

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee

DATE: 7/12/04

FILE: DR04-1905

SUBJECT: Class II, Commercial Development
Review - Wal-Mart (Hudson)
Preliminary/Construction Site Plan
(Project No. IIPR03-045)
(Cont. from 1/15/04, 3/11/04,
4/29/04, 5/13/04, and 6/24/04)

FROM: 
Cynthia M. Jolly, P.E.
Development Director

REFERENCES: Land Development Code,
Section 306, Development
Review Procedures;
Comm. Dist. 5

It is recommended that the data herein presented be given formal consideration by the Development Review Committee (DRC).

Commission District:	The Honorable Peter A. Altman
Project Name:	Wal-Mart (Hudson)
Developer's Name:	Wal-Mart Stores East, Inc.
Location:	On the east side of U.S. 19, north of Beacon Woods Drive and south of Dipaola Drive, Section 03, Township 25 South, Range 16 East.
Parcel ID Nos.:	03-25-16-0030-03000-0010, 03-25-16-0030-03000-0070, 03-25-16-0030-03000-0050, 03-25-16-0030-03000-0040, 03-25-16-0030-03000-0060, and 03-25-16-0270-00000-0320
Land Use Classification:	ROR (Retail/Office/Residential)
Zoning District:	C-2 General Commercial
Flood Zones:	"A13," "B," and "C"
Acreage:	35.57 Acres, m.o.l.
Number of Units:	1
Type of Unit:	203,007-Square-Foot Retail Structure, 9,235-Square-Foot Garden Center, 1 Out-Parcel (Out-Parcel Square Footage Not Included in Square Footage)
Water/Sewage:	Central/Central (Pasco)
Drainage:	On-Site Retention
Traffic Impact Fee Zone:	1
Transportation Analysis Zone:	127
Present Land Use:	Vacant Retail/Abandoned Development of Regional Impact (DRI)

DEVELOPER'S REQUEST:

The developer is requesting preliminary/construction site plan approval to construct a 203,007-square-foot retail commercial building with a 9,235-square-foot garden center, and one out-parcel of 0.77 acre for a gas-station lease lot (not included in this review).

BACKGROUND AND FINDINGS OF FACT:

1. On April 8, 1986, the Board of County Commissioners approved Resolution No. 86-158, approving the Bayonet Point Mall DRI on the subject site. The approval was for 205,557 square feet of enclosed mall in Phase I on 29.78 acres and 25,352 square feet in three commercial out-parcels in Phase II on 3.17 acres. The development order (DO) was subsequently amended on July 7, 1987, by Resolution No. 87-220, to add a 2,524-seat movie theater in Phase I and, was further amended on March 15, 1988, by Resolution No. 88-142, to substitute a 20,000-square-foot, 900-seat dinner theater for the movie theater. On May 9, 1989, Resolution

No. 88-142 was rescinded and Resolution No. 89-166 was approved, changing the proposed dinner theater back to a 24,000-square-foot, 1,975-seat, freestanding movie theater.

2. As of November 28, 2000, a 205,557-square-foot mall facility had been constructed, but had been vacated in 1989. Of the 205,557 square feet built, a total of 120,780 square feet had been issued Certificates of Occupancy (CO) upon payment of the applicable transportation impact fees. The movie theater had not been constructed, and no development had occurred on any of the three out-parcels.
3. On November 28, 2000, the Board adopted Resolution No. 01-062, which approved the abandonment of the Bayonet Point Mall DRI with conditions. After this approval, Resolution No. 01-062 was recorded in the Public Records and became effective on February 15, 2001 (Official Record Book 4538, Page 1120).
4. On September 24, 2003, the preliminary/construction site plans for Wal-Mart Store No. 5266-00, NSC, on the subject site were submitted to Pasco County for review.
5. The preliminary/construction site plan for the above-subject project was prepared for Wal-Mart Stores East, Inc., by Kimley-Horn and Associates, Inc., and consists of 51 sheets dated September 23, 2003; the sheets were last revised on June 22, 2004. The plans were originally received by the Development Review Division (DRD) on September 24, 2003, and final revisions were received on June 24, 2004.
6. The site plan consists of the demolition of the existing 205,557-square-foot abandoned, mall structure, reconstruction of the site, the construction of a new 203,007-square-foot retail structure, a 9,235-square-foot garden center, and one out-parcel for a 0.77-acre gas-station lease lot (not included in this review).
7. The existing site access is from one full-access entrance/exit connecting to U.S. 19 that was previously signaled when the mall was operational.
8. Proposed access to the reconstructed site is from two driveways connecting to U.S. 19 and one driveway location connecting to Beacon Woods Drive.
9. U.S. 19 is a six-lane, divided Federal highway with access regulated by the Florida Department of Transportation (FDOT). Beacon Woods Drive is a two-lane, local roadway with access regulated by Pasco County.
10. With the exception of access to the site, the preliminary/construction plan meets the requirements of the Pasco County Land Development Code and the Pasco County Code of Ordinances.

CONCURRENCY ANALYSIS:

The preliminary/construction site plan was reviewed by the applicable County departments for compliance with the LOS requirements of the Pasco County Comprehensive Plan and U.S. 19 Redevelopment/Concurrency Ordinance No. 04-07. The review was based on 203,007 square feet of structure and 9,235 square feet of garden center area or a total of 212,242 square feet. From the 212,242 square feet, the previously CO area of 120,780 square feet was deducted, resulting in 91,462 square feet subject to concurrency. As the square-footage subject to concurrency is less than the area contained in Exhibit C of Ordinance No. 04-07, the project is eligible for payment of a fair-share fee under the U.S. 19 Redevelopment/Concurrency Ordinance. Based on this review of the project, a conditional Certificate of Level of Service (LOS) could be issued with the following conditions:

1. The developer acknowledges that the parcel is located within the U.S. 19 Redevelopment/Concurrency Area and is subject to the payment of the fair-share fee. The fair-share fee shall be assessed at the time of Building Permit issuance and payable prior to issuance of the CO.
2. Utility service commitment fees shall be paid in accordance with the Pasco County Code of Ordinances, Chapter 110, Articles II and IV, as amended.
3. At the time of preliminary/construction site plan review/approval for the out-parcel, the out-parcel square footage/uses will be combined with the nonexempt square footage of the uses approved by Project No. IIPR03-045 for the purposes of determining compliance with U.S. 19 Redevelopment/Concurrency Ordinance No. 04-07. Depending upon the square footages/uses of the out-parcel, additional traffic analysis and/or mitigation may be required.

In accordance with Section 402, Concurrency Management System, of the Pasco County Land Development Code, the conditional Certificate of LOS would expire in three years from the date of approval of this project.

SITE ANALYSIS:

1. The preliminary/construction site plan for the Wal-Mart (Hudson) project has been reviewed by County staff with the assistance of a consultant from the URS Corporation for the access management review.
2. Based on the reviews conducted, with the exception of the access to the site, staff feels the preliminary/construction site plan meets the requirements of the Pasco County Land Development Code and the Pasco County Code of Ordinances.
3. On December 19, 2003, the applicant's representative, Kimley-Horn and Associates, Inc., and County staff held a meeting to discuss site-access feasibility. Based on that meeting, the applicant's representative prepared the attached *Site Access Options Feasibility Study* dated February 27, 2004. This study contained four site-access options that were evaluated and are detailed in the study. These options were as follows:
 - a. Option 1: Direct access to Beacon Woods Drive provided.
 - b. Option 2: Direct access to Beacon Woods Drive provided and access to U.S. 19 from Beacon Woods Drive eliminated.
 - c. Option 3: New signal at the full-access median opening provided to the Mall site along U.S. 19 and removal of the signal at Beacon Woods Drive and U.S. 19.
 - d. Option 4: New signal at the intersection of U.S. 19 and Diapola Drive/Beach Boulevard.
4. From the initial study, County staff and the URS Corporation generated comments and Kimley-Horn and Associates, Inc., made replies to the comments. All parties then generated additional reviews and responses. The latest County comments through URS Corporation are dated June 28, 2004, and are attached.
5. The option presented as preferred by Kimley-Horn and Associates, Inc., was Option 1 which provides the following:
 - a. U.S. 19: Southbound, channelized, left-turn access into the site at the southern end of the site from U.S. 19.
 - b. U.S. 19: Northbound, right-in/right-out access entering and exiting the site at the northern end of the site from/to U.S. 19. This also includes modification to the northbound U.S. 19 median as it approaches the Diapola Drive intersection.
 - c. U.S. 19 and Beacon Woods Drive: Intersection and signalization modifications to provide for southbound, dual-left turning movements onto Beacon Woods Drive.
 - d. Beacon Woods Drive: New connection to provide for a right-in/right-out entrance/exit on the southern side of the site from/to Beacon Woods Drive. Eastbound, channelized, left-turn access into the site from Beacon Woods Drive which includes construction of a barrier from U.S. 19 eastward to the channelized, left-turn access into the site and lane modifications.
6. The proposed access to the site from Beacon Woods Drive proposes modifications to the existing driveway accesses for the properties/businesses on the southern side of Beacon Woods Drive. Currently, the businesses on the southern side of Beacon Woods Drive are accessed through three existing, unrestricted, driveway connections to Beacon Woods Drive and an access along U.S. 19. The existing accesses along Beacon Woods Drive allow for vehicular traffic, traveling both east and west on Beacon Woods Drive, unrestricted access to the properties/businesses. The proposed improvements will diminish the two existing driveway connections closest to U.S. 19 by changing them from unrestricted access to right-in/right-out accesses to Beacon Woods Drive. The third driveway to the properties/businesses on the southern side of Beacon Woods Drive is located on the eastern property boundary and directs traffic to the rear of the businesses.

7. The applicant has not identified an existing, public safety reason for the proposed modifications of the existing driveways on the southern side of Beacon Woods Drive. Further, modification of these driveways would require that vehicles traveling westbound on Beacon Woods Drive to access the southern properties to either enter the site from the easternmost driveway and travel through the rear of the businesses; proceed to the U.S. 19 intersection and conduct a U-turning movement on Beacon Woods Drive; or proceed onto U.S. 19 and access the southern properties from U.S. 19. Neither the proposed modification to the traffic circulation on the properties/businesses located on the south side of Beacon Woods Drive, the U-turning movements possible on Beacon Woods Drive, nor the possible effect on turning movements to and from the property/businesses on the southern side of Beacon Woods Drive to/from U.S. 19 from the one existing driveway along U.S. 19 have been addressed in the traffic analysis provided by the applicant.

ALTERNATIVES:

1. Denial of the preliminary/construction site plan based on the following:
 - a. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 2, Future Land Use Element; Goal 2, Compatibility; Objective 2.2: Deny development orders for land uses which are demonstrated to be detrimental to the viability of existing neighborhoods, invest in public improvements for declining neighborhoods, and facilitate the development of new residential areas.
 - b. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 2 - Future Land Use Element; Goal 3, Required Access; Objective 3.3. Provide adequate and appropriate access to new commercial uses approved following Comprehensive Plan adoption.
 - c. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 7 - Traffic Circulation; Goal 1. Develop an integrated, multimodal, transportation system that provides for the safe, efficient, and effective movement of people, goods, and services in Pasco County.
 - d. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 7 - Traffic Circulation; Goal 1, Access Management; Objective 1.2: Minimize the conflict between local and nonlocal traffic in terms of access management.
 - e. The proposed development does not meet the requirement of Sections 306.3.E.3.c and d of the Pasco County Land Development Code which state:

Section 306.3.E.3: Prior to approval or disapproval, the County Administrator, or his designee, for all Class I, IIIE, and IIIR developments; the DRC, based on the recommendation of the DRD for all Class II and Class IIIU developments, shall determine whether the said plans:

 - (c) Provide design features which address the protection of the public health, safety, and welfare.
 - (d) Are consistent with the Goals, Objectives, and Policies set forth in the Comprehensive Plan.
2. Approval of the preliminary/construction site plan with the following conditions:
 - a. The developer acknowledges that any provisions of Pasco County ordinances not specifically waived shall be in full force and effect.
 - b. This approval is for a 203,007-square-foot structure and 9,235-square-foot garden center only. Any enlargement of these square footages and/or development of the out-parcel shall require submittal of a development plan in accordance with the Land Development Code.
 - c. The owner/developer or project contractor shall obtain a hard-copy Site Development Permit from the DRD prior to commencing any construction. To obtain this permit, the following must be submitted to the DRD: the completed notarized acknowledgment portion of the attached agenda memorandum, the receipt for payment of Pasco County utility impact fees (if project is served by County water and/or sewer), completion of any site specific conditions listed as requiring completion prior to the issuance of the Site Development Permit, and a copy of the approved Southwest Florida Water Management

District (SWFWMD) Permit and Plan must be submitted to the DRD. In the event the SWFWMD Permit and Plan require any changes to the County-approved plan, an amendment to the County-approved plan shall be submitted for review and approval prior to the issuance of the Site Development Permit. No construction shall commence until the permit has been properly posted on the site.

- d. Access to the site shall be resubmitted for review and approval by the DRC after due public notice prior to the issuance of the Site Development Permit. At a minimum, the access evaluation shall include an evaluation of access to U.S. 19 without a connection to Beacon Woods Drive along with further evaluation of Option Nos. 1-4 of the Site Access Options Feasibility Study, dated February 27, 2004, and subsequently submitted documentation to provide a safe and functional access plan.
- e. Prior to final site/construction plan approval of any project abutting a State roadway, the owner/developer shall furnish to the DRD a Letter of Intent indicating approval and/or an approved Driveway Permit from the FDOT. Prior to the issuance of the first CO, the owner/developer shall provide a letter from the FDOT stating that the improvements within the State right-of-way have been inspected and completed to its satisfaction.
- f. The owner/developer shall arrange for a final site inspection approval by the County prior to occupancy/use of the permitted facilities.
- g. The developer acknowledges that in accordance with Section 402, Concurrency Management System, of the Pasco County Land Development Code, the conditional Certificate of LOS shall expire in three years from the date of approval of this project.
- h. The owner/developer shall acknowledge that this project is subject to the Pasco County Transportation Impact Fee Ordinance and may be subject to the School Impact Fee Ordinance, the Parks and Recreation Impact Fee Ordinance, the Library Impact Fee Ordinance, the Fire Combat Impact Fee Ordinance, and the Rescue Impact Fee Ordinance and shall pay any applicable impact fees assessed to the project in accordance with the said ordinances and policies. Waivers may be granted in accordance with the said ordinances and waiver procedures.
- i. The owner/developer or project contractor shall notify the Pasco County Engineering Services Department at least two working days prior to commencing any activity on the site.
- j. Prior to any construction activity, the developer shall ensure that proper erosion and sediment control measures are in place. The developer shall control all fugitive dust originating from the project site and shall indicate on the construction drawings the manner in which fugitive dust is to be controlled. Further, all retention pond side slopes and associated swales shall be sodded to prevent soil erosion.
- k. In the event an ordinance/resolution is adopted by the Board establishing an impact fee for the purpose of funding solid waste or public safety, the developer shall be required to pay the said fee pursuant to that ordinance/resolution.
- l. The owner/developer acknowledges that a Building Permit shall be obtained for all structures that have a footer, regardless of size, through the Pasco County Central Permitting Division; i.e., including, but not inclusive of, buildings, accessories, and retaining walls.
- m. If a Pasco County Global Positioning System (GPS) network point is located within the boundary of the site or within 50 feet of the same, the point shall be re-established using GPS methods and "Blue Booked" prior to the issuance of any Building Permits or the recording of any plat. Proof of the said Blue Booking shall be submitted to the County Surveyor prior to the issuance of the said permit or the recording of the said plat. If it is discovered that the said point has been destroyed by construction, then the owner/developer of the land will be responsible for payment to Pasco County in the amount of \$5,000.00 each.
- n. Prior to the issuance of the first CO, the developer shall submit all necessary State and Federal permits including, but not limited to, dredge and fill, surface water operation and maintenance, water distribution, wastewater collection, and reclaimed water from the appropriate agencies. The permit shall include the copies of the actual permit itself and all drawings that are approved by the respective regulatory agency. Any annual reports

required by such agencies shall be submitted to the Pasco County Biologist and stormwater engineer.

- o. All construction within Pasco County right-of-way will require a Right-of-Way Use Permit. Review and the issuance of the Right-of-Way Use Permit shall be conducted in accordance with Pasco County Land Development Code, Section 311, Right-of-Way Use Permit, and must be obtained prior to commencement of construction. The developer shall ensure that any improvements installed in rights-of-way are constructed to County standards.

All construction within non-County-maintained right-of-way will require a Driveway Connection Permit. The owner/developer shall obtain a Driveway Connection Permit from the DRD's New Port Richey office.

- p. All construction work, including roads, drainage, and utilities, shall be constructed in accordance with Pasco County design standards and tested in compliance with the Pasco County Engineering Services Department's *Testing Specifications for Construction of Roads, Storm Drainage, and Utilities*.
- q. Utility service commitment fees shall be paid in accordance with the Pasco County Code of Ordinances, Chapter 110, Articles II and IV, as amended.
- r. If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundation, are discovered, work shall come to an immediate stop, and the Florida Department of Historic Resources (State Historic Preservation Officer) and Pasco County shall be notified within two working days of the resources found on the site.
- s. If the site is identified on Map 3-1a, 3-1b, or 3-1c in the Pasco County Comprehensive Plan as a location of known endangered and threatened species, the developer shall submit to the DRD, a copy of the approved Federal, State, or other regulatory permit, or if no permit has been issued, then the developer shall submit a copy of the application submitted to the Federal, State, or other regulatory agency prior to site development.
- t. If, during construction activities, any evidence of the presence of State and Federally protected plant and/or animal species is discovered, work shall come to an immediate stop, and Pasco County shall be notified within two working days of the plant and/or animal species found on the site.
- u. The developer acknowledges that an appeal in accordance with Section 317, Administrative Appeals, of the Land Development Code, may be filed against the decision of the DRC within 30 days of the date of this approval. Any development that takes place within the 30-day-appeal deadline shall not establish vested rights with respect to construction of the project.
- v. The developer acknowledges that the parcel is located within the U.S. 19 Redevelopment/Concurrency Area and is subject to the payment of the fair-share fee. The fair-share fee shall be assessed at the time of Building Permit issuance and payable prior to the issuance of the CO.
- w. At the time of preliminary/construction site plan review/approval for the out-parcel, the out-parcel square footage/uses will be combined with the nonexempt square footage of the uses approved by Project No. IIPR03-045 for purposes of determining compliance with the U.S. 19 Redevelopment/Concurrency Ordinance No. 04-07. Depending upon the square footage/uses of the out-parcel, additional traffic analysis and/or mitigation may be required.
- x. The developer acknowledges that there shall be no loudspeakers used on the outside building within the limits of the property.
- y. The developer acknowledges that no delivery truck arrivals or departures shall occur between the hours of 10:00 p.m. and 6:00 a.m. In addition, delivery trucks will not be allowed to idle on site during this same period of time.
- z. The developer shall submit a Traffic Calming Plan for review and approval by the DRC for the roadways in the Beacon Woods development. The Traffic Calming Plan shall be

designed to discourage traffic through the development from S.R. 52, Fivay Road, and Little Road to U.S. 19.

- aa. The developer shall comply with Sections A, B, C, E, I, J, and K of the proposed Large-Scale Commercial Retail Design Standards Ordinance as contained in Memorandum No. CAO04-0455 dated June 21, 2004.
- bb. The applicant is hereby notified that the effective date of this development approval shall be the date of the final County action; however, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the DRD.

The above project action is in substantial conformance with the Pasco County standards, approvals of the DRC and the Board, and any standards previously approved by the DRC and the Board. This action is based on office review of the plans, supporting documentation, and certification of the Engineer of Record.

RECOMMENDATION

The DRD recommends that the DRC approve Alternative No. 1 denying the project based on the following:

1. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 2, Future Land Use Element; Goal 2, Compatibility; Objective 2.2: Deny development orders for land uses which are demonstrated to be detrimental to the viability of existing neighborhoods, invest in public improvements for declining neighborhoods, and facilitate the development of new residential areas.
2. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 2 - Future Land Use Element; Goal 3, Required Access; Objective 3.3. Provide adequate and appropriate access to new commercial uses approved following Comprehensive Plan adoption.
3. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 7 - Traffic Circulation; Goal 1. Develop an integrated, multimodal, transportation system that provides for the safe, efficient, and effective movement of people, goods, and services in Pasco County.
4. The proposed development is inconsistent with the Pasco County Comprehensive Plan Chapter 7 - Traffic Circulation; Goal 1, Access Management; Objective 1.2: Minimize the conflict between local and nonlocal traffic in terms of access management.
5. The proposed development does not meet the requirement of Sections 306.3.E.3.c and d of the Pasco County Land Development Code which state:

Section 306.3.E.3: Prior to approval or disapproval, the County Administrator, or his designee, for all Class I, III E, and III R developments; the DRC, based on the recommendation of the DRD for all Class II and Class III U developments, shall determine whether the said plans:

- (c) Provide design features which address the protection of the public health, safety, and welfare.
- (d) Are consistent with the Goals, Objectives, and Policies set forth in the Comprehensive Plan.

In accordance with Section 317, Administrative Appeals of the Land Development Code, an appeal may be filed against the decision of the DRC within 30 days of this action.

APPLICANT'S ACKNOWLEDGMENT:

The applicant acknowledges that it has read, understood, and accepted the above-listed conditions of approval.

Date WAL-MART STORES EAST, INC.

STATE OF FLORIDA
COUNTY OF _____
Title

The foregoing instrument was acknowledged before me this _____ (date),
by _____ (name of corporation
acknowledging) a _____ (State or
place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or
who has produced _____ (type of identification) as identification.

Seal: _____
NOTARY

ATTACHMENTS:

- 1. Location Map
- 2. Site Plan
- 3. Property Appraiser Information for Site and Adjacent Sites to the South
- 4. Resolution No. 01-062, Abandonment of Bayonet Point Mall DRI with Conditions
- 5. Memoranda No. GM01-055 dated November 8, 2000, Bayonet Point Mall - DRI DO Abandonment
- 6. Traffic Studies/Comments
- 7. Large-Scale, Commercial, Retail Design Standards
- 8. Comprehensive Plan Excerpts
- 9. Land Development Code Excerpts
- 10. Beacon Woods Civic Association, Inc., Request for Additional Time

CMJ/GSW/dr/walmart01/08a

DEVELOPMENT REVIEW COMMITTEE ACTION:

Recommendation Approved _____/Disapproved _____



STAFF
RECOMMENDATION

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