

# **CITY OF ALACHUA**

## **City Commission**

**IN RE:           CPH, Inc.'s Application**  
**On behalf of First Street Group, L.C. and Wal-Mart Stores East, LP**  
**For a Site Plan for a ±158,562 square foot building**  
**And associated infrastructure improvements**  
**Located Tax Parcel Numbers 03066-000-000, 03869-000-000,**  
**03869-013-000 and 03869-014-000**

**ORDER GRANTING CPH, INC.'S APPLICATION**  
**ON BEHALF OF FIRST STREET GROUP, L.C., AND WAL-MART STORES EAST, LP**  
**FOR A SITE PLAN FOR A ±158,562 SQUARE FOOT BUILDING**  
**AND ASSOCIATED INFRASTRUCTURE IMPROVEMENTS**  
**WITH CONDITIONS**

On April 18, 2017, the City of Alachua Planning & Zoning Board ("PZB"), sitting as the Local Planning Agency ("LPA"), conducted a quasi-judicial hearing on an application for a Site Plan for the construction of a ±158,562 square foot building for retail sales and services, with associated parking, stormwater management facilities, utility infrastructure, and supporting site improvements on Tax Parcel Numbers 03066-000-000, 03869-000-000, 03869-013-000, and 03869-014-000 ("Development") proposed by CPH, Inc., on behalf of First Street Group, L.C. and Wal-Mart Stores East, LP ("Applicants") (herein referred to as the "PZB Hearing"). Based upon the competent substantial evidence presented at the PZB Hearing, the presentation before the PZB, and Staff's recommendation, the PZB transmitted the Site Plan to the City Commission with a recommendation to approve, subject to the ten (10) conditions provided in Exhibit "A" and located on pages 37 and 38 of the April 18, 2017, Staff Report to the Planning & Zoning Board. The PZB's recommendation is contingent upon the Board of Adjustment's approval of the applicant's companion zoning variance permit application and the City Commission's approval of the companion Special Exception Permit applications for automobile repair & servicing and for a large-scale retail establishment greater than or equal to 80,000 square feet in area.

On May 2, 2017, the City of Alachua City Commission ("Commission") conducted a quasi-judicial hearing on the Development (herein referred to as the "Commission Hearing"). Based upon the competent substantial evidence presented during the Commission Hearing, the Commission 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.")

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Development Order for: Wal-Mart #3873 Site Plan  
First Street Group, L.C. and Wal-Mart Stores East, LP  
Tax Parcel Numbers 03066-000-000, 03869-000-000,  
03869-013-000, and 03869-014-000

**FINAL**

Page 1

Accordingly, the Commission voted 5 - 0 to approve the Development with the following conditions:

CONDITIONS RECOMMENDED BY STAFF AND AGREED TO BY APPLICANT:

1. The extension of a potable water main, as prepared by Brian P. Cassidy, of CPH, Inc., and depicted on plans entitled "Proposed U.S. Highway 441 Watermain Extension", dated February 17, 2015, as may be revised, shall be constructed, inspected by the City, completed, and accepted, in accordance with the City's Requirements for Design and Construction, prior to the final inspection for any building permit associated with this Site Plan.
2. The applicant agrees it shall notify the Public Services Department no less than five (5) business days prior to any excavation, grading, or other construction activities related to excavation in the right-of-ways of the access roads labelled as "Entrance Road", "Seller Road 1", "Seller Road 2" on the Site Plan, and within the right-of-way of the extension of NW 151<sup>st</sup> Boulevard. The Public Services Department shall be authorized to determine if any underdrain(s) shall be installed within the specified areas, in accordance with the recommendations of the independent third-party geotechnical review performed by Kenneth L. Hill, P.E., of GSE Engineers and Consultants, Inc., as further described in a letter dated December 15, 2016, and found in Exhibit "B" – Supporting Application Materials Submitted by City Staff to the Planning & Zoning Board.
3. The applicant agrees it shall revise the Site Plan to comply with any conditions of the companion variance permit and special exception permits, including but not limited to revisions necessary to 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.
4. The applicant agrees it shall not use an outdoor speaker or public address system as part of the automobile repair and servicing use, as part of the outdoor garden center, or any other use proposed by this Site Plan.
5. The applicant agrees it shall provide Public Utilities Easements as depicted on the Site Plan. Public Utilities Easements shall include a legal description of each easement area and a boundary sketch of each described easement. The applicant shall prepare legal descriptions and sketches of each Public Utilities Easement. Public Utilities Easements as depicted on the Site Plan shall be approved by the City and recorded in the Public Records of Alachua County prior to applying for a building permit. The applicant shall incur all costs associated with the preparation and recordation of such public utility easements.
6. The applicant agrees it shall comply with all comments issued by the Public Services Department as provided in a memorandum from Rodolfo Valladares, P.E., Public Services

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Development Order for: Wal-Mart #3873 Site Plan  
First Street Group, L.C. and Wal-Mart Stores East, LP  
Tax Parcel Numbers 03066-000-000, 03869-000-000,  
03869-013-000, and 03869-014-000

**FINAL**

Page 2

Director, dated December 15, 2016 and found in Exhibit "B" – Supporting Application Materials Submitted by City Staff to the Planning and Zoning Board.

7. The applicant agrees it shall comply with all recommendations provided by Sergio Reyes, P.E., of EDA Engineers – Surveyors – Planners, Inc., in a letter dated December 15, 2016 and found in Exhibit "B" – Supporting Application Materials Submitted by City Staff to the Planning and Zoning Board.
8. The applicant agrees it shall comply with all recommendations provided by Kenneth L. Hill, P.E., of GSE Engineering and Consulting, Inc., in a letter dated December 15, 2016 and found in Exhibit "B" – Supporting Application Materials Submitted by City Staff to the Planning and Zoning Board.
9. The applicant agrees it shall obtain all other applicable local, state, and federal permits before the commencement of the development.
10. The applicant agrees that Conditions 1 – 10 as stated above do not inordinately burden the land and shall be binding upon the property owner, including any subsequent property owners, successors, or assigns, and that the development shall comply with Conditions 1 – 10 as stated herein.

Attached to this Order as Exhibit "A" and incorporated by reference is the April 18, 2017, staff report to the Planning & Board, also submitted to the City Commission at the May 2, 2017 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.

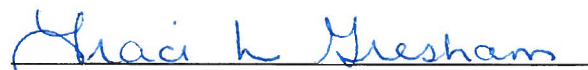
City of Alachua  
City Commission

By:

  
Gib Coerper, Mayor

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 Site Plan  
First Street Group, L.C. and Wal-Mart Stores East, LP  
Tax Parcel Numbers 03066-000-000, 03869-000-000,  
03869-013-000, and 03869-014-000

**FINAL**

Page 3

EXHIBIT "A"  
TO

ORDER GRANTING CPH, INC.'S APPLICATION  
ON BEHALF OF FIRST STREET GROUP, L.C.,  
AND WAL-MART STORES EAST, LP  
FOR A SITE PLAN FOR A ±158,562 SQUARE FOOT BUILDING  
AND ASSOCIATED INFRASTRUCTURE IMPROVEMENTS  
WITH CONDITIONS

CITY OF ALACHUA  
SPECIAL CITY COMMISSION MEETING  
MAY 2, 2017  
6:00 PM

ITEM II. C., SITE PLAN – WAL-MART #3873

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THIS EXHIBIT "A" INCORPORATES BY REFERENCE THE STAFF REPORT TO THE PLANNING & ZONING BOARD, ALSO SUBMITTED TO THE CITY COMMISSION AT THE MAY 2, 2017 HEARING, WITH ALL EXHIBITS THERETO.



SITE PLAN

EXHIBIT "B"  
TO

ORDER GRANTING CPH, INC.'S APPLICATION  
ON BEHALF OF FIRST STREET GROUP, L.C.,  
AND WAL-MART STORES EAST, LP  
FOR A SITE PLAN FOR A ±158,562 SQUARE FOOT BUILDING  
AND ASSOCIATED INFRASTRUCTURE IMPROVEMENTS  
WITH CONDITIONS

CITY OF ALACHUA  
SPECIAL CITY COMMISSION MEETING  
MAY 2, 2017  
6:00 PM

ADDITIONAL EVIDENCE  
SUBMITTED DURING PUBLIC HEARING

ITEM II. C., SITE PLAN – WAL-MART #3873

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- B1 LETTER SUBMITTED BY TAMARA ROBBINS DATED APRIL 27, 2017
- B2 QUASI-JUDICIAL PROCEDURE FOR SPECIAL CITY COMMISSION MEETING  
FOR THE CITY OF ALACHUA, MAY 2, 2017
- B3 RULE 3, RULE 21, AND RULE 33, CITY OF ALACHUA COMMISSIONERS  
RULES OF PROCEDURE, AMENDED NOVEMBER 14, 2016

# 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  
SPECIAL CITY COMMISSION MEETING **EXHIBIT B2**  
FOR THE CITY OF ALACHUA**

May 2, 2017

1. Call to Order
2. Approval of Quasi-Judicial Procedure for the public hearings noticed and placed on the agenda for the SPECIAL CITY COMMISSION MEETING noticed for 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 II. A. SPECIAL EXCEPTION PERMIT for a Large Scale Retail Establishment Greater than or Equal to 80,000 Square Feet.
  - a. Staff Introduction and 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.**

- 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

6. Item II. B. SPECIAL EXCEPTION PERMIT for Automobile Repair and Servicing as Part of a Large Scale Retail Establishment
  - a. Staff Introduction and 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.**

- 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

7. Item II. C. Site Plan for ±158,562 Square Foot Building
  - a. Staff Introduction and 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.

- 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

## 8. ADJOURN

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

# **EXHIBIT B<sub>3</sub>**

## **CITY OF ALACHUA COMMISSIONERS RULES OF PROCEDURE**

**Amended November 14, 2016**

possible, special and emergency meetings will also be conducted in public buildings.

(d) For public safety purposes, no signs or placards mounted on sticks, posts, poles or similar structures will be allowed in City Commission meeting rooms. Other signs, placards, or banners shall not disrupt meetings or interfere with others' visual rights.

#### **RULE 2: REGULAR COMMISSION MEETINGS**

All regular meetings of the City of Alachua Commission will be conducted at 6:00 P.M. at the James A. Lewis Commission Chambers - City of Alachua, City Hall, 15100 NW 142<sup>nd</sup> Ter., Alachua, Florida; unless noticed otherwise. Regular Commission meetings are scheduled on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of the month. The City Commission shall establish and notice, prior to January 1 each year, a schedule of regular meetings that are to be held throughout the subsequent calendar year, reserving the authority to adjust meeting dates from time to time.

. Prior notice of such change shall be provided to the public.

The City Manager/Clerk and the Mayor may cancel a meeting due to lack of items for consideration, other pressing City business or an emergency. Prior notice of such change shall be provided to the public.

#### **RULE 3: SPECIAL COMMISSION MEETINGS**

A special meeting may be called by the Mayor (also referred to as Presiding Officer), the City Manager/Clerk or by a majority vote of the City Commission at a regular Commission meeting, as follows:

(a) The call for a special meeting will be in writing and should contain time, place and business to be conducted. The notice of special meeting shall be located at a designated area at City Hall. An agenda outlining the business to be conducted will be available prior to the meeting. No other business than that listed on the agenda shall be conducted. Special meetings may be held upon no less than six (6) hours public notice.

(b) Each Commissioner will be given written notice served personally or left at his/her usual place of business and/or residence or by electronic means, including but not limited to e-mail. If this means of contact is not achieved, notice will be provided orally, either in person or by telephone contact.

(c) Special meetings may be scheduled in addition to the regular Commission meetings.

(d) There will not be a separate agenda item titled "Comments from Citizens on Subject of Choice"; citizens will be allowed to comment on items listed on the agenda.

(e) If there is no longer a need for a special meeting, it will be cancelled and noticed.

#### **RULE 4: EMERGENCY COMMISSION MEETINGS**

An emergency meeting may be called orally or in writing by the Mayor or the City Manager/Clerk.

Commission vote to extend the meeting. In the event that a meeting has not been closed or continued by Commission vote prior to 11:00 P.M., the items not acted on are to be continued to 8:30 a.m. on the following day, unless state law requires hearing at a different time or unless the Commission, by a majority vote of members present, determines otherwise.

### **SECTION III - COMMISSION PROCEDURES**

#### **RULE 21: PUBLIC HEARING**

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. The procedures to be followed for public hearings are, generally as follows:

- (a) The City Manager or designee should describe the agenda item to be considered, and provide the staff recommendation. The Presiding Officer should then inquire as to whether any Commissioners have questions for administration. After Commissioners' questions are answered, the Presiding Officer requests any Commissioner to put forth a motion. If a motion is made and seconded, the Presiding Officer opens the public hearing and requests comments from the public on the motion on the floor.
- (b) The Presiding Officer inquires if there is any further discussion by the Commissioners and any final comments or recommendations from administration. The presiding officer may restate the motion.
- (d) The Presiding Officer conducts the vote.
- (e) For quasi-judicial hearings, the Presiding Officer will abide by procedures in the City's Land Development Regulations.

#### **RULE 22: VOTING**

The votes during all Commission meetings should be transacted as follows:

Voting on ordinances and resolutions shall be by roll call on final action and shall be declared by the Presiding Officer and recorded in the minutes.

Every Commissioner, including the Mayor, who was in the Commission chambers when the question was called, must vote, unless the member has publicly stated that he/she is abstaining from voting due to a conflict of interest, pursuant to Section 112.3143 or Section 286.011, Florida Statutes. If any Commissioner declines to vote "aye" or "nay" by voice, their vote shall be counted as an "aye" vote.

The passage of any motion, policy or resolution shall require the affirmative vote of at least a majority of the membership of the Commissioners who are present and eligible to vote. In case of a tie in votes on any proposal, the proposal shall be considered lost.

Any Commissioner shall have the right to express dissent from or protests against any ordinance, resolution or policy of the Commission, and to have the reason therefore entered in

substantial compliance with all City regulatory and taxing authorities rules and regulations. Appointees deemed to be in chronic violation of any City rule, regulation, or policy may be disallowed from membership on citizen advisory boards or committees by a majority vote of the Commission.

(h) Citizen advisory boards and committees are required to adhere to the 'Guidelines for Citizen Advisory Boards & Committees' as approved by the City Commission. These guidelines are incorporated herein.

(i) Citizen advisory boards and committees created by or in response to federal or state statutory requirements shall conduct business consistent with these guidelines unless otherwise provided for by such federal or state statutory requirements.

### **RULE 32: NON-AGENDA INQUIRIES AT COMMISSION MEETINGS**

(a) At regularly scheduled City Commission meetings, the Commission shall provide a comment period for individuals to speak on non-agenda items. This public comment period is denoted on the agenda as "Comments From Citizens On Subject Of Choice." The remarks of each speaker shall be limited to three minutes, unless more time is granted by the Presiding Officer or Commission.

(b) The purpose of the public comment portion of the meeting is to receive citizen input pertaining to matters over which the City Commission has jurisdiction or control. This period of time is for comments and not for questions directed to the City Commission or staff for immediate answer. Questions directed to the City Commission may be referred to staff to be answered within a reasonable period of time following the date of the meeting.

(c) Individuals are encouraged to call the appropriate City department during regular business hours. If, after contacting the department, the results were not satisfactory, please contact the director of the department or the City Manager's office.

### **RULE 33: SUSPENSION AND CONSTRUCTION OF RULES**

These rules may be amended or temporarily suspended at any meeting of the Commission with an affirmative vote of a majority of the Commission. These rules are for the efficient and orderly conduct of Commission business only; no violation of such rules shall invalidate any action of the Commission when approved by a majority vote required by law.

### **GUIDELINES FOR CITIZENS ADVISORY BOARDS & COMMITTEES**

1. Committees are to be designated as standing or special.
2. A sunset date will be specified for special committees.
3. Transition Between Members:

By-laws, enacting ordinances, guiding document, etc. will include language, which provides for members (whose terms have expired) to continue serving until the appropriate