

RESOLUTION NO. ZR-2007-064

RESOLUTION APPROVING ZONING APPLICATION ZV2007-1601
CONTROL NO. 1980-089
TYPE II VARIANCE (STAND ALONE)
APPLICATION OF WAL-MART STORES EAST, LP
BY KIMLEY HORN AND ASSOCIATES, INC., AGENT
(LANTANA SQUARE SHOPPING CENTER)

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

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

WHEREAS, Zoning Application ZV2007-1601 was presented to the Zoning Commission at a public hearing conducted on December 6, 2007; and

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies; and

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

WHEREAS, the Zoning Commission has considered the findings in the staff report and the following findings of fact:

1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same Zoning District;
2. Special circumstances and conditions do not result from the actions of the applicant and the approval of this variance will not grant any special privilege to the applicant;
3. Granting the variance does not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district;
4. Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship;
5. This variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;
6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code; and,
7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

WHEREAS, Article 2.A.1.K.3.a (Action by ZC) of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV2007-1601, the application of Wal-Mart Stores East, LP, by Kimley Horn and Associates, Inc., Agent, for a Type II Variance to allow 100% overlap of utility easement; to eliminate the incompatibility buffer and tree and screen requirements; to allow additional hours of operation for commercial adjacent to residential; to allow reduction of dimensional criteria for parking spaces on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on December 6, 2007, subject to the conditions of approval described in EXHIBIT C, and variance request described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Hyman moved for the approval of the Resolution.

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

Frank A. Barbieri, Jr., Chair	Aye
William Anderson, Vice Chair	Aye
Allan Kaplan	Aye
Sherry Hyman	Aye
Alex Brumfield III	Aye
Kelley Armitage	Nye
Richard Bowman	Aye

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

A parcel of land lying within Parcel "A", according to the plat of **LANTANA SQUARE**, as recorded in Plat Book 97, Page 131, Public Records of Palm Beach County, Florida, being more particularly described as follows:

BEGIN at the Southwest corner of said Parcel "A";
thence North 28°30'38" West, along the West line of said Parcel "A" (the West line of said Parcel "A" is assumed to bear North 28°30'38" West and all other bearings are relative thereto), a distance of 141.71 feet to a point;
thence North 61°29'22" East, departing said West line, a distance of 26.06 feet to a point;
thence North 22°41'57" East a distance of 57.31 feet to a point;
thence South 73°31'24" East a distance of 53.89 feet to a point;
thence North 16°27'25" East a distance of 129.27 feet to a point;
thence North 73°632'35" West a distance of 59.27 feet to a point;
thence North 16°29'44" East a distance of 268.83 feet to a point;
thence North 01°25'16" East a distance of 82.87 feet to a point on the North line of the parcel described in Official Records Book 20078, Page 618;
thence South 88°23'52" East, along said North line and its Easterly prolongation, a distance of 150.17 feet to a point;
thence South 28°12'38" East a distance of 277.68 feet to a point;
thence South 55°40'06" West a distance of 38.90 feet to a point;
thence South 16°39'48" West a distance of 159.10 feet to a point;
thence North 73°32'35" West a distance of 34.70 feet to a point;
thence South 16°27'25" West a distance of 169.50 feet to a point;
thence South 73°33'37" East a distance of 48.91 feet to a point;
thence South 00°44'01" East a distance of 62.82 feet to a point on the South line of said Parcel "A";
thence South 89°15'59" West a distance of 257.28 feet to a point, which is the **POINT OF BEGINNING**.

Containing in all, 166,400 square feet or 3.820 acres, more or less.

LEGAL DESCRIPTION:

Parcel "A" of LANTANA SQUARE SHOPPING CENTER, according to the map or plat thereof as recorded in Plat Book 97, Page 129, of the Public Records of Palm Beach County, Florida.

LESS and EXCEPT the following described parcel:

Parcel of Land, being a portion of Parcel "A", according to the Plat of LANTANA SQUARE SHOPPING CENTER, as recorded in Plat Book 97, Page 129, Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

COMMENCE at the Northeast corner of said Parcel "A"; thence South 28°30'38" East, along the East line of said Parcel "A", said East line being common with the West right-of-way line of Jog Road, as recorded in Official Record Book 5423, Page 482 and Deed Book 950, Page 318, of said Public Records, (the East line of said Parcel "A" is assumed to bear South 28°30'38" East and all other bearings are relative thereto) a distance of 146.73 feet to a point on the North line of a 45 foot wide ingress and egress easement as shown on said Plat and recorded in Official Record Book 5185, Page 1656, Official Record Book 5224, Page 275 and Official Record Book 5224, Page 271, said Public Records; thence South 69°13'38" West, along said North line a distance of

166.52 feet to the Northwest corner of said easement; thence South 58°57'04" West a distance of 92.09 feet to a point; thence North 88°23'52" West a distance of 165.00 feet to a point; thence North 1°36'08" East a distance of 248.19 feet to a portion, the North line of said Parcel "A", said North line being common with the South right-of-way of Lantana Road as recorded in Official Record Book 6589, Page 1738, said Public Records; thence South 84°35'01" East along said common line, a distance of 123.15 feet to an angle point in said common line; thence continuing along said common line, South 88°23'52" East, a distance of 200.02 feet to the Northeast corner of said Parcel "A" and the POINT OF BEGINNING.

Also LESS and EXCEPT the following described parcel:

Parcel of land, being a portion of Parcel "A", according to the Plat of LANTANA SQUARE SHOPPING CENTER, as recorded in Plat Book 97, Page 129, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

COMMENCE at the Northwest corner of said Parcel "A"; thence South 88°23'52" East, along the North line of said Parcel "A" (the North line of said Parcel "A" is assumed to bear South 88°23'52" East and all other bearings are relative thereto) a distance of 450.00 feet to a point; thence South 01°38'08" West, departing said North line, a distance of 96.03 feet to the POINT OF BEGINNING of the hereinafter described parcel; thence South 88°23'52" East, a distance of 72.00 feet to a point; thence South 01°36'08" West a distance of 95.38 feet to a point; thence North 88°23'52" West a distance of 72.00 feet to a point; thence North 01°36'08" East a distance of 95.38 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

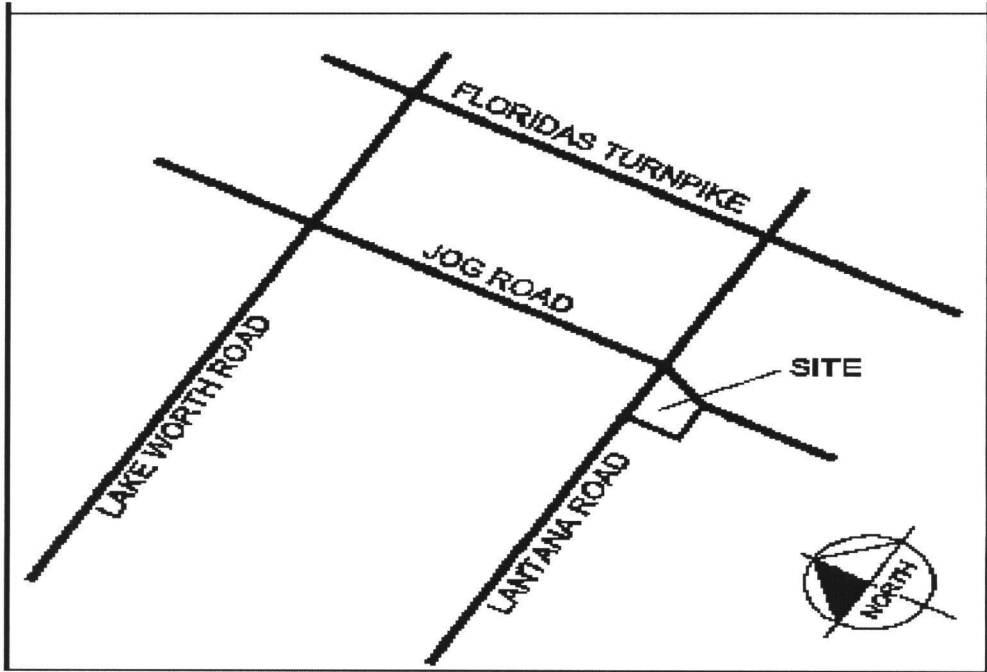


EXHIBIT C

CONDITIONS OF APPROVALS

ZONING

1. The property owner shall provide the Building Division with a copy of the Administrative Variance Staff Public Meeting Result Letter and a copy of the site plan and/or survey presented to the staff, simultaneously with the building permit application. (ONGOING-BLDG PERMIT: BLDG)

ZONING - LANDSCAPING

1. Prior to final DRO approval a landscape plan acceptable to the Zoning Division showing landscape treatment in addition to required foundation plantings shall be provided. This additional landscape material shall be provided adjacent to the dock area in the rear of the 35,000 square foot anchor store of Retail A and to the parking area on the east side of the loading dock area for Retail Structure A. (DRO: LANDSCAPE Zoning)

USE LIMITATIONS

- 1 The extended hours of 11:00pm to 1:00am shall be limited to stocking only interior to the building and the Retail Structure A' shall not be open to the public. (ONGOING: CODE ENF- Zoning)
2. For the dock expansion of Retail Structure A' There shall be no truck movement including but not limited to:
 - a. Deliveries
 - b. Idling of truck cabs
 - c. Coupling or uncoupling of trailers and cabs
 - d. Use of refrigeration or freezer units attached to refrigerated trailers between the extended hours of 11:00pm and 1:00am or from 1:00 am to 6:00 am.

VARIANCE

1. The Development Order for this non-concurrent variance shall be valid for a period of one year from the date of the Zoning Hearing. The property owner must secure a building permit or commence development to vest the variance pursuant to ULDC Table 2.E.3-B-1. (ONGOING: MONITORING - Zoning)

EXHIBIT D

VARIANCE REQUEST

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2007-01601	3.D.3.A.2.a Commercial Hours of Operation	6:00 AM to 11:00 PM	6:00 AM to 1:00 AM	to allow 2 additional hours
	6.A.1.D Off Street Parking and Loading	Minimum drive aisle with for 45 degree parking is 12 feet	proposed minimum drive aisle between 10.5 and 11.9 feet	to allow a reduction in the minimum drive aisle for 45 degree
	6.A.1.D Off-street Parking	Minimum drive aisle for 90 degree parking is 18.5 feet	proposed minimum drive aisle for 90 degree parking 18 feet	parking by to 0.5 feet
	7.D.12 Landscaping, General Standards, Landscaping in Easements	maximum overlap of 5 feet with 5 feet free and clear planting	overlap of 25 feet into easement and zero free and clear planting	to allow a reduction of the minimum drive aisle for 90 degree parking by 0.5 feet
	7.F.9 Landscape - Incompatibility Buffer	one canopy tree per lineal foot and shrubs per Table 7.F.7.B-6	no canopy trees and no shrubs	to allow 20 feet overlap of easement and zero feet of free and clear planting to eliminate the canopy trees and shrubs requirement
	7.F.9 Landscape - Incompatibility Buffer	15 foot incompatible buffer required	0 buffer proposed	reduction of 15 feet
SITUS ADDRESS:	6177 S Jog Rd Lake Worth 33467 6185 S Jog Rd Lake Worth 33467 6169 S Jog Rd Lake Worth 33467			
OWNER NAME & ADDRESS:	3200 N Military Trl Boca Raton FL 33431			
PCN:	00-42-44-39-04-001-0010			
ZONING DISTRICT:				
BCC DISTRICT:	03			

PROJECT MANAGER:	Carrie Rechenmacher, Senior Site Planner	
LAND USE:		S/T/R: 39-44-42
CONTROL #:	1980-089	
LOT AREA:	3.82 acres +/-	
APPLICANT REQUEST:	To allow 100% overlap of utility easement; to eliminate the incompatibility buffer and tree and screen requirements; to allow additional hours of operation for commercial adjacent to residential; to allow reduction of dimensional criteria for parking spaces.	