

RESOLUTION NO. R-2006-0022

RESOLUTION APPROVING RECOMMENDATION OF
STATUS REPORT NO. SR 1980-173C.6
TO APPROVE A DEVELOPMENT ORDER AMENDMENT
FOR PROPERTY PREVIOUSLY GRANTED A CONDITIONAL USE "A" BY
RESOLUTION NO. R-94-1681
APPROVING THE PETITION OF WAL-MART STORES, INC.
PETITION NO. 1980-173(C)

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan; and

WHEREAS, the notice and hearing requirements as provided for in Article 2.E. of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, pursuant to Article 2.E., Status Report SR 1980-173C.6 was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on January 5, 2006; and

WHEREAS, the Board of County Commissioners has reviewed Status Report SR 1980-173C.6 and considered testimony, and the recommendations of the various county review agencies; and

WHEREAS, Article 2.E. of the Palm Beach County Unified Land Development Code authorizes the Board of County Commissioners to approve development order amendments; and

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

1. Resolution No. R-94-1681 was approved eleven years ago.
2. Resolution No. R-94-1681 permitted the development of an additional 35,980 square feet.
3. The amendment of conditions of approval will delete the ability to develop the additional 35,980 square feet.
4. Development of the additional square feet has not commenced since the development order allowing the expansion was approved on December 5, 1994 (eleven years ago).
5. Time extensions totaling seven years and eight months have previously been approved.
6. The approval of a development order amendment is consistent with the Palm Beach County Comprehensive Plan and with the Unified Land Development Code

WHEREAS, Section 5.3 of the Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that the recommendation of Status

Report No. SR 1980-173C.6, to approve a Development Order Amendment to amend Conditions of Approval of Resolution No. R-94-1681 the development order previously granted by the approval of the petition of Wal-Mart Stores, Inc., Petition No. 1980-173(C), which approved a Development Order Amendment to increase square footage in a Planned Commercial Development, on property legally described in Exhibit A, being located on the N.W. corner of Hypoluxo Road and Military Trail, in the General Commercial Zoning District, is approved subject to the following conditions:

1. All previously approved conditions of approval continue to apply unless expressly modified herein.
2. No additional square feet shall be constructed on Parcel A (WalMart parcel) as shown on site plan Exhibit 35 for Petition 1980-173C.
3. Condition Number B.6. of Resolution No. R-94-1681 which currently states:

The maximum height, measured from finish grade, for the garden center shall be fifteen (15) feet. (BUILDING)

Is hereby deleted. (REASON: Condition No. 2 deletes the garden center)

4. Condition Number E. 7. of Resolution No. R-94-1681 which currently states:
 - A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BUILDING - Engineering)
 - B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (BUILDING - Engineering)
 - C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (BUILDING - County Attorney)

Is hereby deleted. (REASON: There will be no additional square feet to trigger the issuance of additional building permits of certificates of occupancy)

5. Condition Number E.8. of Resolution No. R-94-1681 which currently states:

Prior to issuance of a Building Permit for the Wal Mart addition, the property owner of Parcel A shall convey a cross access easement within Parcel A, to the property owner to the west subject to approval of the County Attorney. Location and width of this easement shall be approved by the County Engineer. (ENGINEERING)

Is hereby deleted. (REASON: There will be no additional square feet to trigger the issuance of additional building permits.)

Commissioner Marcus moved for approval of the Resolution.

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


TONY MASILOTTI, CHAIRMAN	—	Aye
ADDIE L. GREENE, VICE CHAIRPERSON	—	Aye
JEFF KOONS	—	Absent
WARREN H. NEWELL	—	Aye
MARY MCCARTY	—	Aye
BURT AARONSON	—	Aye
KAREN T. MARCUS	—	Aye

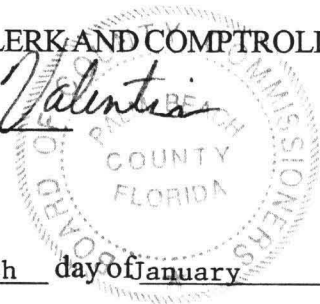
The Chair thereupon declared the resolution was duly passed and adopted this 5th day of January, 2006.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK, CLERK AND COMPTROLLER
BY: 
DEPUTY CLERK



Filed with the Clerk of the Board of County Commissioners on the 5th day of January, 2006.

EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 1; THENCE NORTH 00°11'39" WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 1, A DISTANCE OF 114.03 FEET; THENCE NORTH 88°50'22" WEST, A DISTANCE OF 110.81 FEET TO THE POINT OF BEGINNING OF THE PARCEL TO BE HEREIN DESCRIBED; SAID POINT OF BEGINNING IS ON THE NORTH RIGHT OF WAY LINE OF HYPOLUXO ROAD AS RECORDED IN OFFICIAL RECORD BOOK 3974, PAGES 1926 AND 1927; THENCE NORTH 88°50'22" WEST, ALONG SAID NORTH RIGHT OF WAY LINE OF HYPOLUXO ROAD, A DISTANCE OF 352.47 FEET; THENCE NORTH 00°13'47" WEST, A DISTANCE OF 185.68 FEET; THENCE NORTH 89°22'47" WEST, A DISTANCE OF 200.02 FEET; THENCE NORTH 00°13'47" WEST, A DISTANCE OF 1068.81 FEET; THENCE SOUTH 89°28'27" EAST, A DISTANCE OF 583.97 FEET; THENCE SOUTH 00°11'39" EAST, A DISTANCE OF 890.12 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE WEST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 11379.09 FEET, A CENTRAL ANGLE OF 1°43'56" AND A DISTANCE OF 334.02 FEET; THENCE SOUTH 46°20'57" WEST, A DISTANCE OF 35.24 FEET TO THE POINT OF BEGINNING AFORE DESCRIBED.