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Sec. Twp. Range

**ZONING HEARING APPLICATION
MIAMI-DADE COUNTY
DEPARTMENT OF PLANNING & ZONING**



 RECEIVED 268
 205-(214)
 JUL 29 2005
 ZONING HEARINGS SECTION
 MIAMI-DADE PLANNING AND ZONING DEPT.
 BY DS

LIST ALL FOLIO #S: 34-2103-001-0710, 34-2103-001-0709

Date Received

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Richard Morton; Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton for the benefit of Alan Morton, Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton for the benefit of Cindy Beth Morton; Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton for the benefit of James Andrew Morton; Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton for the benefit of Alexandra Morton; Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton for the benefit of Eden Morton Thibeault; Richard Morton, Trustee of the Trust under the last Will and Testament of Lawrence Morton, deceased for the benefit of Adam Morton; David Morton and Peter M. Morton, as Co-Personal Representatives of the Estate of Lottie Morton; Peter M. Morton, Trustee of the Peter M. Morton Revocable Living Trust; David Morton; Stadium South Properties, L.L.C. and Wal-Mart Stores East, LP

- 2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: c/o Graham Penn, Esq., Bercow & Radell, P.A. 200 South Biscayne Blvd., # 850
 City: Miami State: FL Zip: 33131 Phone#: 305-377-6230

- 3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): Same as above
 Mailing Address: c/o Graham Penn, Esq., Bercow & Radell, P.A. 200 South Biscayne Blvd., # 850
 City: Miami State: FL Zip: 33131 Phone#: 305-377-6230

- 4. CONTACT PERSON'S INFORMATION:**

Name: Graham Penn, Esq. Company: Bercow & Radell, P.A.
 Mailing Address: 200 South Biscayne Boulevard, Suite 850
 City: Miami State: FL Zip: 33131
 Phone#: 305-377-6229 Fax#: 305-377-6222 E-mail: gpenn@Brzoninglaw.com

- 5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION**

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

See Exhibit "A"

6. **ADDRESS OR LOCATION OF PROPERTY** (For location, use description such as NE corner of, etc.)
SE Corner of N.W. 199 Street and N.W. 27 Avenue

7. **SIZE OF PROPERTY** (in acres): 98.8 (divide total sq. ft. by 43,560 to obtain acreage)

8. **DATE** property acquired leased: 1999/2005 9. **Lease term:** _____ years
(month & year)

10. **IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S)**, provide complete legal description of said contiguous property.

N/A

11. **Is there an option** to purchase or lease the subject property or property contiguous thereto?
 no yes (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)
Home Depot U.S.A., Inc. and Cornerstone Group Holdings, Inc. both have contracted to purchase portions of the property

12. **PRESENT ZONING CLASSIFICATION:** BU-2, RU-4A, RU-TH, OPD

13. **APPLICATION REQUESTS** (Check all that apply and describe nature of the request in space provided)
(DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)

- District Boundary Changes (DBC) [Zone class requested]: _____
- Unusual Use: _____
- Use Variance: _____
- Alternative Site Development: _____
- Special Exception: _____
- Modification of previous resolution/plan: Modification of approved DRI Development Order Z-210-85, as amended, to alter total approved development on Dolphin Center South parcel.
- Modification of Declaration or Covenant: _____

14. **Has a public hearing been held on this property within the last year & a half?** no yes.
If yes, provide applicant's name, and date, purpose, and results of hearing, and resolution number:
03-323, Peter Morton Trust et. al. County Commission recently approved district boundary changes to shift location of commercial zoning on property.

15. **Is this hearing is as a result of a violation notice?** no yes. If yes, give name to whom the violation notice was served: _____ and describe the violation:

16. **Describe structures on the property:** None

17. **Is there any existing use on the property?** no yes. If yes, what use and when established?
Use: _____ Year: _____

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (1)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

I, Donald S. Rosenberg, Esq., being first duly sworn, depose and day that I am the Attorney in Fact for Lottie Morton, David Morton, Peter Morton, Trustee, ~~Richard Morton, Richard Morton, Trustee~~ and Stadium South Properties, L.L.C., that are owners of the property that is the subject matter of the proposed hearing and, as such, am authorizing the filing of the instant application.



Signature: Donald S. Rosenberg

Sworn to and subscribed to before me this 20th day of July 2005

Signature: Rebecca Z. Rivera
Notary Public:
Commission Expires:

LIMITED PARTNERSHIP AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a Vice President of WSE Management, L.L.C., a Delaware limited liability company, which is the General Partner of Wal-Mart Stores East, L.P. and, as such, have been authorized by the Limited Partnership to file this application for public hearing; and that said Limited Partnership is an owner of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

Authorized Signature
Office Held

(Corp. Seal)

Sworn to and subscribed to before me this ___ day of, _____, _____.

Notary Public: _____
Commission Expires:

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am)(we are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the [] owner [] tenant of the property described herein which is the subject matter of the proposed hearing.

(Name of Partnership)

By _____ %
By _____ %

By _____ %
By _____ %

Sworn to and subscribed to before me this ___ day of, _____, _____.

Notary Public: _____
Commission Expires:

ATTORNEY AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and Which is the subject matter of the proposed hearing.

Signature
Sworn to and subscribed to before me this ___ day of, _____, _____.

Notary Public: _____
Commission Expires:

RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

- 1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Work conditions and advise this office in writing if my application will be withdrawn.
- 2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
- 3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
- 4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
- 5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3D01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Office is seeking further review. In the interim, the County Attorney's Office is working with the Planning and Zoning Department's professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed..
- 6. Any covenant to be proffered must be submitted to the Department's Legal Counsel, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date. Legal Counsel may be reached at (305) 375-3075.

Donald S Rosenberg
(Applicant's Signature)

DONALD S ROSENBERG
(Print Name)

ATTY AND AGENT FOR THE MORTONS

Sworn to and subscribed before me this 20th day of July, 2005. Affiant is personally known to me or has produced _____ as identification.

Rebecca Z Rivera
(Notary Public)

My commission expires _____



DISCLOSURE OF INTEREST*

If a **CORPORATION** owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: See Attached PAGE 6a

<u>NAME AND ADDRESS</u>	<u>Percentage of Stock</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: See Attached PAGE 6a

<u>NAME AND ADDRESS</u>	<u>Percentage of Interest</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: Wal-Mart Stores East, LP

<u>NAME AND ADDRESS</u>	<u>Percent of Ownership</u>
<u>WSE Management, LLC</u>	<u>100%</u>
_____	_____
_____	_____
_____	_____
_____	_____

DISCLOSURE OF INTEREST

THE MORTONS

David Morton and Peter Morton, as Co-Personal Representatives of the Estate of Lottie Morton, deceased, as to an undivided 36-2/3% interest;

David Morton, individually, as to an undivided 6-2/3% interest;

Peter M. Morton a/k/a Peter Morton, as Trustee of the Peter M. Morton Revocable Trust under the Peter M. Morton Revocable Trust Agreement dated March 15, 1999, as amended by First amendment to the Peter M. Morton Revocable Trust dated April 17, 2000, as to an undivided 6-2/3% interest;

Richard Morton, individually, as to an undivided 16-2/3% interest;

Richard Morton, as Trustee of the Cindy Beth Morton Trust under the Last Will and Testament of Lawrence Morton, deceased, as to an undivided 3-1/3% interest;

Richard Morton, as Trustee of the James Andrew Morton Trust under the Last Will and Testament of Lawrence Morton, deceased, as to an undivided 3-1/3% interest;

Richard Morton, as Trustee of the Alexandra Morton Trust under the Last Will and Testament of Lawrence Morton, deceased, as to an undivided 3-1/3% interest;

Richard Morton, as Trustee of the Eden Morton Thibeault Trust under the Last Will and Testament of Lawrence Morton, deceased, as to an undivided 3-1/3% interest;

Richard Morton, as Trustee of the Adam Morton Trust under the Last Will and Testament of Lawrence Morton, deceased, as to an undivided 3-1/3% interest; and

Stadium South Properties, LLC, a Florida limited liability company, as to an undivided 16-2/3% interest. Richard Morton – Sole Manager.

*Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or a other country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five percent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership corporation or trust.

Part of Zoning Hearing Application made to Miami-Dade County
pertaining to Dolphin Center South, Miami-Dade County, Florida

Received by
Zoning Agenda Coordinator

OWNERSHIP AFFIDAVIT
FOR
LIMITED LIABILITY COMPANY

APR 26 2006

TO: 11:30 AM

STATE OF
COUNTY OF

Public Hearing No.

Before me, the undersigned authority, personally appeared JOHN E. CLARKE,
hereinafter the Affiant(s), who being first duly sworn by me, on oath, deposes and
says:

1. Affiant is a Regional Vice President of WSE Management, LLC, a Delaware limited liability company, which is the General Partner of Wal-Mart Stores East, LP.
2. Wal-Mart is an owner of a 31.818 acre parcel of Dolphin Center South which is a portion of the property which is the subject of the proposed hearing.
3. The 31.818 acre parcel is legally described as: See attached page 4A - continued
4. Affiant is legally authorized to file this application for public hearing.
5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

Cynthia C. Bradley
Signature

Cynthia C. Bradley
Print Name

Jennifer Fox
Signature

Jennifer Fox
Print Name

WAL-MART STORES EAST, LP,
a Delaware limited partnership

By: WSE MANAGEMENT, LLC,
a Delaware limited liability
company and general partner

[Signature]
By: _____
JOHN E. CLARKE

Regional Vice President, Design
and Real Estate

Approved as to legal terms only
by _____

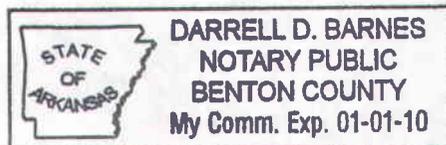
WAL-MART LEGAL DEPT.

Date: 2/14/06

Sworn to and subscribed before me this day of 15th Feb, 2006. Affiant is
personally known to me or has produced _____ as identification.

[Signature]
(Notary Public)

My commission expires 01/01/10



Part of Zoning Hearing Application made to Miami-Dade County
pertaining to Dolphin Center South, Miami-Dade County, Florida

Legal Description of Wal-Mart Stores East, LP Parcel

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1: FEE

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND SITUATE, LYING AND BEING A PORTION OF TRACTS 9, 10, 11, 12, 13, 16, 33, 34, 35, 36 AND ALL OF TRACTS 14 AND 15 OF "MIAMI GARDENS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 96 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, AND BEING LOCATED WITHIN SECTION 3, TOWNSHIP 52 SOUTH, RANGE 41 EAST OF THE TALLAHASSEE BASE MERIDIAN, MIAMI-DADE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING FOR REFERENCE AT THE NORTHWEST CORNER OF SAID SECTION 3;

THENCE BEARING SOUTH 02DEG.46'26" EAST, ALONG THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 293.21 FEET;

THENCE, LEAVING SAID WEST LINE, BEARING NORTH 87DEG.13'34" EAST, A DISTANCE OF 79.00 FEET TO THE EAST RIGHT OF WAY LINE OF NORTHWEST 27TH AVENUE, AS RECORDED IN OFFICIAL RECORDS BOOK 13023, PAGE 3408, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT ALSO BEING THE POINT AND PLACE OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

THENCE, LEAVING SAID EAST RIGHT OF WAY LINE, BEARING SOUTH 81DEG.30'39" EAST, A DISTANCE OF 8.19 FEET TO A POINT;

THENCE, BEARING NORTH 87DEG.14'17" EAST, A DISTANCE OF 172.85 FEET TO A POINT;

SAID POINT BEING THE BEGINNING OF A NON TANGENT CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 34.30 FEET, A CENTRAL ANGLE OF 49DEG.10'44", A CHORD LENGTH OF 28.55 FEET BEARING NORTH 42DEG.54'39" EAST;

THENCE, NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 29.44 FEET TO A POINT;

THENCE, BEARING NORTH 02DEG.45'28" WEST, A DISTANCE OF 195.79 FEET TO A POINT;

SAID POINT BEING THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 26.83 FEET, A CENTRAL ANGLE OF 11DEG.04'22", A CHORD LENGTH OF 5.18 FEET BEARING NORTH 29DEG.35'34" WEST;

THENCE, NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 5.19 FEET TO A POINT;

SAID POINT BEING A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF NW 199TH STREET, AND THE BEGINNING OF A NON TANGENT CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 1,848.58 FEET; A CENTRAL ANGLE OF 08DEG.54'05", A CHORD LENGTH OF 286.91 FEET BEARING SOUTH 80DEG.25'30" EAST;

THENCE, EASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, A DISTANCE OF 287.20 FEET TO A POINT;

THENCE, BEARING SOUTH 75DEG.58'48" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 451.27 FEET TO A POINT;

SAID POINT BEING THE BEGINNING OF CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 6,924.43 FEET, A CENTRAL ANGLE OF 01DEG.38'47", A CHORD LENGTH OF 198.97 FEET BEARING SOUTH 76DEG.48'11" EAST;

THENCE, EASTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE, A DISTANCE OF 198.96 FEET TO A POINT;

THENCE, LEAVING SAID SOUTHERLY RIGHT OF WAY LINE, BEARING SOUTH 02DEG.45'15" EAST, A DISTANCE OF 1,137.30 FEET TO A POINT;

THENCE, BEARING SOUTH 87DEG.14'45" WEST, A DISTANCE OF 1,114.10 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF NORTHWEST 27TH AVENUE;

THENCE, BEARING NORTH 02DEG.46'26" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 760.96 FEET TO A POINT;

THENCE, BEARING NORTH 11DEG.48'01" EAST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 51.66 FEET TO A POINT;

THENCE, BEARING NORTH 02DEG.46'26" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 356.87 FEET TO THE POINT OF BEGINNING.

Received by
Zoning Agenda Coordinator

APR 26 2006

TO: 11:30 AM

DISCLOSURE OF INTEREST

Attached to zoning Hearing Application made to Miami-Dade County pertaining to Dolphin Center South, Miami-Dade County, Florida

The Disclosure of Interest of Wal-Mart Stores East, LP on page 6 of the Application is a full disclosure of all parties of interest in the Application as it pertains to Wal-Mart Stores, East to the best of my knowledge and belief.

WAL-MART STORES EAST, LP,
a Delaware limited partnership

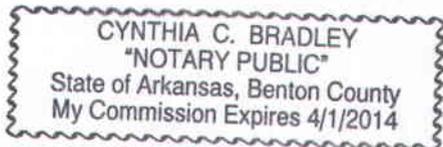
By: WSE MANAGEMENT, LLC,
a Delaware limited liability company and general partner

By: *[Signature]*
JOHN E. CLARKE
Regional Vice President, Design and Real Estate *see*

Sworn to and subscribed before me this day of 15, February 2006
Affiant is personally known to me or has produced _____ as identification.

Cynthia C. Bradley
(Notary Public)

My commission expires _____



Received by
Zoning Agenda Coordinator
APR 26 2006
TA: 11:30AM

Approved as to legal terms only
by *[Signature]*
WAL-MART LEGAL DEPT.
Date: 2-14-06

Approved as to legal terms only
by _____
WAL-MART LEGAL DEPT.
Date: _____