

RESOLUTION APPROVING ZONING PETITION DOA80-173(C)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF WAL-MART STORES, INC.

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

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

WHEREAS, Zoning Petition **DOA80-173(C)** was presented to the Board of County Commissioners at a public hearing conducted on December 5, 1994; and

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

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

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency reservation and therefore complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition **DOA80-173(C)D**, the petition of Wal-Mart Stores, Inc., for a DEVELOPMENT ORDER AMENDMENT in the General Commercial (CG) Zoning District, to increase square footage, previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on December 5, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt <b>Aaronson</b>	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Aye
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 5th day of December, 1994.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

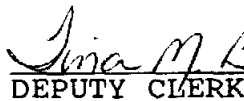
PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK

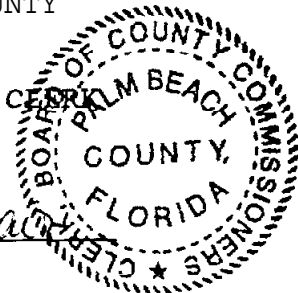


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND 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  $00^{\circ}11'39''$  WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 1, A DISTANCE OF 114.03 FEET; THENCE NORTH  $88^{\circ}50'22''$  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  $88^{\circ}50'22''$  WEST, ALONG SAID NORTH RIGHT OF WAY LINE OF HYPOLUXO ROAD, A DISTANCE OF 352.47 FEET; THENCE NORTH  $00^{\circ}13'47''$  WEST, A DISTANCE OF 185.68 FEET; THENCE NORTH  $89^{\circ}22'47''$  WEST, A DISTANCE OF 200.02 FEET; THENCE NORTH  $00^{\circ}13'47''$  WEST, A DISTANCE OF 1068.81 FEET; THENCE SOUTH  $89^{\circ}28'27''$  EAST, A DISTANCE OF 583.97 FEET; THENCE SOUTH  $00^{\circ}11'39''$  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  $1^{\circ}43'56''$  AND A DISTANCE OF 334.02 FEET; THENCE SOUTH  $46^{\circ}20'57''$  WEST, A DISTANCE OF 35.24 FEET TO THE POINT OF BEGINNING AFORE DESCRIBED.

EXHIBIT B  
VICINITY SKETCH

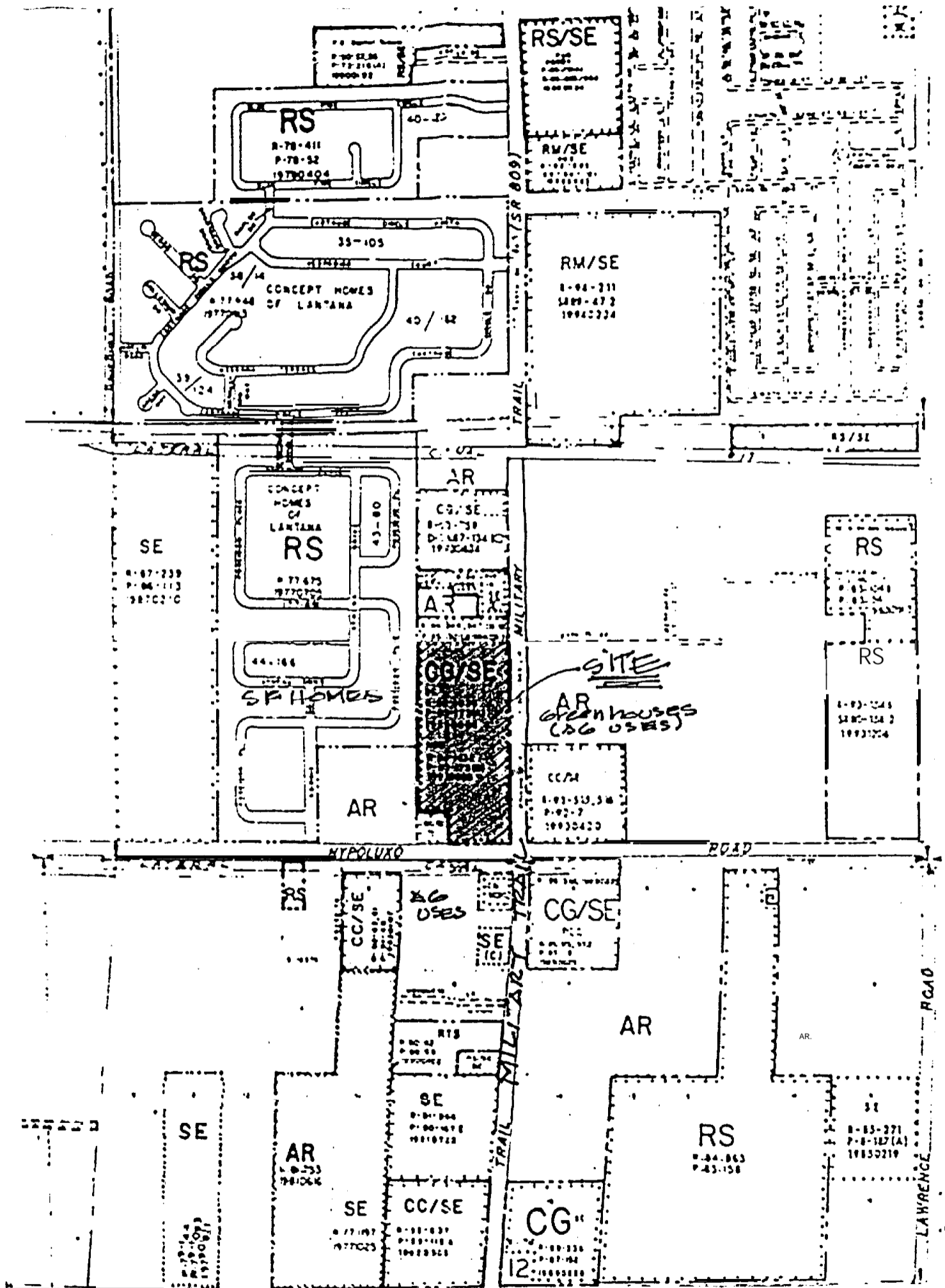


EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-89-1038, and R-90-1432, have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval unless expressly modified.  
(MONITORING)

2. Condition 1 of Resolution No. 89-1038, Petition No. 80-173(A), which currently states:

The developer shall comply with all previous conditions of approval, unless expressly modified herein.

Is hereby deleted. [REASON: Duplicate condition]

3. Condition 1 of Resolution No. R-90-1432, Petition No 80-173(B), which currently states:

The developer shall comply with all previous **conditions** of approval unless expressly modified herein.

Is hereby deleted. [REASON: Duplicate condition]

4. Condition 2 of Resolution No. 89-1038, Petition No. 80-173(A), which currently states:

Prior to site plan certification, Parcel "**C**" shall be redesigned to eliminate conflicts between the **required** stacking lanes and other vehicular circulation **area; on-site** by shifting all proposed improvements on parcel "**C**" to the west.

Is hereby deleted. [REASON: Site plan is amended]

5. Condition 3 of Resolution No. 89-1038, Petition No. 80-173(A), which currently states:

Prior to certification, the site plan shall be amended to indicate the following:

- a. Required twenty-five (25) foot wide **perimeter** landscape strip separating all vehicular use areas from both Hypoluxo Road and Military Trail;
- b. The tabular data for parcel "**C**" indicating eight (8) required parking spaces;
- c. The required stacking lanes **for** all gasoline pump islands and the car wash facility;
- d. Relocation **of** all signs out of required landscape areas: and
- e. Graphic depiction of the loading area.

Is hereby amended to state:

Prior to site plan certification by the **Development** Review Committee (DRC), the petitioner shall amend the site plan to indicate:

- a. Cross access easement to the commercial propel-ty to the west; and,

- b. Designate the parking area adjacent to the west property **line** as employee parking only. (ZONIP'G)

B. BUILDING AND SITE DESIGN

1. All mechanical and air conditioning equipment shall be mounted and screened with parapets or be contained within the enclosed loading and service area. Previously Condition 7 of Resolution No. 89-1038, Petition No. 80-173(A). (BUILDING-Zoning)
2. All existing air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BUILDING - Zoning)
3. No storage or placement of any stock materials, refuse, equipment or accumulated debris shall be permitted in the rear of the shopping center. (Previously Condition 9 of Resolution No. 89-1038, Petition No. 80-173(A). (CODE ENFORCEMENT)
4. No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces or unloading areas. (Previously Condition 10 of Resolution No. 89-1038, Petition No. 80-173(A). (CODE ENFORCEMENT)
5. The western rear facade(s) of the shopping center shall be given architectural treatment consistent with the front **of the center**. (Previously Condition 11 of Resolution No. 89-1038, Petition No. 80-173(A). (BUILDING)
6. The maximum height, measured from finish grade, for the garden center shall be fifteen (15) feet. (BUILDING)

C. USE LIMITATION

1. No stock loading or dumpster pick-up will be permitted between the hours of 8:00 p.m. and 8:00 a.m. (Previously Condition 8 of Resolution No. 89-1038, Petition No. 80-173(A) (CODE ENFORCEMENT)
2. Condition 2 of Resolution No. R-90-1432, Petition No. 80-173(B), which currently states:  

No stock loading **or** dumpster **pick-up** will be permitted between the hours of 8:00 p.m. and 8:00 a.m. in the rear of the local stores located along the west property line.

Is hereby deleted. [REASON: Duplicate condition]
3. No storage or placement of any stock materials, refuse equipment or accumulated debris shall be permitted in the rear of the local stores located along the west property line. Temporary storage of stock materials within the loading area for the WAL-MART Store shall be permitted in trailers only. Temporary storage of baled wood pallets and baled card board products shall be permitted Only within the loading area for the WAL-MART Store. The outdoor storage area shall be completely screened from view from the rear and side yards by a six (6) foot tall **masonry** wall. A revised site plan shall be submitted which identifies the storage area. In no case shall this area exceed 1,000 square feet. (Previously Condition 3 of Resolution No. R-90-1432, Petition No. 80-173(B). (CODE ENFORCEMENT)

4. No deliveries shall be permitted between 8:00 P.M. and 8:00 A.M. daily. (CODE ENFORCEMENT)

D. HEALTH

1. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited **unless** adequate pretreatment facilities approved by the **Florida** Department of Environmental Regulation (**FDER**) and **Agency** responsible **for** sewage **works** are constructed and **used** by project tenants or owners generating such **effluents**. (Previously Condition 13 of Resolution No. 89-1038, Petition No. 80-173(A).
2. sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (**Previously** Condition 14 of Resolution No. 89-1038, Petition No. 80-173(A).
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide **potable** water. (Previously Condition 15 of Resolution No. 89-1038, Petition No. 80-173(A).

E. ENGINEERING

1. Condition 16 of Resolution 89-1038, Petition No. 80-173(A) , which currently states:

The developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, ~~this~~ development shall retain **onsite** the stormwater **runoff** generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the **Permit** Section, Land Development Division. In the event ~~that~~ the subject site abuts a Department of **Transportation** maintained roadway, concurrent approval from the **Florida** Department of Transportation will also be required. The drainage system shall be maintained in an **acceptable** condition as approved by the County Engineer. In the event that the drainage system is not **adequately** maintained as determined by the county Engineer, ~~this~~ matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. [REASON: CODE REQUIREMENT]

2. If required by the County Engineer or the South **Florida** Water Management District the developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced area shall be **separate** from those areas which **may** contain hazardous or undesirable waste from the proposed site. (**Previously** Condition 17 of Resolution No. 89-1038, Petition No. 80-173(A).
3. Prior to October 1, 1988 or prior to Site Plan **approval** whichever shall first occur, the property owner shall convey to Palm Beach County by road right-of-way **warranty** deed for:
  - a. Hypoluxo Road, **114** feet north of the existing **south** right-of-way line of Hypoluxo Road: and
  - b. Military Trail, 80 feet from centerline:

all free of all encumbrances and **encroachments**. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the **County Engineer**. (Previously Condition 18 of Resolution No. 89-1038, Petition No. 80-173(A). Note: This **condition** has been complied with.

4. The property owner shall cause to be constructed concurrent with the four laning of Military Trail:
  - a. Left turn lane, and a right turn lane, south approach on Military Trail at the project's main entrance (adjacent to **WalMart**);
  - b. Right turn lane, north approach, at the project's main entrance; and (Previously Condition 19) of Resolution No. 89-1038, Petition No. 80-173(A). Note: This condition has been complied with.
5. The developer shall pay a Fair Share Fee in the **amount** and manner required by the "**Fair** share Contribution for Road Improvements Ordinance" as it presently exists **or** as it may from time to time be amended. The Fair share **Fee** for this project presently is **\$249,308.00** (9,306 trips X \$26.79 per trip). These funds shall be paid **prior** to February **1**, 1989 or prior to issuance of the first building permit whichever shall first occur. (Previously Condition 20 of Resolution No. 89-1038, Petition No. 80-173(A).
6. In order to comply with the mandatory traffic performance standards the property owner shall be restricted to the following phasing schedule:
  - a) No building permits, except for the Wal-Mart building permit, shall be issued until construction has begun for Military Trail as a minimum **4** lane section adjacent to the site currently scheduled for the Fiscal Year 1988-1989. (Previously Condition 21 of Resolution No. 89-1038, Petition 80-173(A). [Note: Military Trail has been constructed as a 6 lane median divided section adjacent to the site.]
7. LANDSCAPE WITHIN MEDIAN
  - 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 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)
8. 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)
9. Prior to issuance of a Building Permit in Parcel B, the property owner of Parcel B, shall convey a cross access easement 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)
10. The property owner shall pay a Fair Share Fee in the amount and manner required by the "**Fair Share Contribution for Road Improvements Ordinance**" as it presently exists or as it may from time to time be amended. The Fair Share Fee for the Wal Mart **Addition 80-173(C)** to be paid at the time of issuance of the Building Permit presently is **\$43,615.00** (793 additional trips X \$55.00 per trip) (IMPACT FEE COORDINATOR).

F. LANDSCAPING - STANDARDS

1. All trees required to be planted on site by this approval or as a replacement for a previously required tree shall meet the following minimum standards at installation:
- Tree height: fourteen (14) feet.
  - Trunk diameter: 3.5 inches measured 4.5 feet above grade.
  - Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BUILDING-Zoning)
2. All sabal palms on-site shall be preserved or **relocated** to required landscape areas. (Previously Condition 5 of Resolution No. 89-1038, Petition No. 80-173 [A]). (ZONING/ERM)
3. At a minimum, landscaping shall be installed as **indicated** on Exhibit No. 16, including the combination of landscaped divider medians and interior landscape islands. Trees may be spaced as provided by **Section 500.35** of the Zoning Code. (Previously Condition 6 of Resolution No. 89-1038, Petition No. 80-173 [A]). (ZONING/BUILDING)

G. LANDSCAPING ALONG WEST PROPERTY LINE

1. Landscaping and buffering along the west property line adjacent to residential land use shall be upgraded to include:
  - a. A minimum five (5) foot wide landscape **buffer** strip, except adjacent to the loading area were a minimum twenty (20) foot wide buffer is required; and,
  - b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (**BUILDING-Zoning**)
2. The following landscaping requirements shall be installed along the interior of the required wall:
  - a. One (1) canopy tree planted every twenty (20) feet on center, except within the required twenty (20) foot landscape buffer adjacent to the loading area were a double row of trees shall be required;
  - b. One (1) palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet. on center; and,
  - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) **inches** on center at installation, to be maintained **at** a minimum height of forty-eight (48) inches. (**BUILDING-Zoning**)
3. The following landscape requirements shall be installed along the west facade of the garden center:
  - a. A minimum five (5) foot landscape planter along the entire west facade of the garden center;
  - b. One (1) canopy tree planted every twenty (20) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location;
  - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) **inches** on center at installation, to be maintained **at** a minimum height of forty-eight (48) inches. (**BUILDING-Zoning**)

H. LIGHTING

1. Outdoor lighting used to illuminate the premises shall be shielded, low intensity and directed away from adjacent properties and streets. Lighting standards along the perimeter of the site shall not exceed twenty (20) feet in height. (Previously Condition 12 of Resolution No. 89-1038, Petition No. 80-173(A). (**BUILDING/CODE ENFORCEMENT**))

I. PARKING

1. All delivery and/or loading areas shall be screened from view by a twelve (12) foot high wing wall, measured from finished grade to highest point, consistent with the color and character of the principle structure. (**BUILDING-Zoning**)
2. Overnight storage or parking of delivery vehicle;; or trucks shall not be permitted on site, except withir the loading and delivery areas designated on the site plan. (**CODE ENFORCEMENT**)

3. The parking area along the west shall be used for employee parking only. Appropriate signs shall be **posted** restricting this area to employee parking **only**. (BUILDING)
4. No parking **of** any vehicles shall be permitted along the rear of the facility except in parking spaces designated on the site plan. (CODE ENFORCEMENT)

J. RECYCLE SOLID WASTE

1. All property owners and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

K. SIGNS

1. All off-premises signs shall be removed prior to issuance of the first building permit. (Previously Condition 4 of Resolution No. 89-1038, Petition No. 80-173(A). (BUILDING)

L. COMPLIANCE

1. Condition 31 of Resolution No. 89-1038, Petition No. 80-173(A), which currently states:

Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial **of** a Certificate of Occupancy on any building or structure; **or** the denial or revocation **of** any permit or approval **for** any developer-owner, commercial-owner, lessee, **or** user of the subject property. Appeals from such action **may** be taken to the Palm Beach County Board **of** Adjustment or as otherwise provided in the Palm Beach County Zoning **Code**. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.

Is hereby deleted. [REASON: Duplicate condition]

2. Condition 4 of Resolution No. R-90-1432, Petition No. 80-173(8), which currently states:

As provided in the Palm Beach County Zoning **Code**, Sections 400.2 and 402.6, failure to comply with **any** of these conditions of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of **a** stop **work** order; the denial of a Certificate of Occupancy on **any** building or structure; or the denial or revocation of any permit or approval for **any** developer-owner, commercial-owner, lessee, or user of the **subject** property; and/or
- b. The revocation of the Special Exception and any zoning which was approved concurrently with **the** Special Exception as well as any previously **granted** certifications of concurrency or exemptions therefrom; and/or
- c. A requirement of the development to conform **with** updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions **reasonably** related to the failure to comply with **existing** conditions.

Appeals of **any** departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals **of** any revocation of **Special** Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Is hereby amended to state:

Failure to comply with any of these conditions of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of a stop work order; cease and **desist** order; the denial of a Certificate of **Occupancy** on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or **user** of the subject property; and/or
- b. The revocation of the Conditional Use and **any/or** zoning which was approved concurrently with the Conditional Use;
- c. A requirement of the development to conform **with** updated standards of development, applicable at the **time** of the finding of non-compliance, or the addition or modification of conditions **reasonably** related to the failure to comply with **existing** conditions;
  - a. Referral to code enforcement; and/or
  - e. Imposition of entitlement density or intensity.

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