

PASCO COUNTY, FLORIDA
INTEROFFICE MEMORANDUM

TO: Development Review Committee

DATE: 2/28/06

FILE: DR06-886

SUBJECT: Class II, Commercial Development
Review - Wal-Mart (Hudson)
Preliminary/Construction Site Plan
(Project No. IIPR05-001)
Meeting Date: 2/20/06,
9:30 a.m., NPR
(Cont. from 3/10/05, 6/2/05,
10/20/05, and 12/14/05)

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 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, 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, Garden Center, Gas Station/Pumps, and One Out-Parcel/Lease Parcel (Out-Parcel/Lease 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 garden center and one out-parcel of 0.77 acre for a gas-station lease lot.

BACKGROUND AND FINDINGS OF FACT:

1. On April 8, 1986, the Board of County Commissioners (BCC) 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 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 letter dated August 4, 2004, is attached.
6. The DRC denial was subsequently appealed by Wal-Mart Stores East, Inc., on September 2, 2004, 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.
7. The 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 Development Review Division (DRD) on November 22, 2004, and final revisions were received on May 13, 2005.
8. The Traffic Impact Study 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.
9. 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 with garden center and one out-parcel for a 0.77-acre gas-station/pump lease lot.
10. The existing site access is from one full-access entrance/exit connecting to U.S. 19 that was previously signalized when the mall was operational.
11. The Wal-Mart submittal 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.
12. The County's Engineering Services Director proposed accesses to the reconstructed site is 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.
13. 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 roadway with access regulated by Pasco County.

CONCURRENCY ANALYSIS:

The preliminary/construction site plan was reviewed by the applicable County departments for compliance with the Level of Service (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 with garden center and one out-parcel for a 0.77-acre gas station/pump lease lot. From the 203,007 square feet, the previously CO area of 120,780 square feet was deducted, resulting in 82,227 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 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 for the access-management review and the transportation impact study.
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 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 ~~similar~~ 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 ~~east~~westmost 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 Development Director recommends approval of the preliminary/construction site plan with the following conditions:

1. The developer acknowledges that any provisions of Pasco County ordinances 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 ~~resulting directly or indirectly from any County approvals relating to this project.~~
3. This approval is for a 203,007-square-foot structure with garden center and one out-parcel for a 0.77-acre gas station/pump lease lot. Any enlargement of the square footage and/or development of the out-parcel shall require submittal of a development plan in accordance with the Land Development Code.
4. Prior to the issuance of the Site Development Permit, the developer shall submit revised plans addressing the following:
 - a. Amend the plans to comply with the requirements of the Engineering Services Director in regard to site access.
 - b. Provide a recorded Unity of Title for the project.
 - c. Provide/revise the site plan to comply with the lighting regulations.
 - d. Center the eastern wall in the landscape buffer providing the required plantings on the outside of the wall. The wall being along the entire eastern property line. Temporary screening shall be placed over the existing fence to control fugitive dust prior to any construction activity ~~approximately 800 linear feet.~~
 - e. Provide gates or wall offsets for maintenance purposes.
 - f. Add double-staggered rows of red cedars or equivalent plantings to act as sound dissipaters to the inside of the wall at the loading dock area from the southern edge of the northern retention pond to the northern edge of the southern retention pond.
 - g. Provide an eight-foot multiuse access on the exit only access onto Beacon Woods Drive with a barrier separator from the vehicular traffic.
 - h. The decking of the conspan shall be a maximum width of 35 feet.
5. Prior to the issuance of the first CO, the owner/developer shall convey to Pasco County an amount of right-of-way that will increase the overall width of the Beacon Woods Drive right-of-way to 100 feet from the U.S. Highway 19 right-of-way, a distance of 675 feet east

~~along Beacon Woods Drive 37 feet of right-of-way west of the proposed egress and 25 feet of right-of-way east of the proposed egress along Beacon Woods Drive.~~

6. The applicant has submitted a Traffic Impact Study which requires the following improvements:
- a. The off-site improvements shall be as shown on the proposed site plan (attached) with the following clarifications/requirements:
- (1) Dual southbound, left-hand, turn-lanes, 490 feet long, including a 50-foot taper, shall be provided on U.S. 19 at the Beacon Woods intersection. The outside lane shall be gored out.
 - (2) The ultimate approach to U.S. 19 (westbound) on Beacon Woods Drive shall consist of a left-turn, a shared left/through-turn, and right-turn lanes.
 - (a) The westbound Beacon Woods Drive shall terminate as the left-turn lane.
 - (b) The shared left/through-lane will extend eastward to the project's egress.
 - (c) The westbound right-turn lane shall be approximately 530 feet, including a 50-foot taper.
 - (3) A second eastbound receiving lane shall be installed on Beacon Woods Drive extending eastward approximately 420 feet. The inside receiving lane shall be gored out.
 - (4) A concrete separator shall be constructed on Beacon Woods Drive from U.S. 19 eastward to the second southerly access.
 - (5) Channelization shall be installed on Beacon Woods Drive to prevent U-turning movements at the first and second southerly access locations.
 - (6) On the U.S. 19 (southern access), provide a northbound, right-turn lane of 290 feet, including a 50-foot taper.
 - (7) On the U.S. 19 (southern access), provide a southbound, left-turn lane of 465 feet, including a 50-foot taper.
 - (8) On the U.S. 19 (northern access), provide a continuous, right-turn lane from the southern access.
 - (9) On U.S. 19 from the northern access to Di Paola Drive, provide a continuous, right-turn lane.
 - (10) Extend the northbound, left-turn lane on U.S. 19 at Di Paola Drive southward by 80 feet to a total of 385 feet, including a 50-foot taper.
 - (11) At the second southerly access drive location on Beacon Woods Drive, provide a westbound, left-turn lane of 195 feet, including a 50-foot taper.
 - (12) At the third southerly access drive location on Beacon Woods Drive, provide a westbound, left-turn lane, including a 50-foot taper.

The improvements are required to be completed prior to CO.

7. The applicant has submitted a Substandard Roadway Analysis which requires:

Prior to the issuance of the Site Development Permit, the owner/developer shall pay the proportionate share of the Substandard Review Analysis in the amount of \$61,393.44 to Pasco County for improvements to Beacon Woods Drive.

8. 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:
- a. The completed notarized acknowledgment portion of the attached agenda memorandum.
 - ✓ b. The receipt for payment of Pasco County utility impact fees (if the project is served by County water and/or sewer).
 - c. Completion of any site-specific conditions listed as requiring completion prior to the issuance of the Site Development Permit.
 - J d. 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.

e. National Pollutant Discharge Elimination System Permit/permit application.

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

9. 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 Traffic Impact Fee Ordinance.
10. 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.
11. 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.
12. 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.
13. Site plans approved by the DRD 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 Section 306 of the Land Development Code.
14. Site plans submitted with Building Permit applications are invalid as to final site approval unless stamped approved by the DRD 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 DRD or DRC in accordance with Section 306 of the Land Development Code.
15. The developer acknowledges that approval of this preliminary plan and/or construction plan does not establish vested rights with respect to construction of the project. Further, the developer acknowledges that no permit shall be issued or plat approved without the issuance of an unconditional Certificate of LOS Compliance.
16. 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.
17. The developer shall, at the time of Building Permit submittal, comply with the architectural rendering as approved by the DRC. This approval does not constitute approval of the signage.
18. 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.
19. The owner/developer shall arrange for a final site inspection approval by the Engineering Services Department prior to the issuance of the CO.
20. 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.
21. 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.
22. 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.

23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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*.
29. When drainage facilities, which are not within a previously recorded drainage easement, are utilized for off-site drainage, the owner/developer shall provide a drainage easement on the approved form, with a legal description and sketch (certified by a Registered Land Surveyor) for each off-site drainage facility. The drainage easement shall be submitted to the County Administrator, or his designee, prior to the construction plan approval of the individual unit or phase affected. Any variation from the approved stormwater management or construction plans shall be submitted to the County Administrator, or his designee, for review.
30. 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).
31. 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.~~
32. 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*.
33. 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.
34. 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.
35. Wetlands shall be defined by the Comprehensive Plan, Chapter 3, Conservation Element, Wetlands, Policy 2.7.3, and shown on all preliminary plans/preliminary site plans and construction plans/construction site plans. Jurisdictional boundaries shall be delineated in accordance with the responsible regulatory agency. These boundaries may be adjusted following appropriate permit approval and shall be shown on each preliminary plan/preliminary site plan. 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 Land Development Code 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.

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36. There shall be a buffer around all preserved SWFWMD wetlands with an average width of 25 feet but no less than 15 feet unless otherwise accepted by the SWFWMD. Army Corps of Engineers (ACOE) wetlands do not require additional buffers. The proposed upland buffer area shall be shown on the construction plans. The final upland buffer area as required by the SWFWMD shall be designated on the plat as "wetland conservation areas as required and defined by the SWFWMD." Permissible uses of wetland conservation areas shall be those uses allowed by the SWFWMD.
37. All areas designated as SWFWMD, Florida Department of Environmental Protection (FDEP), or ACOE jurisdiction on the preliminary plan are subject to any SWFWMD, FDEP, or ACOE mitigation requirements required and/or approved mitigation adjustments shall be recorded on the record plat as conservation areas. ~~The bearings and distances of the jurisdictional lines shall be so denoted on the plat.~~ Within these areas, there shall be no construction, clearing, filling, or improvements of any kind unless appropriate permits have been obtained allowing wetland encroachment.
38. ~~The developer shall provide a Letter of Commitment and/or approval for water and/or sewer services from the Utilities Services Branch prior to preliminary plan approval. Prior to construction plan approval, the developer and the County shall enter into a Utilities Service Agreement. A Master Utilities Plan, approved by the Utilities Services Branch, is required prior to final construction plan approval. The developer shall construct all water and wastewater facilities within and external to the development to current Pasco County standards. Design and construction standards and Master Utilities Plan outline may be obtained from the Utilities Services Branch.~~
39. The developer shall provide a Letter of Commitment and/or approval for water and/or sewer services from the appropriate serving utility prior to the issuance of the hard-copy Site Development Permit.
40. Utility service commitment fees shall be paid in accordance with the Pasco County Code of Ordinances, Chapter 110, Articles II and IV, as amended.
41. Plan approval by the Development Director, DRC, or BCC does not authorize construction of utilities prior to FDEP permits being submitted and approved.
42. In consideration of Pasco County's agreement to provide potable water and/or reclaimed water to the subject property, the owner/developer and its successors and assigns agree to the following:
 - a. In the event of production failure or shortfall by Tampa Bay Water (TBW), as set forth in Section 3.19 of the Interlocal Agreement creating TBW, the owner/developer shall transfer to Pasco County any and all water-use permits or water-use rights the owner/developer may have to use or consume surface water or groundwater within Pasco County.
 - b. Prior to the owner/developer selling water, water-use permits, or water-use rights, the owner/developer shall notify Pasco County, and Pasco County shall have a right of first refusal to purchase such water or water-use permits or water-use rights.
43. 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.
44. 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.
45. 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.
46. The developer shall provide fire protection in compliance with the Pasco County Code of Ordinances, Chapter 46, Article III, and any subsequent amendments. The developer shall show hydrant site locations on the construction plans. Raised pavement markings shall be installed.
47. Unless otherwise approved by the Emergency Services Director, when the development is record platted, or where a plat is not required, prior to the issuance of the first Building Permit, the development shall be included into a Pasco County Municipal Fire Service Taxing Unit to provide fire protection. The developer shall submit a petition for inclusion into the Pasco County Municipal Fire Service Taxing Unit at the time of record plat submission, or when no plat is required, prior to the issuance of the first Building Permit. In no case shall a Building Permit be issued until such a petition has been received by the Emergency Services Director.

48. 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 or where no CO is required, prior to final inspection.
49. 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.
50. Amplified speaker/public address systems are prohibited except within fully enclosed buildings. Fully enclosed buildings do not include buildings with service bays and/or exterior walls that may be opened.
51. There shall be no outside display or sale of parts or tires.
52. To prevent glare visible from off-site locations, all lighting fixtures shall be a full cut-off type fixture. The use of upward tilt and similar glare producing effects are prohibited. Floodlights are prohibited.

To limit overspill of lighting onto adjacent properties, lighting must be specifically designed such that the maximum illumination measured at the property line does not exceed 0.5-foot-candle on adjacent residential sites and one-foot-candle on adjacent commercial sites and public rights-of-way measured on a horizontal plane on grade at the property line.

Prior to the CO, an inspection shall be conducted by the Licensed Electrical Engineer of Record for the project. A signed and sealed letter shall be submitted to the County by the Electrical Engineer of Record confirming that all outdoor lighting has been installed according to the photometric plans approved by the County.
53. 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.**
54. **The sidewalk installed along the northern side of Beacon Woods Drive along the project boundary shall be maintained by the applicant.**
55. **Any changes affecting the off-site traffic circulation, access management, or conspan decking shall require approval by the DRC.**
56. 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.
57. 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 DRC's approval of this preliminary/construction site plan constitutes a finding by the DRC that the preliminary/construction site plan, as conditioned, is consistent with those Goals, Objectives, and Policies of the Comprehensive Plan and those provisions of the Land Development Code that are applicable to preliminary/construction site plan 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. Site Plan
3. Large-Scale, Commercial, Retail Design Standards
4. Ex Parte Forms
5. Correspondence Received
6. Previous Denial Letter Dated August 4, 2004

CMJ/GSW/dr/walmart07/08a

DEVELOPMENT REVIEW COMMITTEE ACTION (2/20/06):

Approved Staff Recommendation with Modification to Site Analyses Nos. 3 and 4; Modification to Condition Nos. 2, 4d, 4f, 5, 11, 17, 31, 37, 38, and 53; and Added Three Conditions

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