lb)	Moment (ft-lb)
Top	43.29	42.14	1575	66378
Main	174.99	34.54	6368	219937
Bottom	25.04	28.23	911	25722
Pole	10.95	22.58	398	8995
Cabinet	10.62	17.75	386	6859
Pole	7.34	15.18	267	4054
Reader	55.50	10.25	2020	20700
Pole	12.34	3.09	449	1385
<b>Totals</b>			<b>12,374</b>	<b>354,032</b>

**Required Flexural Strength (kip-ft)** 354.0 per pole  
**Provided Flexural Strength (kip-ft)** 449 24"OD (0.500 wall) A53 B Steel Pipe

**Base Design**

Number of Bases	1	<b>Base Size Required</b> 16.0 FT Deep 4.0 FT Diameter
Diagonal B (FT)	4.00	
Lateral soil pressure (LB/SF/FT)	150	
Depth (Estimated) (FT)	16	
S1	1600	
Design Depth (FT)	14.34	Ft

**NATHAN P. PRESNELL,**  
STATE OF FLORIDA,  
PROFESSIONAL ENGINEER,  
LICENSE NO. 77696

THIS DOCUMENT HAS  
BEEN ELECTRONICALLY  
SIGNED AND SEALED  
BY NATHAN P. PRESNELL, PE, ON:  
USING A DIGITAL SIGNATURE.  
PRINTED COPIES OF THIS  
DOCUMENT ARE NOT  
CONSIDERED SIGNED AND  
SEALED AND THE SIGNATURE  
MUST BE VERIFIED ON ANY  
ELECTRONIC COPIES.

**Date:**  
**2016.08.08**  
**12:28:37 -04'00'**

WENDYS #01781  
 2001 HAMILTON STREET  
 JACKSONVILLE, FLORIDA 32210

**U0701-IA-WHR220**

SHEET 1 OF 2

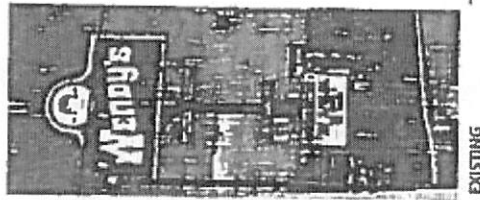
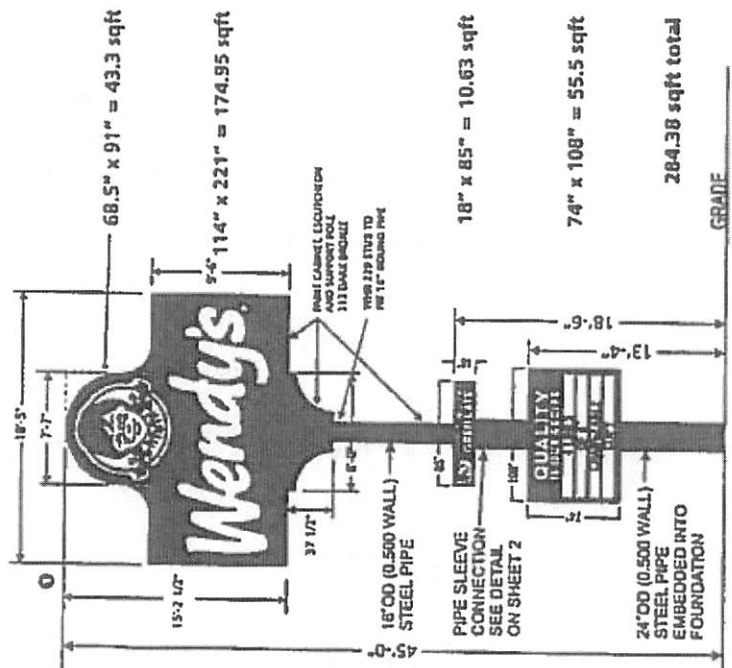
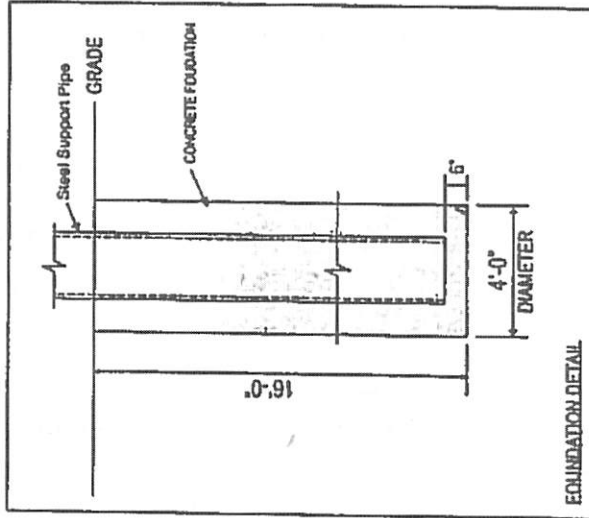
**NOTES:**  
 MATERIALS  
 ALL JOINTS TO BE WELDED ALL AROUND  
 GRADE AS3 STEEL SHAPES  
 GRADE AS3 B STEEL PIPE  
 GRADE A23 FASTENER BOLTS  
 FOUNDATION  
 3000 PSI CONCRETE @ 28 DAYS  
 200 PSF SOIL BEARING  
 150 PSF ALF SO3 LATERAL BEARING  
 UNDISTURBED SOIL

FLORIDA BUILDING CODE,  
 5th EDITION (2014)  
 SECTION 18 WIND LOAD, ASCE 7-10  
 130 MPH WIND LOAD  
 RISK CATEGORY 3  
 EXPOSURE C

ENCON SERVICES, INC.  
 2372 JAUDON ROAD  
 DOVER, FL 33527  
 813-655-3373, FLEB #9394



NATHAN P. PRESNELL, PE 77696  
 DATE SIGNED: 8/8/2016



**CUSTOM SIGN CENTER, INC.**  
 1100 N. W. 10th St., Ft. Lauderdale, FL 33304  
 954-561-1111

SIGN TYPE	COLORS	SIGN SURVIVAL OPTIONS
<input type="checkbox"/> Double Face <input type="checkbox"/> Unidirectional <input type="checkbox"/> One-Sided	<input type="checkbox"/> 10 Colors <input type="checkbox"/> 100 Colors <input type="checkbox"/> 1000 Colors <input type="checkbox"/> 10000 Colors	<input type="checkbox"/> 10 Year <input type="checkbox"/> 15 Year <input type="checkbox"/> 20 Year <input type="checkbox"/> 25 Year <input type="checkbox"/> 30 Year

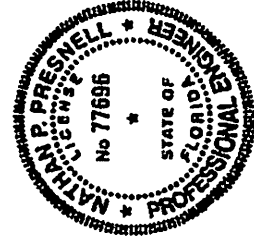
SIGN TO BE CONSTRUCTED TO NEC 800 STANDARD  
 SIGN TO BEAR UL LABEL  
 SIGN TO HAVE ELECTRICAL DISCONNECT ON THE EXTERIOR

WENDYS #01781  
 2001 HAMILTON STREET  
 JACKSONVILLE, FLORIDA 32210

U0701-1A-WHR220

SHEET 2 OF 2

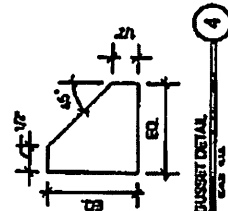
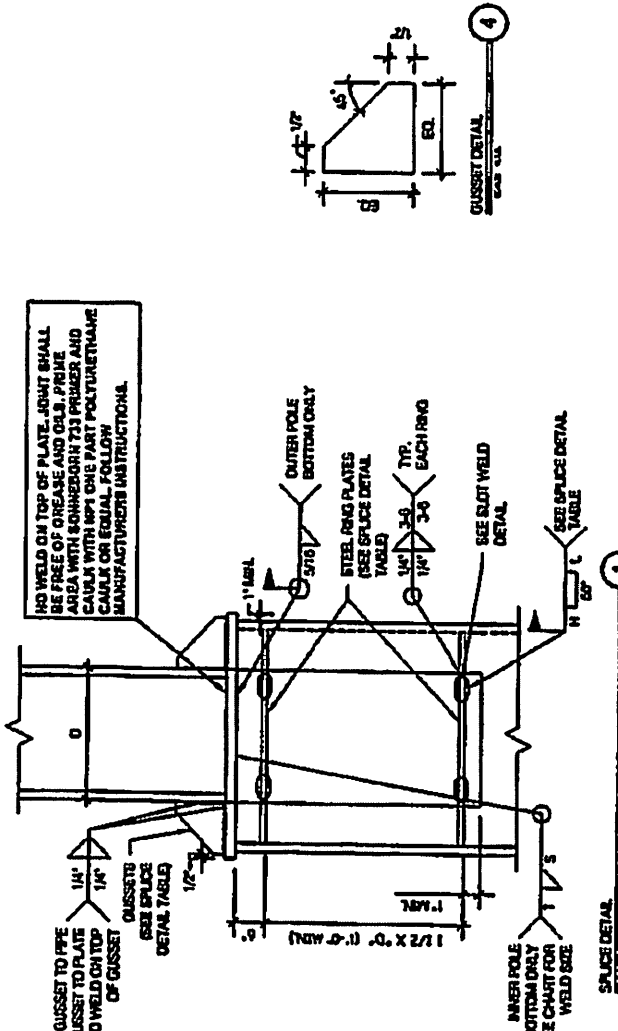
ENCON SERVICES, INC.  
 2272 JAUDON ROAD  
 DOVER, FL 33527  
 813-655-3373, FLEB #3394



NATHAN P. PRIESNELL, PE 77696  
 DATE SIGNED: 8/8/2016

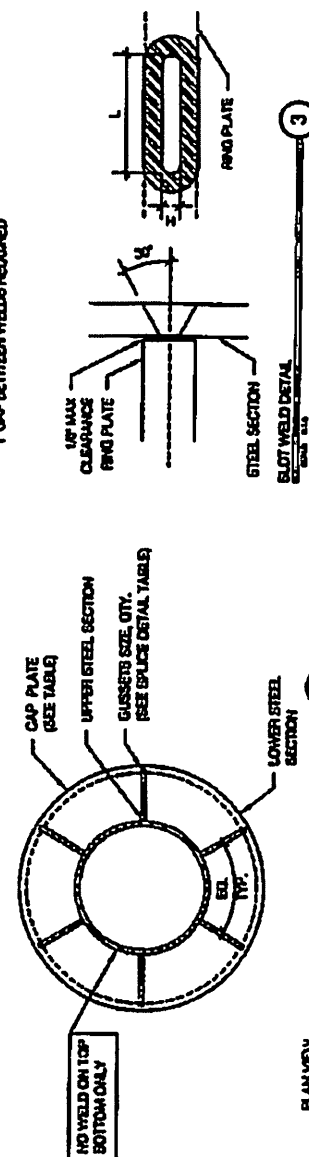
**SPURCE NOTES:**

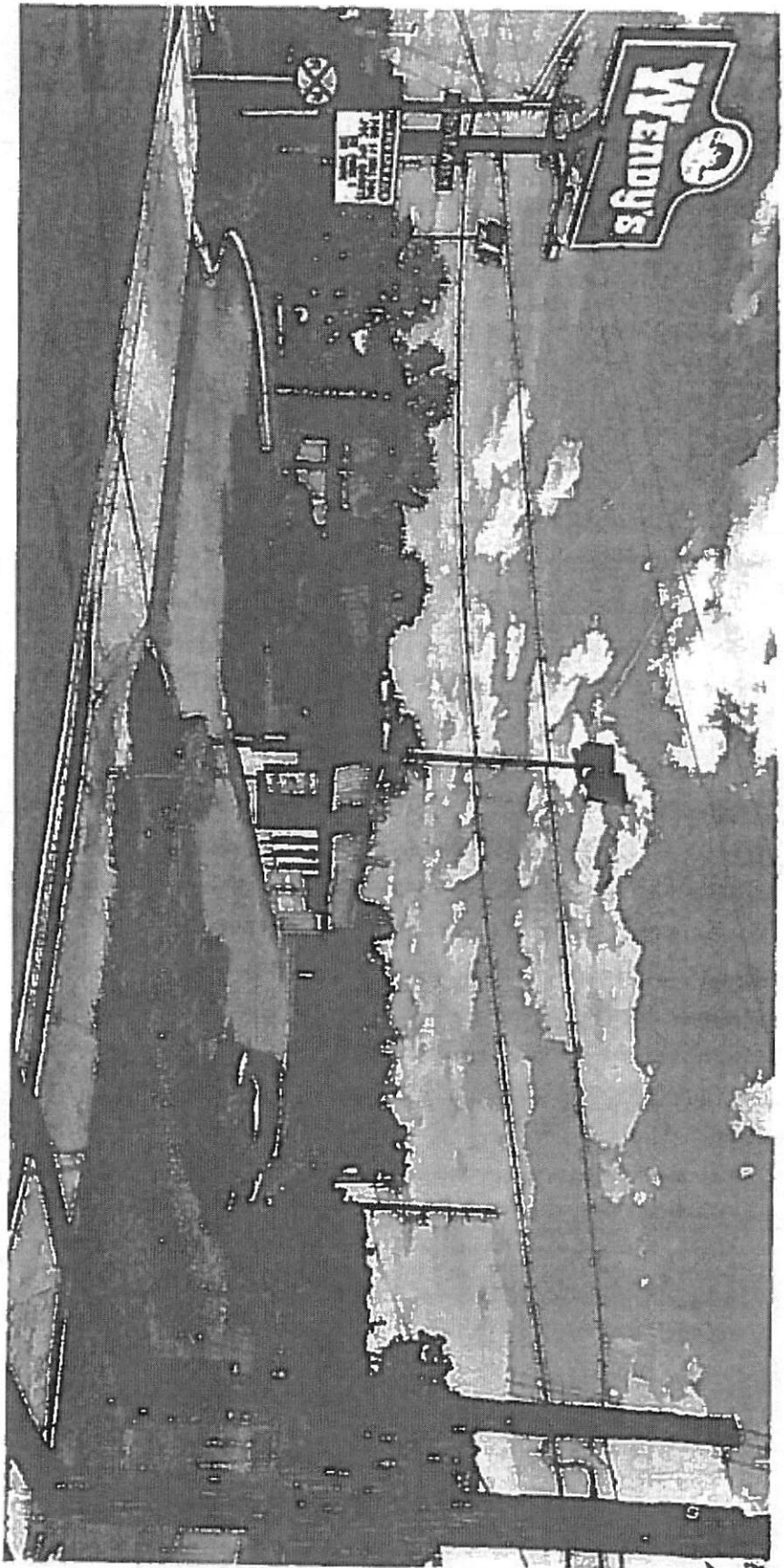
1. THIS SPURCE CONNECTION IS A CRITICAL COMPONENT OF THE STRUCTURE. CARE SHOULD BE TAKEN IN FIT UP, WELDING, AND INSTALLATION.
2. WELD - COLUMN WALL THICKNESS (ALL) LARGER WELD SIZE IS DEPENDENT UPON THE THICKNESS OF THE TWO PARTS JOINED, EXCEPT THAT THE WELD SIZE NEED NOT EXCEED THE THICKNESS OF THE THINNER PART. FOR THIS EXCEPTION, PARTICULAR CARE SHALL BE TAKEN TO PROVIDE SUFFICIENT PREPARED FOR SOUNDNESS OF THE WELD.
3. WELDING DESIGN, WORKMANSHIP, PROCEDURE AND TECHNIQUE SHALL CONFORM TO ALL APPLICABLE PROVISIONS OF THE AMERICAN WELDING SOCIETY STRUCTURE WELDING CODE STEEL, AWS D1.1. WELDERS SHALL BE QUALIFIED FOR THE PROCESS USED. TYPE AND SIZE OF WELD MUST BE INSTALLED AS SHOWN ON THE DRAWING. CONTRACTOR MUST VERIFY, WHEN REQUESTED, CERTIFICATION OF PROCEDURES, QUALIFICATION OF WELDER AND DOCUMENT OF WELDING PROCEDURE. BOTH SHOP & FIELD WELDERS MUST FURNISH THEIR INITIAL & DATE ON CAP PLATE FOR IDENTIFICATION.
4. ALL SHOP WELDS SHALL BE GRAWY (EXCEPT SGT) ELECTRODES OF 7000 PSI TENSILE STRENGTH RATED AND APPROPRIATE WIRE DIAMETER SHALL BE USED FOR WELDING IN ALL POSITIONS. ALL FIELD WELDING SHALL BE GRAWY WELDED USING ELECTRODES WITH 7000 PSI TENSILE STRENGTH RATED FOR WELDING IN ALL POSITIONS. AWS AS.1 OR AS.5 E7018-ER OR APPROVED EQUAL.
5. COULDN SURFACE NEAR WELDING AREA SHOULD BE CLEAN & DRY WHEN WELDING. SPATCHES NOT ALLOWABLE ON THE COLUMN SURFACE.



SPURCE DETAIL TABLE

UPPER STEEL SECTION (min.)	MAX. WALL THICKNESS	CAP PLATE THICKNESS	RING PLATE THICKNESS	NL. OF GUSSETS	SIZE OF GUSSETS	NO. OF SLOT WELDS/PAT	SIZE OF SLOT WELDS
Y	H	L	2	5'-0"	7'-0"	2	
12" - 18"	1/2"	1"	1"	6	3x6"	6	5/16" - 5-0"
* 1' GAP BETWEEN WELDS REQUIRED							





① Vol. 5551 - 710

OFFICIAL RECORDS: MEMORANDUM OF LEASE

THIS is a Memorandum of an unrecorded ground Lease and Amendment thereto, made by and between J. Winder Hughes, Jr., and Barnett Banks Trust Company, H.A., not individually but as Trustees of the Nelson H. Hughes Trust dated November 28, 1978; J. Winder Hughes, Sr., J. Winder Hughes, Jr., and Barnett Banks Trust Company, H.A., not individually but as Trustees of the John Winder Hughes Revocable Trust dated November 28, 1978; J. Winder Hughes, Jr. and Barnett Banks Trust Company, H.A., not individually but as Trustees of the John Winder Hughes, Jr. Revocable Trust dated December 28, 1978, hereinafter collectively called "Lessor", whose mailing address is c/o Barnett Banks Trust Company, H.A., Post Office Box 40200, Jacksonville, Florida 32231, and

WENDY'S INTERNATIONAL, INC.
P.O. Box 256
4288 W. Dublin Granville Road
Dublin, Ohio 43017

an Ohio corporation, hereinafter called "Wendy's", for property located in the City of Jacksonville, County of Duval, and State of Florida, containing approximately 31,929 square feet of land as more fully described in Exhibit "A-1" attached hereto and made a part hereof by reference, and premises hereinafter called the "premises" or the "leased premises" or the "demised premises".

In particular the lease agreement contains the following provisions:

- 1. "PREMISES":...Lessor does hereby demise and lease to Wendy's ...
2. "TERM": real property ..described...(same as Exhibit "A-1" attached to this Memorandum of Lease.)

A. Original Term

The original lease term shall be for a period of fifteen (15) years following the commencement date of this Lease as hereinafter defined. Wendy's obligation to pay rent shall begin on the commencement date of this Lease.

B. First Renewal Term

At least one hundred twenty (120) days, but not more than one hundred eighty (180) days prior to the expiration of the original term of this Lease, Lessor shall give written notice to Wendy's setting forth the expiration date of the original term of this Lease and setting forth the date by which Wendy's must exercise its option to renew (which notice is referred to herein as the "Lessor's Notice").

Wendy's may, at its option, renew the term of this Lease for a period of five (5) years upon the giving of a renewal notice to Lessor. Such renewal notice may be given by Wendy's at any time but in any event must be given at least ninety (90) days prior to the expiration of the original term provided that Wendy's has received the Lessor's notice at least one hundred twenty (120) days prior to the expiration of the original term. The failure of the Lessor to give the Lessor's Notice within the time specified shall not affect Wendy's option to renew this Lease and Wendy's may exercise its option to renew this Lease at any time prior to or within thirty (30) days after receipt of Lessor's Notice as provided above, which thirty-day period may include any time after the expiration of the original term while Wendy's is occupying the leased premises in accordance with Section 31 hereof.

Upon Wendy's giving notice of the exercise of its option to renew this Lease, this Lease shall be renewed for the same rental and upon the same terms and conditions as are applicable to the original term, except that the

Return to:
LAWYERS TITLE & TRUST CORPORATION
SUITE 1200, HUNTERS CREEK BLVD
JACKSONVILLE, FLORIDA 32202

Prepared by: Brian H. McMahon, Staff Attorney
Wendy's International, Inc.
P.O. Box 256
Dublin, Ohio 43017

77.00
4.00
81.00

renewal shall begin on the date of expiration of the original term and shall continue for a period of five (5) years thereafter.

**C. Second and Subsequent Renewal Terms**

In the event Wendy's shall renew this Lease for the first renewal term as provided herein, Wendy's is granted the further options to renew this Lease for two (2) additional periods of five (5) years upon the rental as set forth in Section 4 and upon the same terms and conditions as are applicable to the first renewal term except that such subsequent renewal terms shall begin on the date of expiration of the previous renewal term and shall continue for a period of five (5) years thereafter. Said options to renew for additional renewal terms shall be subject to the same notice provisions for both Lessor and Wendy's and the same provisions regarding the exercise of the option to renew by Wendy's as the first renewal term.

**D. Termination**

Wendy's may terminate this Lease at any time by giving Lessor at least thirty (30) day's notice, and paying the sum of . . . as consideration for such termination, if notice is given during the first year after the commencement date of this Lease. If notice is given after the first year after the commencement date of this Lease, such consideration shall be the amount of the Annual Rent which is payable for the year in which the Lease is terminated, without credit for any rental payments made during the year of termination."

**3. "COMMENCEMENT DATES:**

The commencement date of this Lease shall be the earlier of the following: (a) Wendy's completion of the improvements to be constructed by Wendy's and the opening to the public for business of a Wendy's Old Fashioned Hamburgers restaurant, or (b) one hundred fifty (150) days after Wendy's shall have obtained all permits, licenses, variances and approvals referred to in Subsection 2 of Section 8 below, and the memorandum of lease referred to in Section 12 below has been duly recorded, provided, however, that said one hundred fifty (150) day period shall be extended by the amount of time attributable to any delays due to causes beyond Wendy's control, including but not limited to acts of God, strikes, lockouts or unavailability of materials. Notwithstanding anything contained in the foregoing, upon the execution of this Lease, Wendy's shall have possession of the leased premises for the purpose of constructing thereon and preparing for the opening of a Wendy's Old Fashioned Hamburgers restaurant."

**5. "TAXES AND ASSESSMENTS:**

Wendy's agrees to pay to the appropriate governmental agencies all other real property taxes, assessments, impositions, or all claim or charges (herein collectively called the "taxes") which may constitute or may be reduced to a lien upon the leased premises, including but not limited to water charges and sewer charges, before the same shall become delinquent. All such payments for the first and last year of the original term or any renewal term shall be prorated between Lessor and Wendy's so that Wendy's shall be responsible for that portion of the taxes which is attributable to the original term and any renewal term. Wendy's tax obligation shall commence on the commencement date hereof. In the event there is included

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in the taxes any special assessment or assessment which may be paid in installments, unless otherwise directed by written notice from Wendy's, Lessor shall advise the appropriate governmental agency of its intention to elect payments in installments thereof, and Wendy's shall pay such installments as shall be due and payable during the original term or any renewal term.

In the event the leased premises are a portion of a larger tract, landlord agrees to use its best efforts to have the leased premises designated as a separate parcel for taxing purposes so that assessed valuation of the land and buildings shall relate only to the land constituting the leased premises and to the buildings and improvements constructed on the leased premises.

In the event the leased premises are a portion of a larger tract and the landlord is unable to have the leased premises designated as a separate parcel for taxing purposes, so that taxes are assessed upon the larger tract of which the leased premises are a portion, Wendy's agrees to pay that portion of the taxes which is reasonable attributable to the leased premises, determined as follows:

- (A) In the event the taxes are identified or apportioned by the taxing authorities or are identifiable or apportionable based on valuation or other information furnished by the taxing authority so that the portion of the taxes attributable to the value of the land can be distinguished from the portion of the taxes attributable to the value of the buildings, then as to that portion of the taxes attributable to the value of the land, Wendy's will pay a percentage of such portion of the taxes determined by dividing the area of the land described in Exhibit "A-1" by total area of the larger tract, and as to the portion of the taxes attributable to the value of the buildings, Wendy's will pay a percentage of such portion of the taxes determined by dividing the gross floor area of the Wendy's Old Fashioned Hamburgers restaurant by the gross floor area of all buildings located on the larger tract.
- (B) In the event the taxes are not identified or apportioned by the taxing authority and are not identifiable or apportionable based on valuation or other information furnished by the taxing authority so that the portion of the taxes attributable to the value of the land cannot be distinguished from the portion of the taxes attributable to the value of the buildings, then as to all taxes, Wendy's will pay a percentage of the taxes determined by dividing the area of the land described in Exhibit "A-1" by the total area of the larger tract.

In the event Wendy's is not notified/billed directly from the appropriate tax authority, Lessor will notify Wendy's in writing of any taxes which Wendy's is required to pay in accordance with the provisions of this Section. Such notification shall be furnished to Wendy's not less than twenty (20) days before the date such taxes are due and shall be accompanied by a copy of the tax bill. Any taxes which Wendy's is required to pay shall be paid by it not later than the date on which such taxes are due unless the notification by Lessor is received by Wendy's less than twenty (20) days before the date on which such taxes are due, in which event Wendy's shall pay such taxes within twenty (20) days after the date of such notification, and

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Lessor shall be responsible for the payment of any penalties, interest or other charges imposed upon delinquent payment of taxes. In the event the leased premises are a portion of a larger tract, then the written notification by Lessor to Wendy's of such taxes shall set forth (1) the total taxes on the larger tract accompanied by a copy of the tax bill; (2) whether the total taxes on the larger tract are identifiable or apportionable between land and buildings and if so, the amount of taxes attributable to the land and the amount of taxes attributable to buildings; and (3) Wendy's portion of the total taxes together with a statement showing how Wendy's portion was calculated in accordance with this Section.

If Wendy's fails to pay any taxes which it is required to pay within the time period provided above, Lessor may, at its option, pay said taxes, together with any and all penalties and said amount shall become immediately due and payable as additional rent.

Wendy's shall have the right in its own name, or in Lessor's name where appropriate, but at its own cost and expense, to contest the amount or legality of any taxes which it is obligated to pay hereunder and make application for the reduction thereof, or any assessment upon which the same may be based, and the Lessor agrees, at the request of Wendy's, to execute or join in the execution of any instruments or documents necessary in connection with such contest or application. If Wendy's shall contest such tax assessment, or other imposition, the time within which Wendy's shall be required to pay the same shall be extended until such contest or application shall have been finally determined, except that Wendy's shall be responsible for any penalty imposed by the taxing authority resulting from the late payment of taxes due to said contest.

In no event shall Wendy's be liable to payment of any income, estate or inheritance taxes imposed upon Lessor or the estate of Lessor with respect to the leased premises. Wendy's shall not pay any income, franchise, excise, sales or excess profits tax levied upon, required to be collected by, or assessed against Lessor."

#### 6. INSURANCE:

Wendy's hereby covenants and agrees at all times during the original term of this lease and any renewal term to maintain and keep in force, at Wendy's sole cost and expense, for the mutual benefit of Lessor and Wendy's:

(a) Comprehensive general liability insurance against all claims for personal injury, death, or property damage occurring on the leased premises with minimum limits of liability of One Million Dollars (\$1,000,000.00) per person, One Million Dollars (\$1,000,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) property damage.

(b) Fire insurance, with extended coverage, in an amount not less than eighty percent (80%) of the insurable value of the improvements located on the leased premises. Such policy may, at the option of Lessor, contain a mortgage clause in favor of any mortgagee of the leased premises.

Wendy's shall furnish copies of certificates of such insurance evidencing payment thereof to Lessor at the same shall be requested in writing from time to time by Lessor. Lessor shall not be required to obtain or maintain any



additional insurance. Wendy's further agrees to indemnify and hold harmless the Lessor, for any liability for claims resulting from Wendy's use and occupancy of the leased premises at all times during the original term of this Lease and any renewal term or extensions thereof."

7. "UTILITIES:

Wendy's shall pay any "tap in" fees or other charges for the installation or connection of oil, gas, electricity, water, telephone, sanitary sewer, storm or drainage sewer or ditch, and any and all other utilities (hereinafter collectively referred to as "utilities") for the leased premises and shall pay as and when due all charges made a gainst the premises for utilities."

9. "ALTERATIONS:

During the original term or any renewal term of this Lease, Wendy's may make alterations, additions and improvements to the leased premises without the consent of Lessor, and Wendy's shall have the right to erect and install such other or additional improvements, and equipment on the leased premises as Wendy's may, in its sole judgment, deem desirable for conducting its business thereon or for such other business as Wendy's may deem advisable."

10. "CASUALTY LOSS:

If the building or other improvements located on the leased premises should be damaged by fire or other casualty so that in the reasonable judgment of Wendy's the business conducted on the leased premises could not be conducted in a normal manner until the building and/or improvements are repaired or reconstructed, then Wendy's may, at its option, either (i) repair or reconstruct the buildings and/or improvements, or (ii) within ninety (90) days after the date of the fire or other casualty pay to Lessor the termination payment specified in paragraph 2(D) and return possession of the leased premises to Lessor with all buildings removed from the surface of the premises. In the event Wendy's elects (i) to repair or reconstruct the buildings and/or improvements, this Lease shall continue in force and effect except that for so long as the business conducted on the leased premises is discontinued by reason of the fire or other casualty (but not for more than four months) the rent payable under paragraph 4 hereof shall abate and provided further that the term of the lease then in effect shall be extended for a period equal to the period of rent abatement.

If the building or other improvements located on the leased premises should be damaged by fire or other casualty but the damage is sufficiently limited that in the reasonable judgment of Wendy's the business conducted on the leased premises can continue to be conducted in a normal manner while the buildings and improvements are being repaired, then Wendy's shall repair the buildings and/or improvements and this Lease shall continue in force and effect.

In any event Wendy's shall be entitled to receive the entire insurance proceeds payable as a result of any damage to the buildings or improvements on the leased premises occurring during the term of this Lease or any renewal term."

11. "LIENS PERMITTED":

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A. Security Interest in Fixtures Permitted

Wendy's shall have the right at any time to grant a security interest in any goods and property of every type and description owned by Wendy's, and installed or kept on the leased premises. Lessor hereby consents to any such security interest and disclaims any interest of any kind in any goods and property installed or kept on the leased premises. Lessor agrees that it will within ten (10) days after any written request by Wendy's confirm the foregoing consent and disclaimer in writing.

B. Leasehold Mortgages Permitted

Wendy's may at any time mortgage, encumber, pledge or assign as security its right, title and interest in and to the leasehold estate created hereby. Wendy's may, at any time, give to Lessor a notice (hereinafter referred to as "Mortgage Notice") containing the name and address of a lender (hereinafter referred to as a "Mortgage Lender") to which the leasehold estate created hereby has been or will be mortgaged, encumbered, pledged or assigned as security. Upon written request from Wendy's or any Mortgage Lender identified in a Mortgage Notice, Lessor will acknowledge, in writing, the receipt of any Mortgage Notice which it has received.

Whenever Lessor shall give any notice to Wendy's pursuant to Lease, Lessor shall also give to any Mortgage Lender at the address of such Mortgage Lender, a duplicate copy of such notice. The address of the Mortgage Lender shall be the address specified in the Mortgage Notice unless changed by subsequent written notice given by the Mortgage Lender to Lessor. No notice shall be effective unless it is given to all Mortgage Lenders. If at any time a Mortgage Lender shall give to Lessor a written notice that it has released its lien on the leasehold estate created hereby, such lender shall cease to be a Mortgage Lender for purposes hereof and no further notices need be given to it.

If Wendy's shall not cure or remedy any default or breach of covenant by Wendy's under this Lease within the period provided for such cure or remedy, Lessor shall thereupon give notice to that effect to all Mortgage Lenders, which shall thereupon be entitled to exercise any one or more of the following rights:

(i) to cure or remedy, or cause to be cured or remedied, within a period of time equal to the period of time allowed to Wendy's, such default or breach of covenant and Lessor shall accept such cure or remedy; and/or

(ii) to acquire by foreclosure or otherwise the leasehold estate created hereby and assume the obligations of Wendy's under this Lease, including those in default, and, in such event, Lessor shall not exercise its right of termination with respect to such default; and/or

(iii) to require Lessor to terminate this Lease by reason of such default and enter into a new lease with Mortgage Lender for the balance of the lease term at the same rental and upon the same terms, covenants and conditions as contained in this Lease.

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In addition to the foregoing rights, a Mortgage Lender may, at any time permitted under its loan documents, foreclose or otherwise realize upon its lien on the leasehold estate created hereby and Lessor will recognize the person, firm or corporation acquiring the leasehold estate created hereby as the lessee hereunder with all of the rights and estate of Wendy's, provided such person, firm or corporation agrees to assume and be bound by all of the terms, covenants and conditions hereof.

Lessor further agrees that any Mortgage Lender, in order to protect its interest in the leasehold estate created hereby, may exercise any right of renewal granted in paragraph 2 hereof to Wendy's and if such right of renewal is not also exercised by Wendy's, then during such renewal term as exercised by Mortgage Lender, Lessor will recognize the Mortgage Lender as the lessee hereunder with all of the right and obligations of Wendy's."

12. "LIENS NOT PERMITTED:

Wendy's shall not, at any time, suffer or permit the attachment to the leased premises of any lien for work done or materials furnished in connection with the improvement, maintenance, repair and/or alteration of the premises by Wendy's. If any such lien attaches to the premises and is not discharged or released within sixty (60) days from the date of attachment, Lessor may, at its option, pay to the lien claimant the amount of such lien and notify Wendy's of such payment, in which event such amount shall be immediately due and payable by Wendy's and shall bear interest at the rate of fifteen percent (15%) per annum; provided, however, that if Wendy's desires to contest said lien, Wendy's shall furnish to Lessor a bond written by a surety company licensed to do business in the state in which the leased premises are located or other security satisfactory to Lessor for an amount of at least equal to the amount of the lien for the Lessor's protection against all loss or expense on account of such asserted lien during the period of contest."

13. "USE AND OCCUPANCY:

Wendy's shall use and occupy the leased premises in a careful, safe and proper manner, and will not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and will comply with all lawful requirements of all valid laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the leased premises. Wendy's shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is a bar, club or tavern engaged in the sale of alcoholic beverages.

Lessor acknowledges that Wendy's use of the leased premises includes the construction and operation of a Wendy's Old Fashioned Hamburgers restaurant and shall not object to Wendy's use and occupancy of the leased premises for or in connection with such purpose so long as Wendy's is in compliance with the requirements of this section."

14. "SURRENDER OF PREMISES:

Wendy's will deliver up and surrender possession of the leased premises to Lessor upon the expiration of this Lease, any renewal or extension hereof, or its termination in any way in the condition and state of repair then existing, provided, however, that Wendy's shall have the

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right to remove all trade fixtures and equipment therefrom, as further provided in Section 21 hereof.

Wendy's shall also have the right, at Wendy's expense, to make changes in the appearance of the improvements located on the leased premises, so as to alter the appearance from the appearance the standard Wendy's Old Fashioned Hamburgers restaurant. Such changes may include painting all or part of the improvements so as to change the scheme and changing the slope and appearance of the fascia on the building.

Notwithstanding the amount of any work done by Wendy's under the preceding paragraph, Lessor agrees that, unless the slope and appearance of the fascia have been modified by Wendy's prior to Wendy's returning to Lessor possession of the building constructed by Wendy's on the leased premises, Lessor shall, prior to the time Lessor or any subsequent tenant commences to conduct business in said building, modify or cause any such subsequent tenant to modify the building's fascia by changing the slope of the fascia or by removing the fascia entirely."

15. DEFAULT BY WENDY'S:

If Wendy's shall fail to pay any installment of rent promptly on the day the same shall become due and payable hereunder, and such failure shall continue for a period of twenty (20) days after receipt by Wendy's of written notice thereof from Lessor, or if Wendy's shall fail to keep and perform promptly any other affirmative covenant of this Lease, in accordance with the terms of this Lease and such failure shall continue for a period of thirty (30) days after receipt by Wendy's of written notice thereof from Lessor, then Lessor may, at its sole option, and subject only to the provisions of Section 11 hereof (a) declare this Lease to be terminated, and enter into the leased premises or any part thereof, with process of law, and expel Wendy's or any person occupying the same in or upon said premises, and repossess and enjoy the leased premises as in Lessor's former estate in which event Wendy's may remove from the leased premises all of the personal property as set forth in Section 21 hereof, and all of Wendy's obligations hereunder shall be terminated; or (b) retake the leased premises, applying said rent from the new tenant on this Lease, and Wendy's shall be responsible for no more than the balance that may be due, should a balance exist. However, if the default cannot with due diligence be cured prior to the expiration of thirty (30) days from the date of receipt of the notice provided for above, and if Wendy's commences within thirty (30) days after date to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default, then Lessor shall not have the right to declare this Lease terminated by reason of such default."

16. WARRANTY OF TITLE BY LESSOR:

Lessor hereby warrants, represents and covenants to Wendy's that: (a) At the time of the execution by Lessor of this Lease and until this Lease or other instrument giving constructive notice of this Lease is recorded, Lessor is the sole owner in fee simple absolute of the leased premises; (b) Lessor has good and marketable fee simple title to the leased premises free and clear of all liens and encumbrances except taxes not yet due and payable and other exceptions to title which have been approved in writing by Wendy's; (c) Lessor does warrant and will defend

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the title to the leased premises against the lawful claims and demands of all persons claiming by, through, or under the Lessor, but against none other; and (d) Lessor has full right and power to execute this Lease and to lease the leased premises for the term provided in this Lease. In case Lessor does not have the title and rights aforesaid, then in such event, in addition to any other rights of Wendy's, this Lease shall, at the option of Wendy's, become null and void, and no rent for the remainder of the term aforesaid shall become due to the Lessor, its legal representatives or assigns, and all advance rents and other payments shall be returned by the Lessor to Wendy's, or Wendy's may withhold rent thereafter accruing until Wendy's is furnished proof satisfactory to Wendy's as to the parties entitled to receive rent.

Wendy's may obtain, at the expense of Lessor, a title insurance policy issued by Lawyers Title Insurance Corporation or other title insurance company acceptable to both Wendy's and Lessor. In addition to paying the costs of said title insurance policy, Lessor agrees to cooperate with Wendy's in obtaining said policy by delivering within seven (7) days after notification by Wendy's or its agent of the name and address of the title insurance company which will furnish the policy, to said title insurance company at such address all title information in Lessor's possession relating to the leased premises and thereafter any additional documents as may be required by the title insurance company to issue its policy of title insurance. Said title insurance policy must insure Wendy's in the amount of Four Hundred Thousand Dollars (\$400,000.00) that good and marketable title to the leased premises is vested in the Lessor, without exception for any matters including matters which would be disclosed by a survey and inspection and is vested in the Lessor free and clear of all liens and encumbrances except taxes not yet due and payable and other exceptions to title which have been approved in writing by Wendy's and insure that the leasehold estate created by this Lease is vested in Wendy's, without exceptions and free and clear of all liens and encumbrances except as aforesaid. In the event said title insurance policy is not obtainable or shows, or if issued would show, any liens, encumbrances or exceptions to title other than those specified above or any state of title other than that specified above, then Wendy's, at its sole option, may (a) at Lessor's expense take any steps necessary to cure such defects in or exceptions to title and/or (b) by notice to Lessor, terminate this Lease, in which event this Lease shall be null and void and of no further force and effect, and any monies paid by Wendy's, whether for rent or otherwise, shall be forthwith refunded to Wendy's and Wendy's shall be released from any further obligations under the terms of this Lease."

**17. LEASED PREMISES AS PART OF A LARGER TRACT OF LAND:**

In the event the leased premises are part of a larger tract of land, including by way of example, but not by way of limitation, a pad on a shopping center parking lot, then Lessor agrees that no buildings, signs or other improvements shall be constructed upon said larger tract which will reduce the visibility of Wendy's signs or of the leased premises from any access streets. Notwithstanding any provisions to the contrary in this lease lessor may replace the existing building, which sits back approximately 70 feet from the right of way of San Juan Avenue, and covers approximately 6,400 square feet, with a building of similar or smaller size and locations and may also replace the existing pylon sign located in the

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northeast corner of the property with another sign of similar or smaller size location. Lessor agrees to keep the larger tract of land, excluding the leased premises, in good maintenance and repair and in a safe, clean and sanitary condition. The cost of maintaining and repairing the larger tract and keeping it in a safe, clean and sanitary condition shall be borne solely by Lessor. All repairs, alterations and maintenance of the larger tract shall be solely the cost of the Lessor and Wendy's shall not be liable for any portion of the cost of repairs, alterations and maintenance of the larger tract without Wendy's prior written consent."

19. "PAYMENTS:

Lessor hereby covenants and agrees that, in the event Lessor shall fail to make the payments on any taxes or other payments on the leased premises which Lessor is required to pay, Wendy's may, but shall not be required to, make such tax payments or such other payments or do such acts and things as may be necessary to keep the taxes on the premises from being in default, and all such sums expended by Wendy's shall become immediately due and payable to Wendy's by Lessor. When due, said sums shall bear interest at the rate of fifteen percent (15%) per annum and may be offset by Wendy's against future rentals."

20. "DEFAULT BY LESSOR:

If Lessor shall breach any warranty or fail to perform any covenant required to be performed by Lessor under the terms of this Lease and such breach or failure shall continue for a period of thirty (30) days after receipt by Lessor of written notice thereof from Wendy's or if Lessor shall fail to pay any sums due to Wendy's under this Lease on the day the same shall become due and payable hereunder, and such failure shall continue for a period of ten (10) days after receipt by Lessor of written notice thereof from Wendy's then Wendy's may, in addition to any of Wendy's other rights set forth elsewhere in this Lease, (a) cure any default or breach of warranty of Lessor hereunder, and perform any covenants which Lessor has failed to perform, and any sums expended by Wendy's in curing such default or breach of warranty and performing such covenants shall be paid by Lessor to Wendy's immediately upon demand, shall bear interest at the rate of eight percent (8%) per annum from the date of demand, and may be offset by Wendy's against future rentals; (b) bring suit to recover from Lessor all sums due Wendy's from Lessor together with interest at the rate of eight percent (8%) per annum thereon; and/or (c) declare this lease to be terminated, in which event Wendy's shall have no further liability hereunder."

21. "TITLE TO BUILDINGS, IMPROVEMENTS, FIXTURES AND EQUIPMENT:

All trade fixtures and equipment including, but not limited to, all signs, ice machines, soda fountains, fryers, grills, toasters, freezers, walk-in coolers, tables, chairs, carpeting, lighting fixtures, fans, hoods and other kitchen and dining room equipment, shall remain and continue to be the sole and absolute property of Wendy's and may be replaced at any time during the term of this Lease and may be removed at the expiration or termination of this Lease; provided, however, that such removal shall not impair the structural integrity of the building.

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Title to the building and all other improvements on the leased premises and any repairs, alterations, additions or improvements to said building or improvements shall be vested in and remain in Wendy's at all times during the original term of this Lease and any renewal or extension thereof. Upon the expiration of this Lease, any extension or renewal hereof, or its termination in any way, title to the building and any improvements shall automatically pass to and become vested in the Lessor and Wendy's shall, upon request of Lessor, execute such quit-claim deed, bill of sale or assignment as may be necessary to evidence the transfer of such title to Lessor."

22. "WENDY'S SIGNS:

Wendy's shall have the right to install and maintain upon the leased premises signs advertising Wendy's business, provided that such signs shall be in accordance with all applicable laws, ordinances and governmental regulations."

23. "APPROPRIATION:

If all or any part of the leased premises shall be appropriate or condemned by any public or quasi-public authority in the exercise of its right of condemnation or eminent domain, both Wendy's and Lessor shall have the right to prosecute a claim for an award and to share in the proceeds of any and all awards based upon their respective interests as hereafter set forth. If all the leased premises shall be appropriated or condemned, this Lease shall terminate as of the time when the possession shall be required by such public or quasi-public authority. Lessor shall be entitled to receive that portion of any and all awards necessary to compensate it for the present value of the rents which it would have received in the future and for the present value of its reversionary interest, and notwithstanding the termination of this Lease, Wendy's shall be entitled to that portion of any and all awards necessary to compensate it for the value of its improvements to the leased premises, the value of its leasehold estate and the damages which it may sustain as a result of termination of the Lease prior to the end of the term, including any renewal terms.

In the event that a part of the leased premises shall be taken or condemned in that (a) the parts so taken include the building on the leased premises or any part thereof or (b) the parts so taken shall remove from the leased premises twenty-five percent (25%) or more of the total parking area thereof or more than five (5) parking spaces for automobiles, whichever is greater, or (c) such partial taking shall limit the access to the drive-in window or pick-up window in any way, or (d) such partial taking shall result in cutting off direct access from the leased premises to any adjacent public street or highway, then and in such event, Wendy's may, at any time prior to a period of sixty (60) days before the date when the condemning authority shall require possession of the part of the leased premises taken or condemned, elect to terminate this Lease. In the event Wendy's elects to terminate this Lease, then Wendy's and Lessor shall have the right to appear separately in any taking proceeding or negotiation and take and receive for the loss occasioned by such taking, such damages as it shall be able to prove and receive from such taking authority. In the event Wendy's shall not elect to terminate this Lease or in the event that a part of the leased premises shall be taken or condemned under circumstances under which Wendy's will have

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no such election, when and in either event, Wendy's shall receive so much of any and all of the awards as is necessary to pay for repairs to and alterations of the improvements on the leased premises for the purpose of restoring the same to an economic architectural unit susceptible to the same use as that which was in effect immediately prior to such taking and Lessor shall receive the balance, if any, of such awards.

In the event that this Lease shall not terminate after any part of the leased premises is taken or condemned, there shall be a reduction in rental equal to the lesser of (a) the percentage to the ground area of the leased premises which is taken or condemned or (b) the percentage by which the gross sales made by Wendy's at the leased premises during the one (1) year following the date on which the condemning authority takes possession of part of the premises are less than the gross sales during the one (1) year immediately preceding the date of possession by the condemning authority.

In the event that ingress to and/or egress from the leased premises onto San Juan Avenue is totally blocked as a result of any road construction or other improvements, Wendy's rent for the period of said blocking shall be reduced by a percentage equal to the percentage that average weekly gross sales during the period of blocking is less than the gross sales for the first full week prior to the commencement of said blocking, and Wendy's shall not be relieved from its obligation to pay taxes and other charges and to keep the premises insured."

24. PRIORITY OF LEASE:

The Lease, the leasehold estate created hereby, and the rights of Wendy's hereunder shall always be superior to the lien of any encumbrances which may affect the premises, except any real estate taxes and assessments hereinafter imposed upon or against the premises. Lessor agrees that it will place no mortgage and/or deed of trust upon the leased premises without first giving Wendy's written notice of the proposed execution of said mortgage and/or deed of trust at least thirty (30) days prior to such execution. Any lien or encumbrances made, recovered or placed upon the leased premises shall automatically be subject and subordinate to this Lease, the leasehold estate created hereby and the rights of Wendy's hereunder."

25. ESTOPPEL INSTRUMENTS:

At any time and from time to time upon the written request of another party or any Mortgage Lender, Lessor or Wendy's, as the case may be, shall execute and deliver to the party or Mortgage Lender requesting the same a certificate executed in recordable form stating (i) whether or not this Lease is in full force and effect, (ii) whether or not any rights to renew the term of this Lease have been exercised and the date on which this lease will terminate, (iii) whether or not this Lease has been modified or amended in any way and attaching a copy of such modification or amendment, (iv) whether or not there are any existing defaults under this Lease to the knowledge of the party executing the certificate, and specifying the nature of such defaults, if any, (v) the status of rent payments and (vi) any other facts regarding the operation of the Lease which the Mortgage Lender may reasonably request."



## OFFICIAL RECORDS

26. "ACCESS TO PREMISES BY LESSOR:

Lessor shall have access to the leased premises at all reasonable hours and upon reasonable notice during the original term of this lease and any renewal terms for the purpose of examining the same; provided, however, that Lessor shall not interfere in any way with the business of Wendy's."

27. "ASSIGNMENT AND SURRENDER BY WENDY'S:

Wendy's shall have the right to assign this lease or to sublet the whole or any part of the leased premises to a Wendy's franchise owner or to a wholly owned subsidiary of Wendy's without the Lessor's consent. In such event Wendy's shall remain liable on this lease. If the use of the leased premises after assignment or subletting will be by other than a Wendy's franchise owner or a wholly owned subsidiary of Wendy's, then, Lessor's written consent for the assignment or subletting is required, which consent is not to be unreasonably withheld."

28. "RIGHT OF FIRST REFUSAL:

Lessor agrees that during the original term and any renewal term of this lease, or any tenancy hereafter by Wendy's, Lessor shall not sell, transfer or otherwise dispose of all or part of Lessor's interest in the leased premises until and unless Lessor shall have obtained a bona fide offer therefor, informed Wendy's of the name and address of the offeror and offered to sell, transfer or otherwise dispose of such interest to Wendy's at the same price and upon the same terms and conditions contained in said bona fide offer. If Wendy's shall either reject said offer to it or fail to give notice of acceptance of the same within thirty (30) days after the date of receipt of such offer, Lessor's interest may during the ninety (90) days thereafter be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions contained in said bona fide offer. In the event Wendy's rejects said offer or fails to accept the same, this lease and all of its terms and conditions (including this right of first refusal) shall nevertheless remain in full force and effect and Lessor and any purchasers of the leased premises shall be bound thereby. Notwithstanding anything contained herein to the contrary, Wendy's shall not have the right of first refusal in the event said offer provides for the sale and purchase of the leased premises and other property."

31. "HOLDING OVER:

In the event Wendy's remains in possession of the leased premises after the expiration of this lease and without the execution of a new lease, Wendy's shall be deemed to be occupying the leased premises as a tenant from month to month at a rental equal to the monthly rental provided for herein and otherwise subject to all the conditions, provisions and obligations of this lease insofar as they are applicable to month to month tenancy."

35. "SERVICE OF NOTICE:

Notices hereunder shall be in writing signed by the party serving the same and shall be sent by registered or certified U.S. Mail, Return Receipt Requested, postage prepaid, and (a) if intended for Lessor, shall be addressed to:

BARNETT BANKS TRUST COMPANY, U.A.  
Post Office 40200  
Jacksonville, Florida 32231

and (b) if intended for Wendy's, shall be addressed to:

Wendy's International, Inc.  
4288 West Dublin-Granville Road  
P.O. Box 256  
Dublin, Ohio 43017

with a copy addressed and sent to:

Wendy's International, Inc.  
Attention: Legal Department  
4288 West Dublin-Granville Road  
P.O. Box 256  
Dublin, Ohio 43017

or to such other addresses as either party may have furnished to the other from time to time as a place for the service of notice. Any notice so mailed shall be deemed to have been given as of the time said notice is deposited in the U.S. Mail, unless otherwise provided herein.

37. "SURVIVAL OF LEASE COVENANTS:

The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, legal representatives, successors or assigns, and shall run with the land."

42. "EXCULPATION:

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Barnett Banks Trust Company, N.A., as trustee of lessor ("Bank") while in form purporting to be the representations, covenants, undertakings and agreements of the Bank are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Bank or for the purpose or with the intention of binding the Bank personally but are made and intended for the purpose of binding only that portion of the leased premises specifically leased hereunder, and this Lease is executed and delivered by the Bank not in its own right, but solely in the exercise of the powers conferred upon it as such trustee; that no duty shall rest upon Bank to acquiesce the trust estate or the rents, issues and profits arising therefrom, or the proceeds arising from any sale or other disposition thereof; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Bank or any of the beneficiaries under said Trust Agreement, on account of this Lease or on account of any representation, covenant, undertaking or agreement of the said Bank in this Lease contained, either expressed or implied, all such personal liability, if any, being expressly waived and released by Wendy's herein and by all persons claiming by, through or under Wendy's."

This recorded Memorandum of Lease does not contain all the terms and provisions of the Lease Agreement all of which are hereby incorporated by reference. In the event of a conflict of understanding of the terms and provisions of the unrecorded lease agreement, the unrecorded lease agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 19 day of July, 1962.

5551 FC 724

Signed by Lessor this 19<sup>th</sup> day of July, 1962. OFFICIAL RECORDS

WITNESSES:

LESSOR:

[Signature]  
[Signature]

J. Winder Hughes  
J. Winder Hughes, Sr., not individually but as Trustee of the Nelson W. Hughes Trust, dated 11/28/78

[Signature]  
[Signature]

By [Signature]  
Barnett Banks Trust Company, N.A., not individually but as Trustee of the Nelson W. Hughes Trust, dated 11/28/78  
J. Winder Hughes, Sr. and  
as trustee of said

[Signature]  
[Signature]

J. Winder Hughes, Sr.  
J. Winder Hughes, Sr., not individually but as Trustee of the John Winder Hughes Revocable Trust, dated 11/28/78

[Signature]  
[Signature]

J. Winder Hughes, Jr.  
J. Winder Hughes, Jr., not individually but as Trustee of the John Winder Hughes Revocable Trust, dated 11/20/78

[Signature]  
[Signature]

By [Signature]  
Barnett Banks Trust Company, N.A., not individually but as Trustee of the John Winder Hughes Revocable Trust, dated 11/28/78

[Signature]  
[Signature]

J. Winder Hughes, Jr.  
J. Winder Hughes, Jr., not individually, but as Trustee of the John Winder Hughes Revocable Trust, dated 12/28/78

[Signature]  
[Signature]

By [Signature]  
Barnett Banks Trust Company, N.A., not individually but as Trustee of John Winder Hughes, Jr. Revocable Trust, dated 12/28/78

WITNESSES:

HENDY'S:

OFFICIAL RECORDS:

HENDY'S INTERNATIONAL, INC.

Marilyn C. Bailey

By [Signature]

[Signature]

By [Signature]

LAW DEPT. 13

STATE OF OHIO )  
COUNTY OF FRANKLIN)SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 13th day of July, 1982, before me personally appeared John W. Funk and Jack Tucker, the Executive Vice President and State Vice President respectively of Hendy's International, Inc., an Ohio corporation, who were known to me as the persons and officers described in and who executed the foregoing instrument on behalf of said corporation, and who acknowledged that they held the position or title set forth in the instrument and certificate, they signed the instrument on behalf of the corporation by proper authority, and the instrument was the act of the corporation for the purpose therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.

Marilyn C. Bailey  
Notary Public  
MARILYN C. BAILEY  
NOTARY PUBLIC STATE OF OHIO  
FRANKLIN COUNTY  
MY COMMISSION EXPIRES 12-27-82

STATE OF Florida  
COUNTY OF Duval)SS:

The undersigned, a Notary Public, in and for the above state and county, hereby certifies that on the 19th day of July, 1982, before me personally appeared J. Hinder Hughes, Jr., and Barnett Banks Trust Company, S.A. by John R. Pope, its General Trust Officer, not individually but as Trustees of the Helson H. Hughes Trust, dated November 28, 1979, who were known to me as the persons and Trustees described in and who executed the foregoing instrument on behalf of said Trust, and who acknowledged that they were the Trustees as set forth in the instrument and certificate, they signed the instrument on behalf of the Trust by proper authority, and the instrument was the act of the Trust for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.



Barbara S. Nicka  
Notary Public

J. Winder Hughes, Jr. under Power of Attorney J. Winder Hughes, Sr.

STATE OF Florida, Vol. 5551 P. 726  
COUNTY OF Duval SS: OFFICIAL RECORDS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 19th day of July, 1982, before me personally appeared J. Winder Hughes, Jr., as Trustee of the John Winder Hughes Revocable Trust, dated November 28, 1978, who was known to me as the person and Trustee described in and who executed the foregoing instrument on behalf of said Trust, and who acknowledged that he is Trustee as set forth in the instrument and certificate, he signed the instrument on behalf of the Trust by proper authority, and the instrument was the act of the Trust for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal 19th day and year last aforesaid.



Barbara S. Hicks  
Notary Public

STATE OF Florida  
COUNTY OF Duval SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 19th day of July, 1982, before me personally appeared J. Winder Hughes, Jr., and Barnett Banks Trust Company, N.A., by John R. Pope its Senior Trust Officer, not individually but as Trustees of the John Winder Hughes, Jr., Revocable Trust, dated December 28, 1978, who were known to me as the persons and Trustees described in and who executed the foregoing instrument on behalf of said Trust, and who acknowledged that they were the Trustees as set forth in the instrument and certificate, they signed the instrument on behalf of the Trust by proper authority, and the instrument was the act of the Trust for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal 19th day and year last aforesaid.



Barbara S. Hicks  
Notary Public

STATE OF Florida  
COUNTY OF Duval SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 19th day of July, 1982, before me personally appeared J. Winder Hughes, Jr., and Barnett Banks Trust Company, N.A. by John R. Pope its Senior Trust Officer not individually but as Trustees of the John Winder Hughes Revocable Trust, dated November 28, 1978, who are known to me as the person and Trustees described in and who executed the foregoing instrument on behalf of said Trust, and who acknowledged that they were the Trustees as set forth in the instrument and certificate, they signed the instrument on behalf of

the Trust by proper authority, and the instrument was the act of the Trust for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.



*Barbara E. Hicks*  
Notary Public

## EXHIBIT "A-1"

A portion of Lot 5, all of Lots 6 and 7, and a portion of Lots 8 and 9, Block 82, together with a part of the 60 foot Street Right of Way, now closed, lying between Blocks 82 and 93, according to a "Replat of part of Lake Side Park" recorded in Plat Book 6, Page 44 of the current public records of Duval County, Florida, all being more particularly described as follows:

For a point of beginning, commence at the Northwest corner of the aforementioned Block 82, said Northwest corner being the intersection of the Southerly line of San Juan Avenue (an 80 foot right of way, as now established) and the Easterly line of Hamilton Street (an 80 foot right of way, as now established); run thence South along said Easterly line of Hamilton Street, a distance of 285.0 feet; run thence South 89° 56' 00" East, parallel with aforementioned Southerly line of San Juan Avenue, a distance of 128.0 feet; run thence North, parallel with aforementioned Easterly line of Hamilton Street, a distance of 103.0 feet; run thence North 89° 56' 00" West, a distance of 25.0 feet; run thence North, parallel with aforementioned Easterly line of Hamilton Street, a distance of 182.0 feet to a point in the aforementioned Southerly line of San Juan Avenue; run thence North 89° 56' 00" West, along said Southerly line of San Juan Avenue, a distance of 103.0 feet to the point of beginning.

Lands thus described contain 31,929 square feet or 0.733 acres, more or less.

82- 46025

Jun 27 12 29 PM '82

J. J. JONES  
RECORDS SECTION

Michael Corrigan, Tax Collector  
Duval County/City of Jacksonville  
Comments - taxcollector@coj.net  
Inquiries - (904)630-1916  
www.coj.net/tc

Date: 09/29/2016 Time: 15:31:06  
Location: P08 Clerk: ZSP  
Transaction 0611417

Duval County, City Of Jacksonville  
Michael Corrigan, Tax Collector  
231 E. Forsyth Street  
Jacksonville, FL 32202

General Collection Receipt

Date: 4/18/2016  
Email: AHetzl@coj.net

Miscellaneous  
Item: CR - CR365255  
Receipt 0611417.0001-0001 1,179.00  

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Total Paid 1,179.00  
CHECK 008357 1,179.00  

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Total Tendered 1,179.00

ON  
Name: J. Hughes  
Address: Property located at 2001 Hamilton St  
Description: Invoice for 2001 Hamilton St Sign Waiver application submittal.

CLAcct	SubdNo	UserCode	Project	ProjectBtl	Grant	GrantBtl	DocNo	Amount
								1179.00

Paid By: DRIVER, MCAFEE, PEEK &  
Thank You

Total Due: \$1,179.00

Michael Corrigan, Tax Collector  
General Collections Receipt  
City of Jacksonville, Duval County

Account No: CR365255REZONING/VARIANCE/EXCEPTION  
Name: J. Hughes  
Address: Property located at 2001 Hamilton St  
Description: Invoice for 2001 Hamilton St Sign Waiver application submittal.

Date: 4/18/2016

Total Due: \$1,179.00