

# CITY OF ALACHUA

## Board of Adjustment

**IN RE:**            *CPH, Inc.'s Application*  
                      *On behalf of Wal-Mart Stores East, LP*  
                      *For a Zoning Variance Permit from Section 6.8.3(E)(2)*  
                      *Located on Tax Parcel Number 03869-013-000*

**ORDER GRANTING CPH, INC.'S APPLICATION**  
**ON BEHALF OF WAL-MART STORES EAST, LP**  
**FOR A ZONING VARIANCE PERMIT FROM SECTION 6.8.3(E)(2)**  
**WITH CONDITIONS**

On May 2, 2017, the City of Alachua Board of Adjustment ("Board") conducted a quasi-judicial hearing on an application for a Zoning Variance Permit from Section 6.8.3(E)(2), requesting a reduction in the number of required pedestrian connections between the on-site pedestrian circulation system and the adjacent public sidewalk or greenway network, as required by Section 7.3.2(C), in association with a development proposed on Tax Parcel Number 03869-013-000 ("Application"), by CPH, Inc., on behalf of Wal-Mart Stores East, LP ("Applicant") (herein referred to as the "Hearing"). Based upon the competent substantial evidence presented during the Hearing, the Board finds that the development proposed by the Application, when developed in accordance with its terms and the conditions of approval set forth below, is:

1. Consistent with the City of Alachua's ("the City") Comprehensive Plan; and,
2. In compliance with the City's Land Development Regulations ("LDRs.")

Accordingly, the Board voted 5 - 0 to approve the Application with the following conditions:

**CONDITIONS RECOMMENDED BY STAFF AND AGREED TO BY APPLICANT:**

1. To further the application's compliance with the standards of Section 2.4.7(C)(4), to provide the maximum number of pedestrian connections that can reasonably be accommodated for the proposed development, and to fulfill the purpose and intent of the requirements of the City's Comprehensive Plan and Land Development Regulations pertaining to interconnectivity and pedestrian facilities, the applicant agrees to:
  - a. Provide five foot (5') sidewalks within the right of way of "Seller Road 2" to the north and south the road, as depicted and labeled on Sheet C-6B of the Site Plan, and to provide a 5 foot (5') sidewalk and any necessary crosswalks from the terminus of the right-of-way of "Seller Road 2" connecting said sidewalks along "Seller Road 2" to the primary customer entrances of the development. Sidewalks shall be designed and constructed to comply with the City of Alachua Land

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Development Order for: Wal-Mart #3873 Zoning Variance Permit  
                                  Section 6.8.3(E)(2)  
                                  Wal-Mart Stores East, LP  
                                  Tax Parcel Number 03869-013-000

Development Regulations and all applicable Florida Department of Transportation (FDOT) standards; and,

- b. Provide funding to the City for a five foot (5') sidewalk along the south right-of-way line of the NW 151<sup>st</sup> Boulevard, from the existing terminus of the sidewalk at the intersection of NW 151<sup>st</sup> Boulevard and NW 148<sup>th</sup> Drive to the existing terminus of NW 151<sup>st</sup> Boulevard, which is contiguous to the location of proposed sidewalk improvements as depicted on Sheet C-6B of the companion Site Plan application. A Professional Engineer registered in the State of Florida shall prepare the calculation of the funding amount. The calculation shall include the cost of all materials and labor to construct a sidewalk which complies with the City of Alachua Land Development Regulations and all Florida Department of Transportation (FDOT) standards. Funding required by this condition shall be provided to the City prior to applying for a building permit for the building shown on the companion Site Plan application.

Attached to this Order as Exhibit "A" and incorporated by reference is the May 2, 2017, staff report to the Board of Adjustment submitted to the Board at the Hearing, with all exhibits thereto.

Attached to this Order as Exhibit "B" and incorporated by reference is the additional evidence submitted during the public hearing.

DATED this 2<sup>nd</sup> day of May, 2017.

City of Alachua  
Board of Adjustment

By:

  
Gib Coerper, Chair

Accepted and filed in the Official Records of  
the City of Alachua, Florida, this 2<sup>nd</sup> day of  
May, 2017.

By:

  
Traci L. Gresham, Clerk

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Development Order for: Wal-Mart #3873 Zoning Variance Permit  
Section 6.8.3(E)(2)  
Wal-Mart Stores East, LP  
Tax Parcel Number 03869-013-000

**FINAL**

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EXHIBIT "A"  
TO

ORDER GRANTING CPH, INC.'S APPLICATION  
ON BEHALF OF WAL-MART STORES EAST, LP  
FOR A ZONING VARIANCE PERMIT  
FROM SECTION 6.8.3(E)(2)  
WITH CONDITIONS

CITY OF ALACHUA  
BOARD OF ADJUSTMENT MEETING  
MAY 2, 2017  
5:00 PM

ITEM A., ZONING VARIANCE PERMIT – WAL-MART #3873

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THIS EXHIBIT "A" INCORPORATES BY REFERENCE THE MAY 2, 2017 STAFF REPORT TO THE BOARD OF ADJUSTMENT SUBMITTED TO THE BOARD AT THE HEARING, WITH ALL EXHIBITS THERETO.

EXHIBIT "B"  
TO

ORDER GRANTING CPH, INC.'S APPLICATION  
ON BEHALF OF WAL-MART STORES EAST, LP  
FOR A ZONING VARIANCE PERMIT  
FROM SECTION 6.8.3(E)(2)  
WITH CONDITIONS

CITY OF ALACHUA  
BOARD OF ADJUSTMENT MEETING  
MAY 2, 2017  
5:00 PM

ADDITIONAL EVIDENCE  
SUBMITTED DURING PUBLIC HEARING

ITEM A., ZONING VARIANCE PERMIT – WAL-MART #3873

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- B1 LETTER SUBMITTED BY TAMARA ROBBINS DATED APRIL 27, 2017
- B2 QUASI-JUDICIAL PROCEDURE FOR BOARD OF ADJUSTMENT HEARING  
FOR THE CITY OF ALACHUA, MAY 2, 2017

# EXHIBIT B1

RCVD APR 27 2017

April 27, 2017

Traci Gresham  
City Manager, City of Alachua

This letter serves as notice of the following concerns I have regarding the Public Hearings scheduled for May 2, 2017.

I spoke with Kathy Winburn in the City planning department on May 25, 2017 and I also left a message with the City manager's office for a call back from Adam Boukari. I did not receive a call back from Boukari regarding this issue.

I spoke with Traci Gresham on the morning of April 26, 2017 to suggest the Public Hearings scheduled for Tuesday May 2, 2017, are in violation of Alachua City commission adopted policy contained in the Rules of Procedure manual. Specifically Section III-Commission Procedures, Rule 21: Public Hearings of the Commissioners states, "Public hearings shall be held on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of the month unless otherwise determined by the Commission".

I requested a copy of the Commission meeting minutes where the vote was taken by the Commission to waive Rule 21 and schedule a Public Hearing on a Tuesday. The response from the Clerk's office was, "no such record exists".

The City Manager stated the May 2nd meeting is a special meeting which could be called by her, and I agreed, however, this is not just a special meeting, it is a Public Hearing. Rule 3 addresses Special Meetings. The City Manager also stated the Rules could be waived, which I also agreed could be done, however, not *after* the fact. Waiving the Rules to accommodate a Tuesday Public Hearing would require a majority vote of the Commission prior to the date change allowing sufficient time for legal notice to be advertised and sent to affected parties. Therefore, I am objecting to the date of May 2, 2017, a Tuesday, for the scheduled Public Hearings. I request the proper and legal process be followed in order to support the Public's right of due process.

Thank you,



Tamara Robbins

City Manager Gresham also stated she would check with the City Attorney.  
Attachment - 1 page:

**QUASI-JUDICIAL PROCEDURE FOR  
BOARD OF ADJUSTMENT HEARING EXHIBIT B2  
FOR THE CITY OF ALACHUA**

May 2, 2017

1. Call to Order
2. Approval of Quasi-Judicial Procedure for the public hearing noticed and placed on the agenda for the Board of Adjustment Meeting of the City of Alachua for May 2, 2017
3. Voir dire of Commissioners
4. RULES OF CIVILITY

The City of Alachua encourages citizen participation in the democratic process and recognizes and protects the right of freedom of speech afforded to all. As the Commission conducts the business of the City, rules of civility shall apply. Commissioners, City officials and members of the public are to respectively communicate according to the Commissioners Rules of Procedure. Persons shall speak only when recognized by the Presiding Officer and, at that time, refrain from engaging in personal attacks and derogatory or offensive language. Comments from citizens being made at a time other than during the period titled, "Citizen Comments on Subject of Choice," should be focused on the issue at hand. Outbursts will not be tolerated and those who do not conduct themselves in a respectful and/or lawful manner shall be subject to removal as outlined in the Commissioners Rules of Procedure. It shall be the responsibility of each individual to demonstrate civility.

5. Item A. Zoning Variance Permit
  - a. Staff Presentation
  - b. Affected party determination

**NOTE: ANY MEMBER OF THE PUBLIC THAT IS NOT AN AFFECTED PARTY WILL STILL BE ABLE TO SPEAK DURING THE PUBLIC COMMENT SECTION OF THIS MEETING**

- c. Applicant presentation
- d. Affected Party presentation, [if any]
- e. Motion
- f. Public Comment to address the motion on the floor[limit 5 minutes]
  - i. Those in support of application
    1. Cross examination by applicant

- 2. Cross examination by affected party [if any]
- ii. Those in opposition to application
  - 1. Cross examination by applicant
  - 2. Cross examination by affected party [if any]
- g. Rebuttal
  - i. Affected party [if any]
  - ii. Applicant
  - iii. Staff
- h. Deliberation by Commission
- i. Roll call vote
- j. Vote to approve Order and authorize Mayor to sign it

## 6. ADJOURN

**NOTE:** The Chair (Mayor) will make any ruling(s) on motions and make any ruling in order to foster the efficient and orderly conduct of Commission business.