



FAIRFAX COUNTY

267

OFFICE OF THE CLERK BOARD OF SUPERVISORS

12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

Tel: 703-324-3151 • Fax: 703-324-3926 • TTY: 703-324-3903

V I R G I N I A

www.fairfaxcounty.gov/gov/bos/clerkhomepage.htm

Email: clerktothebos@fairfaxcounty.gov

October 7, 2004

Elizabeth M. Fischer, Esquire
DeCaro, Doran, Siciliano, Gallagher & DeBlasis, LLP
2565 Chain Bridge Road
Vienna, Virginia 22181

RE: Proffered Condition Amendment Number PCA 84-L-020-22
(Amended - month of letter only)
(Concurrent with PCA 84-L-020-21)

Dear Fischer:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on September 27, 2004, approving Proffered Condition Amendment PCA 84-L-020-22 in the name of Wal-Mart Real Estate Business Trust, to amend the proffers for a portion of the land rezoned pursuant to RZ 84-L-020 and previously approved as open space for mixed use development to permit site modifications, located north of King Centre Drive, west of Sir Viceroy Drive (Tax Map 91-2 ((1)) 32B pt.), subject to the proffers dated July 27, 2004, consisting of approximately 30,492 square feet of land located in Lee District.

Sincerely,

Patti M. Hicks
Deputy Clerk to the Board of Supervisors

PMH/rs

PCA 84-L-020-22

October 7, 2004

(Amended - month of letter only)

- 2 -

cc: Chairman Gerald E. Connolly
Supervisor Dana Kauffman, Lee District
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Michael R. Congleton, Deputy Zoning Enforcement Branch
Leslie B. Johnson, Deputy Zoning Administrator for Zoning Permit Review Branch
Thomas Conry, Dept. Mgr. – GIS - Mapping/Overlay
Angela K. Rodeheaver, Section Chief, Trnsprt'n. Planning Div.
Charles Strunk, Project Planning Section, Dept. of Transportation
Michelle Brickner, Deputy Director, DPWES
Kenny King, Proffer Administrator, Plans & Document Control, OSDS, DPWES
Deloris Harris, Environment & Facilities Review Division, DPWES
Department of Highways - VDOT
Land Acqu. & Planning Div., Park Authority
District Planning Commissioner
James Patteson, Director, Facilities Mgmt. Div., DPWES
Gary Chevalier, Office of Capital Facilities, Fairfax County Public Schools

RECEIVED
Department of Planning & Zoning
OCT 18 2004
Zoning Evaluation Division



FAIRFAX COUNTY

2ED

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BOARD OF SUPERVISORS**
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Fairfax, Virginia 22035-0072

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V I R G I N I A

www.fairfaxcounty.gov/gov/bos/clerkhomepage.htm
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September 7, 2004

Elizabeth M. Fischer, Esquire
DeCaro, Doran, Siciliano, Gallagher & DeBlasis, LLP
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RE: Proffered Condition Amendment Number PCA 84-L-020-22
(Concurrent with PCA 84-L-020-21)

Dear Fischer:

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Patti M. Hicks
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PMH/ns

PCA 84-L-020-22
September 7, 2004

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District Planning Commissioner
James Patteson, Director, Facilities Mgmt. Div., DPWES
Gary Chevalier, Office of Capital Facilities, Fairfax County Public Schools

RECEIVED
Department of Planning & Zoning
OCT 12 2004
Zoning Evaluation Division

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 27th day of September, 2004, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROFFERED CONDITION AMENDMENT PCA 84-L-020-22
(CONCURRENT WITH PCA 84-L-020-21)

WHEREAS, Wal-Mart Real Estate Business Trust filed in the proper form an application to amend the proffers for RZ 84-L-020 hereinafter described, by amending conditions proffered and accepted pursuant to Virginia Code Ann. § 15.2-2303(a), and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

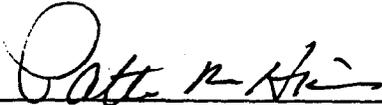
WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Lee District, and more particularly described as follows (see attached legal description):

Be, and hereby is further restricted by the amended conditions proffered and accepted pursuant to Virginia Code Ann., § 15.2-2303(a), which conditions are incorporated into the Zoning Ordinance as it affects said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcels.

GIVEN under my hand this 27th day of September, 2004.



Patti M. Hicks
Deputy Clerk to the Board of Supervisors

July 24, 2003
Kingstowne Wal-Mart
03077.03
Page 1 of 2

**DESCRIPTION OF
PARCEL B-COMMERCIAL 34
KINGSTOWNE
LEE DISTRICT
FAIRFAX COUNTY, VIRGINIA**

RECEIVED
Department of Planning & Zoning

SEP 1 1 2003

Zoning Evaluation Division

Being all of Parcel B-Commercial 34 Kingstowne as recorded in Deed Book 8928 at Page 1341, less and except a parcel dedicated to public street purposes as recorded in Deed Book 10055 at Page 989 and being part of the property acquired by Wal-Mart Real Estate Business Trust as recorded in Deed Book 10033 at Page 1843 all among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning at a point on the Southerly right-of-way line of Kingstowne Boulevard (variable width) as recorded in Deed Book 7048 at Page 771, Deed Book 10055 at Page 989, Deed Book 12713 at Page 2146, and Deed Book 13910 at Page 589, said point being Northeasterly corner of the United States Postal Service as recorded in Deed Book 10351 at Page 1559, also known as Parcel A2-Commercial 34 Kingstowne as recorded in Deed Book 10275 at Page 733, thence running with the said right-of-way line of Kingstowne Boulevard the following three (3) courses and distances

- 1) North 53° 49' 52" East 620.82 feet to a point, thence
- 2) 382.13 feet along the arc of a curve deflecting to the left having a radius of 14,074.57 feet and a chord bearing North 53° 03' 12" East 382.12 feet to a point, thence
- 3) South 82° 53' 49" East 56.40 feet to a point on the Westerly right-of-way line of Sir Viceroy Drive (variable width) as recorded in Deed Book 9312 at Page 1188 and Deed Book 12270 at Page 740, thence running with the said right-of-way line of Sir Viceroy Drive the following five (5) courses and distances
- 4) 288.08 feet along the arc of a curve deflecting to the right having a radius of 360.00 feet and a chord bearing South 05° 31' 34" East 280.46 feet to a point, thence

- 5) South $17^{\circ} 23' 55''$ West 39.09 feet to a point, thence
- 6) 387.08 feet along the arc of a curve deflecting to the left having a radius of 446.00 feet and a chord bearing South $07^{\circ} 27' 53''$ East 375.05 feet to a point, thence
- 7) South $32^{\circ} 19' 42''$ East 165.23 feet to a point, thence
- 8) 60.15 feet along the arc of a curve deflecting to the right having a radius of 40.00 feet and a chord bearing South $10^{\circ} 45' 05''$ West 54.64 feet to a point on the Northerly right-of-way line of King Centre Drive (variable width) as recorded in Deed Book 9269 at Page 1326, thence running with the said right-of-way line of King Centre Drive the following three (3) courses and distances
- 9) South $53^{\circ} 49' 52''$ West 158.76 feet to a point, thence
- 10) 476.81 feet along the arc of a curve deflecting to the right having a radius of 610.00 feet and a chord bearing South $76^{\circ} 13' 26''$ West 464.76 feet to a point, thence
- 11) 65.92 feet along the arc of a curve deflecting to the left having a radius of 455.00 feet and a chord bearing North $85^{\circ} 32' 03''$ West 65.87 feet to a point being the Southeasterly corner of the aforementioned United States Postal Service, thence running with their Easterly line
- 12) North $36^{\circ} 10' 08''$ West 609.17 feet to the point of beginning containing 645,655 square feet or 14.82220 acres of land.

This description was prepared without the benefit of a title report, which may reveal or discover easements and/or rights-of-way not described herein.

Proffer Statement
Kingstowne Wal-Mart

Proffer Condition Amendments PCA 84-L-020-21 & PCA 84-L-020-22

July 27, 2004

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, and Sections 16-403 and 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), Wal-Mart Real Estate Business Trust for itself and its successors and assigns (hereinafter collectively referred to the "Applicant" or "Developer") in these Proffered Condition Amendments ("PCA"), proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 91-2((1)), Parcel 32B pt (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Proffer Condition Amendments, PCA 84-L-020-21 and PCA 84-L-020-22 and Conceptual/Final Development Plan ("CDPA/FDPA") 84-L-020-2-12 are granted. In the event said application and requests are denied, these proffers will immediately be null and void and of no further force and effect. Previously approved proffers pursuant to PCA 84-L-020-4 shall remain in full force and effect as they pertain to Tax Map Reference 91-2((1)), Parcel 32B pt. except as amended specifically below. The proffered conditions below also contain additional commitments applicable to the application property.

GENERAL

1. The property which is the subject of these applications shall be developed in substantial conformance with the plan entitled 'Wal-Mart Conceptual Development Plan Amendment/Final Development Plan Amendment/Proffered Condition Amendment/Generalized Development Plan, (hereinafter the "Plan"), Store #2194 dated July 23, 2004 and prepared by Bohler Engineering provided, however, that minor modifications may be permitted when necessitated by sound engineering or which may become necessary as part of the final site engineering, as determined by the Department of Public Works & Environmental Services ("DPWES"). This proffer shall supersede proffer number 67a of PCA 84-L-020-4.

2. The property shall be used for retail uses. Building signage shall be limited to advertising the name of the primary

individual establishment only and shall be in accordance with Article 12, Signs; signs for ancillary services or accessory service uses, such as film developing, "Joe's Diner", or other fast-food restaurant or eating establishment in the building, etc., shall be prohibited.

3. There shall be no outdoor vending machines, including but not limited to, soft drink machines.

4. There shall be no coin-operated mechanical rides or other similar devices located outside the walls of the buildings.

5. Outdoor display, storage and sales of goods shall be prohibited; however, these restrictions shall not preclude (i) having outdoor seating at eating establishments, approved through a proffer condition amendment, or fast food restaurants, approved through special exception, or (ii) Group Eight Temporary Uses limited to community-oriented events, such as farmer's markets, antique markets, car shows, arts and craft displays, "Taste of Kingstowne" and similar special and seasonal events, approved through special permit.

6. A masonry wall made of brick shall be constructed to replace the temporary board on board fence on the perimeter of the property located near Sir Viceroy Drive. The masonry wall must be constructed no later than the time the additional storage area is constructed and must be completed by the time a Non-Residential Use Permit is issued for the storage area when completed. The masonry wall shall be a minimum of six feet in height and shall run the length of the existing board on board fence (shown as temporary fence on "Plan"). The physical location of the masonry wall is subject to DPWES, VDOT and County DOT approval, as well as site plan review. Any existing landscaping that is lost due to the construction of the masonry wall shall be replaced in like kind and size after the wall's construction is completed. If a decision needs to be made as to the placement of such landscaping because construction of the wall does not allow for trees or shrubs to be planted at their original sites, any new or replacement plantings shall be placed outside the masonry wall bordering King Center Drive and not inside the wall where it will not be visible from the roadway.

7. Garden materials may be displayed only within the area

identified on the Plan as "Garden Center" and "Garden Center Expansion"; however, this restriction shall not preclude group eight temporary uses limited to community-oriented events, such as farmer's markets, arts and crafts displays, and similar special and seasonal events, approved through special permit.

8. Parking lot landscaping shall be provided as shown on Sheet 4 of the "Plan". All parking lot landscaping shall be maintained as described in Proffer # 9.

9. The planting and maintenance of all tree and other landscape plants on the site shall be in conformance with the Public Facilities Manual. Plants shall meet the size requirement of the Public Facilities Manual. Plants shall also meet the health and quality standards for the size of the material to be planted as specified in the latest edition of American Association of Nurseryman's American Standard for Nursery Stock (ANSI Z60.1). All trees and shrubs shall be planted as specified in the latest edition of Landscape Specification Guidelines, Landscape Contractors Association, MD, DC, VA. Any trees that are staked or guyed at the time of planting shall have the stakes and guy wires removed within one year. All plants shall be maintained to ensure a healthy growing condition and to preserve their natural form and function. All plants shall be maintained with proper watering, mulching, pruning and other maintenance as specified in the Landscape Specification Guidelines and pruning as specified in the latest edition of American National Standard for Tree care Operations - Tree Shrub and Other Woody Plant Maintenance - Standard Practices, ANSI A-300. All plant material that is dead, dying, or damaged beyond repair shall be replaced.

10. The Applicant shall adhere to the landscaping design shown on the plan. Subject to the approval of Urban Forestry Division and DPWES, modifications to the exact locations of trees and other landscape materials may be made for the installation of utilities and other necessary construction activities; provided, however, that the overall landscaping scheme is maintained.

11. There shall be no metal containers or trailers used for storage or stored on the property. This shall not preclude operations normally associated with deliveries to the store. In

no instance shall any trailer or metal container be kept on the property for more than two days.

12. The additional gross floor area identified on the "Plan" as "Stock Room Addition" shall be used only as storage space and shall not be converted to retail space unless proper approval is received through approval of a proffered condition amendment.

13. All dumpsters shall be located at the rear of the store and inside the masonry wall. Dumpsters shall not be located in the front or on the sides of the store unless such use has been approved by special permit or exception.

14. All empty pallets, bales, and/or refuse shall be located at the rear of the store in the area shown on the "Plan" and inside the masonry wall. All shopping carts and fixtures stored in the rear of the store shall be located in the area shown on the "Plan" and inside the masonry wall. Pallets shall not be used outside for display, storage or sales of goods unless approved by special permit or exception. This does not preclude the use of pallets to display garden materials within the area identified on the "Plan" as "Garden Center" and "Garden Center Expansion".

15. The existing sidewalk along the entrance roadway to the site from Sir Viceroy Drive shall be extended to Sir Viceroy Drive, and shall continue along the perimeter of Sir Viceroy to the point of the painted crosswalk; a handicapped ramp shall be installed at Sir Viceroy Drive and a painted crosswalk shall be installed across Sir Viceroy Drive as shown on the "Plan". These improvements shall be subject to the review and approval of the Virginia Department of Transportation and DPWES.

16. When lighting fixtures, as defined by the Fairfax County Zoning Ordinance are replaced, they shall be replaced with fixtures that meet the standards specified in Part 9, Outdoor Lighting Standards of the Fairfax County Zoning Ordinance. Any new lighting fixtures that are installed shall also meet the standards specified in Part 9, Outdoor Lighting Standards of the Fairfax County Zoning Ordinance.

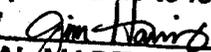
17. Building permits shall not be issued until receipt of

an executed letter from Kingstowne Commercial Ownership Corporation's Architectural Review Committee approving the architectural appearance of the two proposed additions and the masonry wall. Kingstowne Residential Ownership Corporation shall be afforded an opportunity to review and comment on the architectural appearance of the two proposed additions and the masonry wall prior to the issuance of the executed letter from Kingstowne Commercial Ownership Corporation's Architectural Review Committee.

WAL-MART REAL ESTATE BUSINESS TRUST

BY: 
H. Lee Scott, Sole Managing Trustee ^{ok}

I:\COMMON\WP\L4\Enf\Fairfax v. Wal-Mart\Zoning Application Materials\Proffers - Amended Proffers10a.wpd

Approved as to legal terms only
by 
WAL-MART LEGAL DEPT.
Date: 8/18/04

ZAPS USER GENERATED REPORTS
 ZONING APPLICATION SUMMARY REPORT
 APPLICATION NUMBER: PCA 84-L-020-22

DECISION DATE: 9/27/2004

HEARING BODY: BOS

CRD: NO

MAGISTERIAL DISTRICT: LEE

APPLICANT NAME WAL-MART REAL ESTATE BUSINESS TRUST

STAFF COORDINATOR: PBRAHA

ACTION: APPROVE

DECISION SUMMARY:

ON SEPTEMBER 27, 2004, ON THE MOTION OF SUPERVISOR KAUF
 FMAN (LEE DISTRICT), THE BOARD OF SUPERVISORS APPROVED
 PCA 84-L-020-22 AND PCA 84-L-020-21 SUBJECT TO PROFFERS
 THE BOARD ALSO APPROVED A VARIANCE TO ALLOW A SIX FO
 OT FENCE ALONG KING CENTRE DRIVE. THE PLANNING COMMISS
 ION PREVIOUSLY APPROVED FDPA 84-L-020-02-12 SUBJECT TO
 THE BOARD OF SUPERVISORS APPROVAL OF PCA 84-L-020-22 AND
 PCA 84-L-020-21.

ZONING INFORMATION

EXISTING ZONING

<u>DISTRICT</u>	<u>AREA</u>
I-4	30,492.00 SQ FEET
TOTAL	0.70 ACRES

APPROVED AREA

<u>DISTRICT</u>	<u>AREA</u>
I-4	30,492.00 SQ FEET
TOTAL	0.70 ACRES

TAX MAP NUMBERS

091-2-1011 10032-B

APPROVED ZONING DISTRICT DATA

ZONING DISTRICT: I-4

APPROVED RESIDENTIAL DEVELOPMENT

<u>LAND USE</u>	<u>DWELLING</u>	<u>LAND</u>	<u>UNIT OF</u>	<u>NO.</u>
<u>PRKG/LD/AC</u>	<u>UNITS</u>	<u>AREA</u>	<u>MEASURE</u>	<u>OF</u>
				<u>ADJ'S</u>

APPROVED NON-RESIDENTIAL DEVELOPMENT

<u>FLOOR AREA</u>	<u>UNIT OF</u>	<u>LAND</u>	<u>UNIT OF</u>	<u>FAR</u>
	<u>MEASURE</u>	<u>AREA</u>	<u>MEASURE</u>	

PROFFER INFORMATION

PROFFER STATEMENT DATE: 07-27-2004

<u>ITEM</u>	<u>DUE DATE</u>	<u>TRIGGER NO.</u>	<u>TRIGGER EVENT</u>	<u>CONTRIB AMT</u>	<u>EXPIRATION DATE</u>
DUMPSTER SCREENING / LOCATION	01-01-0001	0	N/A	\$0	01-01-0001
FENCE	01-01-0001	0	NON-RUP	\$0	01-01-0001
LANDSCAPING - ENVIRONMENT	01-01-0001	0	N/A	\$0	01-01-0001
LIGHTING / GLARE	01-01-0001	0	N/A	\$0	01-01-0001
LOADING AREAS SCREENED	01-01-0001	0	N/A	\$0	01-01-0001
PREVIOUS PROFFERS REMAIN IN EFFEC	01-01-0001	0	N/A	\$0	01-01-0001
PROFFERED PLANS	01-01-0001	0	N/A	\$0	01-01-0001
RESTORATION / REFORESTATION / REPI	01-01-0001	0	N/A	\$0	01-01-0001
SIDEWALK / TRAIL	01-01-0001	0	N/A	\$0	01-01-0001

PROFFER INFORMATION

PROFFER STATEMENT DATE: 07-27-2004

<u>ITEM</u>	<u>DUE DATE</u>	<u>TRIGGER NO.</u>	<u>TRIGGER EVENT</u>	<u>CONTRIB AMT</u>	<u>EXPIRATION DATE</u>
URBAN FORESTRY REVIEW	01-01-0001	0	N/A	\$0	01-01-0001
USE RESTRICTIONS	01-01-0001	0	N/A	\$0	01-01-0001
COMMUNITY COORDINATION / LIAISON	01-01-0001	0	BLDG PRMT APR	\$0	01-01-0001

WAIVERS/MODIFICATIONS

APPROVED WAIVERS/MODIFICATIONS

VARIANCE FOR HEIGHT OF FENCE IN FRONT YARD



PLEASE TYPE OR PRINT IN BLACK INK

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR ZONING MAP AMENDMENT

APPLICATION NO. PIA 84-L-000-324 Zone
(Assigned by Staff)

PETITION

TO: THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

I (We), Will Mark Scott Real Estate Business Trust, the applicant(s), petition you to adopt an ordinance amending the Zoning Map of Fairfax County, Virginia, by reclassifying from the _____ District to the _____ District the property described below and outlined in red on the Zoning Section Sheet(s) accompanying and made a part of this application.

Proposed Condition Amendment / Final Development Plan Amendment
PROPERTY DESCRIPTION

1. LEGAL DESCRIPTION:

Parcel 3 Commercial 34 Knashdown 2428 1311
Lot(s) Block(s) Subdivision Deed Book Page No.
10255 489

2. TAX MAP DESCRIPTION:

11-2 1 32-B I 4
Map No. Double Circle No. Single Circle No. Parcel(s)/Lot(s) No. Total Area(Ac. or Sq. Ft.)
7.211.422

3. POSTAL ADDRESS OF PROPERTY: (If any)

5005 Knashdown Boulevard, Washington Store Number 2194

4. ADVERTISING DESCRIPTION: (Ex. South of Rt. 236, 1000 feet west of Rt. 274)

Southwest corner of Knashdown and S. Victory Ave

5. PRESENT USE: mix use

6. PROPOSED USE: mix use

7. SUPERVISOR DISTRICT: 1st District

The name(s) and address(es) of owner(s) of record shall be provided on the affidavit form attached and made part of this application.

The undersigned has the power to authorize and does hereby authorize Fairfax County staff representatives on official business to enter on the subject property as necessary to process the application.

Elizabeth M. Fisher, Esquire
Type or Print Name of Applicant or Agent

[Signature]
Signature of Applicant or Agent

2055 Chantilly Bridge Road, Vienna VA 22181
Address

(703) 582-2100 (703) 215-6167
Telephone No. Home Work

Please provide name and telephone number of contact person if different from above.

NOTATION

DO NOT WRITE IN THIS SPACE

Date application received: _____

Application Fee Paid: \$ N/A

Date application accepted: 10-08-03

Form RZ (10/89)

Board Agenda Item
September 27, 2004

4:00 p.m.

Public Hearing on PCA 84-L-020-21 (Wal-Mart Real Estate Business Trust) to Amend the Proffers for a Portion of the Land Rezoned Pursuant to RZ 84-L-020 and Previously Approved for Mixed Use Development to Permit Building Additions and Site Modifications with a Floor Area Ratio (FAR) of 0.22 Within the Application Property, Located on Approximately 14.12 Acres Zoned PDC, Lee District

and

Public Hearing on PCA 84-L-020-22 (Wal-Mart Real Estate Business Trust) to Amend the Proffers for a Portion of the Land Rezoned Pursuant to RZ 84-L-020 and Previously Approved as Open Space for Mixed Use Development to Permit Site Modifications, Located on Approximately 30,492 Square Feet Zoned I-4, Lee District

The application property is located in the southwest quadrant of Kingstowne Boulevard and Sir Viceroy Drive, Tax Map 91-2 ((1)) 32B Pt.

On Thursday, July 29, 2004, the Planning Commission voted 8-0-1 (Commissioner Murphy abstaining; Commissioner Alcorn not present for the votes; Commissioners Byers and Koch absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 84-L-020-21 and PCA 84-L-020-22, subject to execution of proffers consistent with those dated July 27, 2004; and
- Approval of a variance of the requirements of Par. 7 of Sect. 16-404 of the Zoning Ordinance to allow a six-foot wall along King Center Drive, as shown on the proffered plan.

The Planning Commission then voted 8-0-1 (Commissioner Murphy abstaining; Commissioner Alcorn not present for the vote; Commissioners Byers and Koch absent from the meeting) to approve FDPA 84-L-020-02-12, subject to Board approval of PCA 84-L-020-21 and PCA 84-L-020-22.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

Proffer Statement
Kingstowne Wal-Mart
Proffer Condition Amendments PCA 84-L-020-21 & PCA 84-L-020-22

July 27, 2004

Pursuant to Section 15.2-2303(A) of the Code of Virginia, 1950, as amended, and Sections 16-403 and 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), Wal-Mart Real Estate Business Trust for itself and its successors and assigns (hereinafter collectively referred to the "Applicant" or "Developer") in these Proffered Condition Amendments ("PCA"), proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 91-2((1)), Parcel 32B pt (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said Proffer Condition Amendments, PCA 84-L-020-21 and PCA 84-L-020-22 and Conceptual/Final Development Plan ("CDPA/FDPA") 84-L-020-2-12 are granted. In the event said application and requests are denied, these proffers will immediately be null and void and of no further force and effect. Previously approved proffers pursuant to PCA 84-l-020-4 shall remain in full force and effect as they pertain to Tax Map Reference 91-2((1)), Parcel 32B pt. except as amended specifically below. The proffered conditions below also contain additional commitments applicable to the application property.

GENERAL

1. The property which is the subject of these applications shall be developed in substantial conformance with the plan entitled 'Wal-Mart Conceptual Development Plan Amendment/Final Development Plan Amendment/Proffered Condition Amendment/Generalized Development Plan, (hereinafter the "Plan"), Store #2194 dated July 23, 2004 and prepared by Bohler Engineering provided, however, that minor modifications may be permitted when necessitated by sound engineering or which may become necessary as part of the final site engineering, as determined by the Department of Public Works & Environmental Services ("DPWES"). This proffer shall supersede proffer number 67a of PCA 84-L-020-4.

2. The property shall be used for retail uses. Building signage shall be limited to advertising the name of the primary

individual establishment only and shall be in accordance with Article 12, Signs; signs for ancillary services or accessory service uses, such as film developing, "Joe's Diner", or other fast-food restaurant or eating establishment in the building, etc., shall be prohibited.

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4. There shall be no coin-operated mechanical rides or other similar devices located outside the walls of the buildings.

5. Outdoor display, storage and sales of goods shall be prohibited; however, these restrictions shall not preclude (i) having outdoor seating at eating establishments, approved through a proffer condition amendment, or fast food restaurants, approved through special exception, or (ii) Group Eight Temporary Uses limited to community-oriented events, such as farmer's markets, antique markets, car shows, arts and craft displays, "Taste of Kingstowne" and similar special and seasonal events, approved through special permit.

6. A masonry wall made of brick shall be constructed to replace the temporary board on board fence on the perimeter of the property located near Sir Viceroy Drive. The masonry wall must be constructed no later than the time the additional storage area is constructed and must be completed by the time a Non-Residential Use Permit is issued for the storage area when completed. The masonry wall shall be a minimum of six feet in height and shall run the length of the existing board on board fence (shown as temporary fence on "Plan"). The physical location of the masonry wall is subject to DPWES, VDOT and County DOT approval, as well as site plan review. Any existing landscaping that is lost due to the construction of the masonry wall shall be replaced in like kind and size after the wall's construction is completed. If a decision needs to be made as to the placement of such landscaping because construction of the wall does not allow for trees or shrubs to be planted at their original sites, any new or replacement plantings shall be placed outside the masonry wall bordering King Center Drive and not inside the wall where it will not be visible from the roadway.

7. Garden materials may be displayed only within the area

identified on the Plan as "Garden Center" and "Garden Center Expansion"; however, this restriction shall not preclude group eight temporary uses limited to community-oriented events, such as farmer's markets, arts and crafts displays, and similar special and seasonal events, approved through special permit.

8. Parking lot landscaping shall be provided as shown on Sheet 4 of the "Plan". All parking lot landscaping shall be maintained as described in Proffer # 9.

9. The planting and maintenance of all tree and other landscape plants on the site shall be in conformance with the Public Facilities Manual. Plants shall meet the size requirement of the Public Facilities Manual. Plants shall also meet the health and quality standards for the size of the material to be planted as specified in the latest edition of American Association of Nurseryman's American Standard for Nursery Stock (ANSI Z60.1). All trees and shrubs shall be planted as specified in the latest edition of Landscape Specification Guidelines, Landscape Contractors Association, MD, DC, VA. Any trees that are staked or guyed at the time of planting shall have the stakes and guy wires removed within one year. All plants shall be maintained to ensure a healthy growing condition and to preserve their natural form and function. All plants shall be maintained with proper watering, mulching, pruning and other maintenance as specified in the Landscape Specification Guidelines and pruning as specified in the latest edition of American National Standard for Tree care Operations - Tree Shrub and Other Woody Plant Maintenance - Standard Practices, ANSI A-300. All plant material that is dead, dying, or damaged beyond repair shall be replaced.

10. The Applicant shall adhere to the landscaping design shown on the plan. Subject to the approval of Urban Forestry Division and DPWES, modifications to the exact locations of trees and other landscape materials may be made for the installation of utilities and other necessary construction activities; provided, however, that the overall landscaping scheme is maintained.

11. There shall be no metal containers or trailers used for storage or stored on the property. This shall not preclude operations normally associated with deliveries to the store. In

no instance shall any trailer or metal container be kept on the property for more than two days.

12. The additional gross floor area identified on the "Plan" as "Stock Room Addition" shall be used only as storage space and shall not be converted to retail space unless proper approval is received through approval of a proffered condition amendment.

13. All dumpsters shall be located at the rear of the store and inside the masonry wall. Dumpsters shall not be located in the front or on the sides of the store unless such use has been approved by special permit or exception.

14. All empty pallets, bales, and/or refuse shall be located at the rear of the store in the area shown on the "Plan" and inside the masonry wall. All shopping carts and fixtures stored in the rear of the store shall be located in the area shown on the "Plan" and inside the masonry wall. Pallets shall not be used outside for display, storage or sales of goods unless approved by special permit or exception. This does not preclude the use of pallets to display garden materials within the area identified on the "Plan" as "Garden Center" and "Garden Center Expansion".

15. The existing sidewalk along the entrance roadway to the site from Sir Viceroy Drive shall be extended to Sir Viceroy Drive, and shall continue along the perimeter of Sir Viceroy to the point of the painted crosswalk; a handicapped ramp shall be installed at Sir Viceroy Drive and a painted crosswalk shall be installed across Sir Viceroy Drive as shown on the "Plan". These improvements shall be subject to the review and approval of the Virginia Department of Transportation and DPWES.

16. When lighting fixtures, as defined by the Fairfax County Zoning Ordinance are replaced, they shall be replaced with fixtures that meet the standards specified in Part 9, Outdoor Lighting Standards of the Fairfax County Zoning Ordinance. Any new lighting fixtures that are installed shall also meet the standards specified in Part 9, Outdoor Lighting Standards of the Fairfax County Zoning Ordinance.

17. Building permits shall not be issued until receipt of

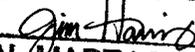
an executed letter from Kingstowne Commercial Ownership Corporation's Architectural Review Committee approving the architectural appearance of the two proposed additions and the masonry wall. Kingstowne Residential Ownership Corporation shall be afforded an opportunity to review and comment on the architectural appearance of the two proposed additions and the masonry wall prior to the issuance of the executed letter from Kingstowne Commercial Ownership Corporation's Architectural Review Committee.

WAL-MART REAL ESTATE BUSINESS TRUST

BY: 

H. Lee Scott, Sole Managing Trustee ^{ok}

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Approved as to legal terms only
by 
WALMART LEGAL DEPT.
Date: 8/18/04