

PASCO COUNTY, FLORIDA  
INTEROFFICE MEMORANDUM

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TO: Development Review Committee

DATE: 3/25/10

FILE: ZN10-168

SUBJECT: Class II, Commercial Development  
Review - Wal-Mart (Hudson)  
Preliminary/Construction Site Plan  
Driveway Amendment (Project  
No. IIPR05-001)  
DRC: 4/1/10, 1:30 p.m., NPR

FROM: Debra M. Zampetti  
Zoning/Code Compliance  
Administrator

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

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

Commission District:	The Honorable Jack Mariano
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 Di Paola Drive, Section 03, Township 25 South, Range 16 East.
Parcel ID Nos.:	03-25-16-0030-03000-0010 and 03-25-16-0030-03000-0050
Land Use Classification:	ROR (Retail/Office/Residential)
Zoning District:	C-2 General Commercial
Flood Zones:	"A13," "B," and "C"
Project Area:	Approximately One-Quarter Mile of Beacon Woods Boulevard, a County Road and Driveway Area
Drainage:	Existing On- and Off-Site Retention
Traffic Impact Fee (TIF) Zone:	1
Transportation Analysis Zone:	127
Present Land Use:	Wal-Mart (Retail Big Box)

DEVELOPER'S REQUEST:

The developer is requesting to amend the preliminary/construction site plan approval to include an ingress from Beacon Woods Drive. The amendment has been submitted as a result of a condition of the original Florida Department of Transportation (FDOT) Access Management Committee ruling (see attached).

BACKGROUND:

1. On April 8, 1986, the Board of County Commissioners (BCC) approved Resolution No. 86-158, approving the Bayonet Point Mall Development of Regional Impact (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 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 On May 9, 1989, Resolution No. 88-142 was rescinded and Resolution No. 89-166 was approved, changing the proposed dinner theater back to a 24,000-square-foot, 1,975-seat, freestanding movie theater.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 BCC 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 initial preliminary/construction site plans for Wal-Mart Store No. 5266-00, NSC, on the subject site were submitted to Pasco County for review.
5. On July 15, 2004, the DRC denied the initial preliminary/construction site plan. A copy of the denial memorandum is attached to this memorandum.
6. On September 2, 2004, the DRC denial was subsequently appealed by Wal-Mart Stores East, Inc., through its attorney, Glen Smith. Wal-Mart Stores East, Inc., subsequently requested that the appeal be stayed to allow submission of a second preliminary/construction site plan.

FINDINGS OF FACT:

1. After the denial, a second 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 55 sheets dated October 13, 2004; the sheets were last revised on May 5, 2005. The plans were originally received by the former Development Review Division on November 22, 2004, and final revisions were received on May 13, 2005.
2. The Transportation Impact Study (TIS) for the above-subject project was prepared by Kimley-Horn and Associates, Inc. The study was last revised on December 22, 2005. The plans were originally received by the consultant in September 2005.
3. The above-mentioned site plan consisted 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 with garden center and one out-parcel for a 0.77-acre gas-station/pump lease lot.
4. The existing site access was from one full-access entrance/exit connecting to U.S. 19 that was previously signalized when the mall was operational.
5. The revised preliminary/construction site plan for Wal-Mart proposed accesses consisting of one directional access and one right-in/right-out access on U.S. 19 and a full access with signalization on Beacon Woods Drive.
6. The County's Engineering Services Director proposed accesses to the reconstructed site from two driveways connecting to U.S. 19 (one directional and one right-in/right-out) and one right-out only driveway connecting to Beacon Woods Drive.
7. U.S. 19 is a six-lane, divided FDOT-maintained highway with access regulated by the FDOT. Beacon Woods Drive is a two-lane roadway with access regulated by Pasco County.
8. On February 20, 2006, the DRC approved Memorandum No. 06-886, a preliminary/construction site plan approval, for a 203,007-square-foot retail structure with a garden center and one out-parcel.
9. On March 6, 2008, the project passed the final site inspection and received the final CO.
10. The amendment submitted for Wal-Mart - Hudson Preliminary/Construction Site Plan Driveway Amendment was prepared for Wal-Mart Stores East, Inc., by Kimley-Horn and Associates, Inc., and consists of 25 sheets dated March 14, 2008; the sheets were last revised on September 11, 2009. The plans were originally received on April 2, 2008, and final revisions were received on October 15, 2009.

PREVIOUSLY APPROVED SITE ANALYSIS (HISTORICAL INFORMATION):

1. The preliminary/construction site plan for the Wal-Mart (Hudson) project has been reviewed by County staff with the assistance of a consultant for the access-management review and the TIS.
2. Based on the reviews conducted, staff feels the preliminary/construction site plan, if modified in accordance with the conditions and instructions set forth below, meets the requirements of the Pasco County Land Development Code (LDC) and the Pasco County Code of Ordinances.
3. The applicant's 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 and unrestricted access to

the properties/businesses. The proposed improvements will modify the 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. If necessary, the County's Engineering Services Director and/or traffic consultant will express their concerns with the applicant's proposed access at the DRC hearing.

4. The County's Engineering Services Director's 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 and unrestricted access to the properties/businesses. The proposed improvements will modify the westernmost existing driveway connection closest to U.S. 19 by changing it from unrestricted access to right-in/right-out access to Beacon Woods Drive. The middle access will maintain similar access as it currently exists. The third driveway to the properties/businesses on the southern side of Beacon Woods Drive is located on the eastern property boundary, directs traffic to the rear of the businesses, and remains unchanged. The County's Engineering Services Director and/or the County's traffic consultant will explain the benefits of the County's proposed access at the DRC public hearing.

RECOMMENDATION:

The Zoning and Site Development Department recommends approval of the preliminary/construction site plan driveway amendment with the following conditions:

1. The developer acknowledges that any provisions of Pasco County ordinances, all previous conditions of approval of the preliminary/construction site plan, and any rezoning conditions of approval not specifically waived shall be in full force and effect, including all impact fee ordinances.
2. The applicant/developer shall defend, indemnify, and hold the County harmless for any claims, damages, appeals, or challenges based on the closure of any median openings or access points to accommodate access to the Wal-Mart site. The applicant/developer further agrees, within 30 days of this approval becoming final (including all appeals), to dismiss all prior appeals relating to this site and release and hold the County harmless for any claims or damages relating to the subject matter of such appeals.
3. The owner/developer or project contractor shall obtain a hard-copy Site Development Permit from the Zoning and Site Development Department prior to commencing any construction. To obtain this permit, the following must be submitted to the Zoning and Site Development Department:
  - a. The completed notarized acknowledgment portion of the attached agenda memorandum.
  - b. Completion of any specific conditions listed as requiring completion prior to the issuance of the Site Development Permit.
  - c. If applicable, a copy of the approved Southwest Florida Water Management District (SWFWMD) Permit and Plan must be submitted to the Zoning and Site Development Department. 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.
  - d. National Pollutant Discharge Elimination System Permit/permit application.

No construction shall commence until the site permit has been properly posted on the site.

4. Any roadway construction required herein as a condition of development approval shall not be entitled to transportation impact fee credits unless such credits have been granted pursuant to prior written agreement or as provided herein. Appeal from this provision shall be made in accordance with the TIF Ordinance.
5. If applicable, all underdrain proposed to be installed within the County rights-of-way shall require that a Right-of-Way Use Permit be obtained. This permit shall name an entity other than Pasco County who shall be responsible for maintenance of same. The applicant shall be responsible for all terms and conditions of the Right-of-Way Use Permit.

6. No fill shall be placed within the 100-year flood plain designation unless compensating volume to mitigate the fill is provided on site or off site within the same basin and reviewed and approved by Pasco County, if applicable.
7. The owner/developer shall provide and install all required traffic-control devices associated with the project in accordance with Development Review Policy No. 32-90R dated October 16, 1990, and any amendments thereto.
8. Site plans approved by the Zoning and Site Development Department or the DRC are the final approved documents. Changes/additions/deletions to approved site plans, i.e., building size, location, loading zones, etc., require revised site plan submittal, review fee, and approval in accordance with the LDC, Section 306.
9. Site plans submitted with Building Permit applications, when applicable, are invalid as to final site approval unless stamped approved by the Zoning and Site Development Department or the DRC. These plans are submitted to show building location in regard to property line, other buildings, etc., only. The site must conform to those plans submitted and/or approved by the Zoning and Site Development Department or DRC in accordance with the LDC, Section 306.
10. The owner/developer or successors in interest are advised of the following restrictions:
  - a. No owner of the property within the development may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved plan or record plat unless prior approval is received from the SWFWMD pursuant to environmental resource permitting.
  - b. No owner of the property within the development may construct or maintain any building, residence, or structure, or undertake or perform any activity within the 100-year flood plain described in the approved plan and/or record plat of the subdivision unless prior approval is received from the SWFWMD pursuant to environmental resource permitting.
  - c. No owner of the property may undertake any roadway improvements within this development unless prior written authorization or notification of exemption is received from the SWFWMD pursuant to environmental resource permitting.
11. Prior to usage of the improvements shown on the October 15, 2009, submittal and as provided for herein, the owner/developer shall provide a letter from the FDOT stating that any improvements within the State right-of-way and the proposed improvements shown on the site plan, have been inspected and completed to its satisfaction.
12. The owner/developer shall arrange for a final site-inspection approval by the Engineering Services Department prior to the usage of the roadway and site improvement.
13. 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.
14. 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.
15. In the event ordinances/resolutions are adopted by the BCC including, but not limited to, solid waste, public safety, or wildlife, the developer shall be required to comply with such ordinances/resolutions.
16. 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.
17. 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.
18. Prior to the final site inspection, 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.
19. Driveway, road, and intersection improvements requiring roadway widening and/or left-turn, storage lane construction shall also include an asphaltic concrete overlay of the entire limits of intersection improvement area to Pasco County specifications as approved by the County.
  20. The developer shall construct all local and collector streets within the development to current Pasco County standards; however, in no instance shall roadway standards be less than those required by the State of Florida *Manual of Uniform Minimum Standards*.
  21. Bicycle and pedestrian ways shall be established in accordance with Chapter 335.065, Florida Statutes. Curb ramps are required at all intersections of curbs and sidewalks and shall be constructed in conformance with the uniform *Federal Accessibility Standards* published by the General Services Administration, Department of Housing and Urban Development, Department of Defense, and United States Postal Service (Chapter 336.045, Florida Statutes).
  22. 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 the LDC, 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.
  23. 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*.
  24. The owner/developer shall acknowledge that should Pasco County collect funds under a guarantee document, the developer shall authorize the County, or its designee, access to the property in question to complete the required work.
  25. The owner/developer shall acknowledge that should Pasco County be required to institute legal proceedings in order to collect any funds under a guarantee document, the developer shall be responsible for attorney's fees and court costs incurred by the County in such action.
  26. Removal, encroachment, alternation, or development within wetlands shall be in accordance with the Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy Nos. 2.7.3, 2.7.5, and 2.7.6; however, no removal, encroachment, alteration, or development shall be permitted within any wetland used to obtain a Comprehensive Plan or LDC density credit. All permits for encroachments, alterations, or development within Category I wetlands shall be obtained and submitted to Pasco County prior to construction plan/construction site plan approval.
  27. All areas designated as SWFWMD, Florida Department of Environmental Protection (FDEP), or Army Corps of Engineers (ACOE) jurisdiction on the preliminary site plan are subject to any SWFWMD, FDEP, or ACOE mitigation requirements. Within these areas, there shall be no construction, clearing, filling, or improvements of any kind unless appropriate permits have been obtained allowing wetland encroachment.
  28. 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.
  29. 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.
  30. 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. No truck traffic shall utilize Beacon Woods Drive except to exit the site.
  31. The sidewalk installed along the northern side of Beacon Woods Drive along the project boundary shall be maintained by the applicant.

32. Any changes affecting the off-site traffic circulation, access management, or conspan decking shall require approval by the DRC.
33. The developer acknowledges that an appeal 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.
34. 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 Zoning and Site Development Department.

The DRC's approval of this preliminary/construction site plan driveway amendment constitutes a finding by the DRC that the preliminary/construction site plan driveway amendment, as conditioned, is consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the LDC that are applicable to preliminary/construction site plan driveway amendment approvals. This action is based on the office review of the plans, supporting documentation, and certifications of the Engineer of Record.

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. Driveway Amendment Site Plan
3. FDOT E-Mail and FDOT Access Connection Ruling
4. Citizen Correspondence
5. Previous Site Plan Approval (DR06-886)
6. Previous Site Plan
7. Original Denial Memorandum (DR04-1905)

DMZ/GSW/drc040110/walmarthudsonzn10168/08a

DEVELOPMENT REVIEW COMMITTEE ACTION: