

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Community Development
Department
For reading June 28, 2011

CLERK'S OFFICE
APPROVED

Date: 6-28-11

Anchorage, Alaska
AR 2011-175

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY
APPROVING AN ALCOHOLIC AND BEVERAGES CONDITIONAL USE FOR A
PACKAGE STORE USE AND LICENSE NUMBER 4669 IN THE B-3
(GENERAL BUSINESS) DISTRICT, FOR WAL-MART STORES, INC., DBA
WAL-MART SUPERCENTER #2070; LOCATED AT 3101 A STREET, CALAIS
SUBDIVISION, TRACTS D-11 AND D-12; GENERALLY LOCATED EAST OF A
STREET, SOUTH OF EAST BENSON BOULEVARD, AND NORTH OF
CALAIS DRIVE.

(Midtown Community Council) (Case 2011-062)

THE ANCHORAGE ASSEMBLY RESOLVES:

Section 1. An Alcoholic Beverages Conditional Use for a package store use and license number 4669 in the B-3 (General Business) District, for Wal-Mart Stores, Inc., dba Wal-Mart Supercenter #2070; located at 3101 A Street, on Calais Subdivision, Tracts D-11 and D-12; generally located east of A Street, south of East Benson Boulevard, and north of Calais Drive, and generally meets the applicable provisions of AMC 21.15.030, AMC 21.40.180.D8, and AMC 21.50.160.

Section 2. This conditional use is approved subject to the following conditions:

1. A Notice of Zoning Action shall be filed with the District Recorder's Office within 120 days of the Assembly's approval for this Package Store use and license in the B-3 District.

2. All uses shall conform to the plans and narrative submitted with this conditional use application.

3. This approval is for an Alcoholic Beverages Conditional Use in the B-3 District for a Package Store Use and License Number 4669 per AMC 21.15.030, AMC 21.40.180.D8, and AMC 21.50.160 for approximately 1,310 square feet of gross leasable area located at 3101 A Street, Anchorage, AK, on Calais Subdivision, Tracts D-11 and D-12.

1 4. On-premise sale of alcohol beverages will be seven days a week as
2 permitted per the Alaska Alcoholic Beverage Control Board requirements
3

4 5. All employees will be trained in accordance with the Alcoholic Beverage
5 Control Board's "Liquor Server Awareness Training Program." Upon demand,
6 the applicant shall demonstrate compliance with a liquor "Server Awareness
7 Training Program" approved by the State of Alaska Alcoholic Beverage Control
8 Board, such as or similar to, the program for "Techniques in Alcohol
9 Management (T.A.M.)."
10

11 6. The use of the property by any person for the permitted purposes shall
12 comply with all current and future Federal, State and local laws and regulations
13 including but not limited to laws and regulations pertaining to the sale,
14 dispensing, service and consumption of alcoholic beverages and the storage,
15 preparation, sale, service and consumption of food. The owner of the property,
16 the licensee under the Alcoholic Beverage Control license and their officers,
17 agents and employees shall not knowingly permit or negligently fail to prevent the
18 occurrence of illegal activity on the property.
19


20 7. As a condition of use, current government-issued identification with birth
21 date and photograph is required for all on-premise sales of alcoholic beverages
22 under this package store conditional use.
23
24

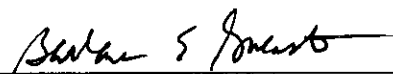
25 **Section 3.** Failure to comply with the conditions of this conditional use permit
26 shall constitute grounds for its modification or revocation.
27

28 **Section 4.** This resolution shall become effective immediately upon passage
29 and approval by the Anchorage Assembly.
30

31 PASSED AND APPROVED by the Anchorage Assembly this 28th day of
32 June, 2011.
33
34

ATTEST:


Chair


Municipal Clerk

(Case 2011-062)
(Tax Parcel ID# 09-041-14)



**MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM**

No. AM 367-2011

Meeting Date: June 28, 2011

From: MAYOR

Subject: AN ALCOHOLIC BEVERAGES CONDITIONAL USE FOR A PACKAGE STORE USE AND LICENSE NUMBER 4669 IN THE B-3 (GENERAL BUSINESS) DISTRICT, FOR WAL-MART STORES, INC., DBA WAL-MART SUPERCENTER #2070; LOCATED AT 3101 A STREET, CALAIS SUBDIVISION, TRACTS D-11 AND D-12; GENERALLY LOCATED EAST OF A STREET, SOUTH OF EAST BENSON BOULEVARD, AND NORTH OF CALAIS DRIVE.

1 Wal-Mart Stores, Inc., dba Wal-Mart Supercenter Number 2070, has made
2 application for an alcoholic beverages conditional use for a package store use and
3 license number 4669 in the B-3 (General Business) District, located at 3101 A
4 Street, Calais Subdivision, Tracts D-11 and D-12; generally located east of
5 A Street, south of East Benson Boulevard, and north of Calais Drive.

6
7 This is a transfer of a liquor license from no premise. The petition site is 15.54
8 acres. The package store will occupy approximately 1,310 square feet of the
9 4,966 square foot commercial retail building. Hours of operation are as allowed by
10 Municipal ordinance. Employees will be trained in security. The site is well lit.

11
12 Within 1,000 feet of this application, there are four (4) restaurant/eating place
13 alcoholic beverages type licenses, two (2) beverage dispensary licenses, one (1)
14 club license, and one (1) package store license. There are no known schools or
15 churches within 200-feet of the petition site, according to Municipal records.

16
17 There were no comments received from the public in opposition to this conditional
18 use. The Midtown Community Council did not provide comments on the
19 conditional use at the time the report was written.

20
21 There are no delinquent Personal Property Taxes or Real Property Taxes owing
22 at this time. No comments were received from the Anchorage Police Department
23 or Department of Health and Human Services at the time this report was written.

1
2 **THIS CONDITIONAL USE FOR A PACKAGE STORE ALCOHOL BEVERAGES**
3 **USE AND LICENSE NUMBER 4669 IN THE B-3 DISTRICT GENERALLY**
4 **MEETS THE REQUIRED STANDARDS OF AMC TITLE 10 AND TITLE 21, AND**
5 **ALASKA STATUTE 04.11.150.**
6

7 Prepared by: Angela C. Chambers, AICP, Current Planning Section
8 Supervisor, Planning Division

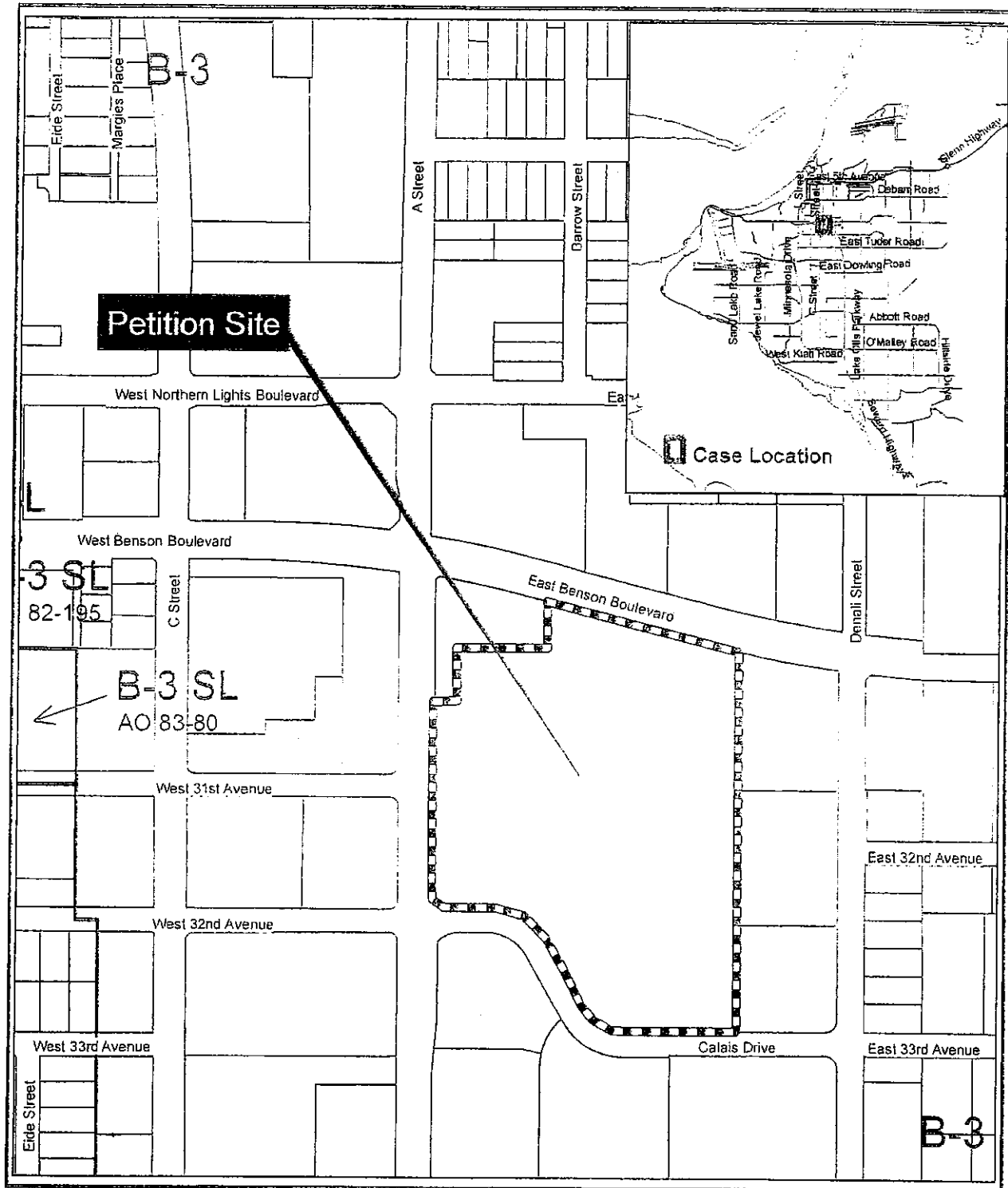
9 Approved by: Jerry T. Weaver Jr, Director
10 Department of Community Development

11 Concur: Dennis A. Wheeler, Municipal Attorney

12 Concur: George J. Vakalis, Municipal Manager

13 Respectfully submitted: Daniel A. Sullivan, Mayor

2011-062



Municipality of Anchorage
Planning Department

Date: May 02, 2011

Flood Limits
 [Solid Line] 100 Year
 [Dashed Line] 500 Year
 [Thick Line] Floodway

0 187.5 375 750 Feet



PLANNING DIVISION

STAFF ANALYSIS

CONDITIONAL USE – ALCOHOLIC BEVERAGE SALES

DATE: June 28, 2011

CASE NO.: 2011-062

APPLICANT: Wal-Mart Stores, Inc.
Dba Wal-Mart Supercenter Store #2070

REPRESENTATIVE: Michael White
Patton Boggs, LLP

REQUEST: A Conditional Use for Alcoholic Beverages in the B-3 SL
(General Business) District for a Package Store License
#4669, per AMC 21.40.180.D8.

LOCATION: Calais Subdivision, Tracts D-11 and D-12

STREET ADDRESS: 3101 A Street

COMMUNITY COUNCIL: Midtown

TAX PARCEL: 09-041-14 / Grid SW1631

ATTACHMENTS

1. Application
2. Departmental Comments
3. Posting Affidavit and Historical Information

RECOMMENDATION SUMMARY:

This conditional use generally meets the required standards of AMC Title 10 and Title 21, and State Statute 04.11.150.

SITE:

Acres: 15.54 acre site, 1,310 SF Gross Leasable Floor Area

Vegetation: Street and parking lot landscaping

Zoning: B-3 SL (General Business) District

Topography: Level

Existing Use: Commercial Retail

Soils: Public Sewer & Water

COMPREHENSIVE PLAN – Anchorage 2020 Plan

Classification: Major Employment Center and Redevelopment/Mixed-Use Area

Density: N/A

SURROUNDING AREA

	NORTH	EAST	SOUTH	WEST
Zoning:	B-3	B-3	B-3	B-3
Land Use:	Commercial	Commercial	Office	Office

SITE DESCRIPTION AND PROPOSAL:

The petition site contains 15.54 acres, and the Wal-Mart Supercenter #2070 has 180,859 square feet of commercial retail space. The address is 3101 A Street, and the legal description is Calais Subdivision, Tracts D-11 and D-12. This is an existing Wal-Mart store. The property is zoned B-3 (General Business District).

Based on the application and floor plan diagram, the package store will contain 1,310 square feet. Hours of operation are as allowed by Municipal ordinance and as allowed by the Anchorage Beverage Control Board. All employees will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program. Employees will patrol the street frontage of the building to ensure the minimization of loitering. The applicant will work with surrounding tenants, neighbors, neighboring community councils and service patrols to combat any problems that arise in or near the facility.

The petitioner made application to the Alcoholic Beverage Control Board for a transfer liquor license from no premise, and is seeking final alcoholic beverages conditional use approval in the B-3 District per AMC 21.40.180.D8. Within 1,000 feet of this application, there are four restaurant/eating place alcoholic beverages type licenses, two beverage dispensary licenses, one club license, and one package store license. There are no known schools or churches within 200 feet of this site.

PUBLIC COMMENTS:

Forty-nine public hearing notices were mailed on June 6, 2011. At the time this report was written, no public comments were received. Also, no comments were received from the Midtown Community Council.

FINDINGS

- A. Furthers the goals and policies of the Comprehensive Development Plan and conforms to the Comprehensive Development Plan in the manner required by Chapter 21.05.**

The standard is met.

The subject property is located within an area designated as a Major Employment Center and Redevelopment/Mixed-Use Area on the Land Use Policy Map of the *Anchorage 2020 Comprehensive Plan*.

The *Anchorage 2020 Comprehensive Plan* does not specifically address the sale of alcoholic beverages in the community. A strategy of the adopted *Anchorage 2020 Plan*, however, calls for the development of locational standards and criteria for retail sales/service of alcoholic beverages. To date this has not been done.

Several goals of the *Anchorage 2020 Plan* address related issues such as recreational and economic opportunities. The sale of alcoholic beverages is part of the social, recreational and economic environment of the community. Hotel dining, night clubs, bars, and restaurants which serve alcohol enhance the hospitality and tourism industry in Anchorage, and provide eating places for local residents and downtown employees. Another of the Plan's stated economic development goals are: "Business Support and Development: a quality of life and a financial climate that encourages businesses to start up, expand, or relocate in Anchorage" (p. 41).

B. Conforms to the standards for that use in this title and regulations promulgated under this title.

The standard is met.

The B-3 District zoning regulations allow alcoholic beverage sales through the conditional use permit process, AMC 21.50.160.

C. Will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

The standard is met.

The B-3 District is intended for general commercial uses in areas exposed to heavy automobile traffic. The district specifically is intended for areas at or surrounding major arterials intersections where personal and administrative services, convenience and shopping goods, vices, and automobile-related services are desirable and appropriate land uses.

AMC 21.50.160.B asks that a list of all alcohol licenses located within a minimum of 1,000 feet of the proposed conditional use be provided. There are four restaurant/eating place licenses, one package store license, and two beverage dispensary licenses, and one club license within a 1,000-foot radius of the petition site. Approving this package store license will add a second package store license within a 1,000-foot radius of the petition site.

Alaska Statute 04.11.410, Restriction of location near churches and schools, restricts beverage dispensary and package store licenses from being located in a

building the public entrance of which is within 200-feet of the public entrance of a church building, or from being located within 200-feet of school grounds. There are no known churches or schools within this separation distance.

D. Will not have a permanent negative impact on the items listed below substantially greater than that anticipated from permitted development:

1. Pedestrian and vehicular traffic circulation and safety.

The standard is met.

The B-3 District states that all required parking be provided on site. The off-street parking requirement is met. Also, public transit is available.

2. The demand for and availability of public services and facilities.

The standard is met.

The addition of a package store at this location will not impact public services. Electrical, water and sewer, natural gas are available on site. Road infrastructure and public transit is already in place. The petition site is within ARDSA, Police and Fire service areas.

3. Noise, air, water, or other forms of environmental pollution.

The standard is met.

As a land use, a package store conditional use and license will not cause or contribute to any environmental pollution. The parking lot is paved, which helps control air pollution.

4. The maintenance of compatible and efficient development patterns and land use intensities.

The standard is met.

The zoning, land use, and the general area land use will not change as a result of this conditional use permit for a package store license.

Standards Chapter 10.50 Alcoholic Beverages

In the exercise of its powers and under AS 04.11.480 and 13 AAC 104.145 to protest issue, renewal and transfer or alcoholic beverage licenses within the Municipality of Anchorage, the Assembly shall consider whether the proposed license meets each and every factor and standard set forth below

- A. Concentration and land use. Whether transfer of location or issue of the requested license will negatively impact the community through an increase in the concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of AMC 21.50.020.**

Approval of this conditional use will add a ninth liquor license and second package store within 1,000-feet.

Harry's Restaurant	3201 C St STE 200	License #323	Beverage Dispensary
Pizza Hut #2	100 E Benson Blvd	License #3712	Restaurant/Eating Place
Oaken Keg Spirit Shop #1806	600 E Northern Lights Blvd	License #795	Package Store
Peking Palace	500 E Benson Blvd	License #1691	Restaurant/Eating Place
Café Amsterdam	530 E Benson Blvd #3	License #3961	Restaurant/Eating Place
Clair d'Loon	3210 Denali St #8	License #4291	Restaurant/Eating Place
Petroleum Club	3301 C St #120	License #3586	Club
Outback Steakhouse	101 W 34 th Ave	License #3753	Beverage Dispensary

- B. Training. If application is made for issue, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a Liquor "Server Awareness Training Program approved by the State of Alaska alcoholic Beverage Control Board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this ordinance.**

The standard is met.

The applicant states that all employees involved in the dispensing of alcoholic beverages will be trained in accordance with the T.A.M. training and hold the appropriate certificates.

- C. Operations procedures. If application is made for issue, renewal or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in Section 10.50.035 of this code.**

The standard is met.

AMC 10.50.035 sets forth that persons seeking the issue or transfer of a license shall comply with restrictions regarding happy hours, games or contests involving the consumption of alcohol, public transportation, notice of penalties, availability of nonalcoholic drinks, compliance determination with techniques in alcohol management (T.A.M.), solicitation of purchase of alcoholic beverages for consumption by employees, and warning signs. The petitioner has stipulated in his application that he will abide by requirements of AMC 10.50.035.

- D. Public safety. When application is made for the renewal or transfer of location or transfer of ownership of a beverage dispensary license restaurant or eating place license, or package store license, the Assembly shall consider whether the operator can demonstrate the ability to maintain order and prevent unlawful conduct in a licensed premise. In determining the operator's demonstrated ability to maintain order and prevent unlawful conduct, the Assembly may consider police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection. For purposes of this section and Section 10.50.035 "licensed premises" shall include any adjacent area under the control or management of the licensee.**

The standard appears to be met.

According to the application the petitioner states that order will be maintained by properly trained staff and management. The premises will be clean and well-lit. No additional safety procedures are mentioned in the application. At the time this report was completed, no written comment had been received from the Anchorage Police Department.

- E. Payment of taxes and debts. When application is made for renewal of a license the assembly shall consider, pursuant to AS 4.11.330, whether the applicant is delinquent in payment of taxes owed to the Municipality. When application is made for transfer of ownership of a license the Assembly shall consider, pursuant to AS 4.11.360, whether the municipality has received either payment or adequate security, for the payment of any debts or taxes, including any estimated taxes for the current year, arising from the conduct of the licensed business. Adequate security for the payment of debts and taxes may be in the form of: 1) escrowed funds sufficient to pay the debts and taxes claimed and any escrow fees; 2) actual payment of debts and taxes claimed; or, 3) a guarantee agreement in accordance AMC 10.50.030. Any guarantee agreement shall be in writing, signed by the transferor, transferee and Municipality**

The standard is met.

There are no outstanding Business Personal Property taxes owing, according to the Treasury Division.

- F. Public health.** If application is made for the renewal or transfer of location or transfer of ownership of a license, the Assembly shall consider whether the operator has engaged in a pattern of practices injurious to public health or safety such as providing alcohol to minors or intoxicated persons, committing serious violations of State law relevant to public health or safety, or other actions within the knowledge and control of the operator which place the public health or safety at risk. In determining if a pattern of practices injurious to public health or safety exists, the Assembly may consider criminal convictions, credible proof of illegal activity even if not prosecuted, police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection.

No comments were received from the Department of Health and Human Services at the time this report was written.

- G. Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form.** In order to determine whether applicants seeking issue, renewal or transfer of alcoholic beverage licenses have complied with the provisions of this chapter, applicants shall, at the request of the Assembly, submit to the municipal clerk such information as is required on a municipal form prepared by the municipal clerk known as the Municipality of Anchorage Alcoholic Beverage Licensee Compliance Form. Upon request, operators shall also provide the municipal clerk with certificates from all current employees demonstrating that those employees have successfully completed a "Liquor Service Awareness Training Program" such as the program for techniques in alcohol management (T.A.M.) as approved by the State of Alaska Alcoholic Beverage Control Board.

This form was not requested of this applicant.

RECOMMENDATION:

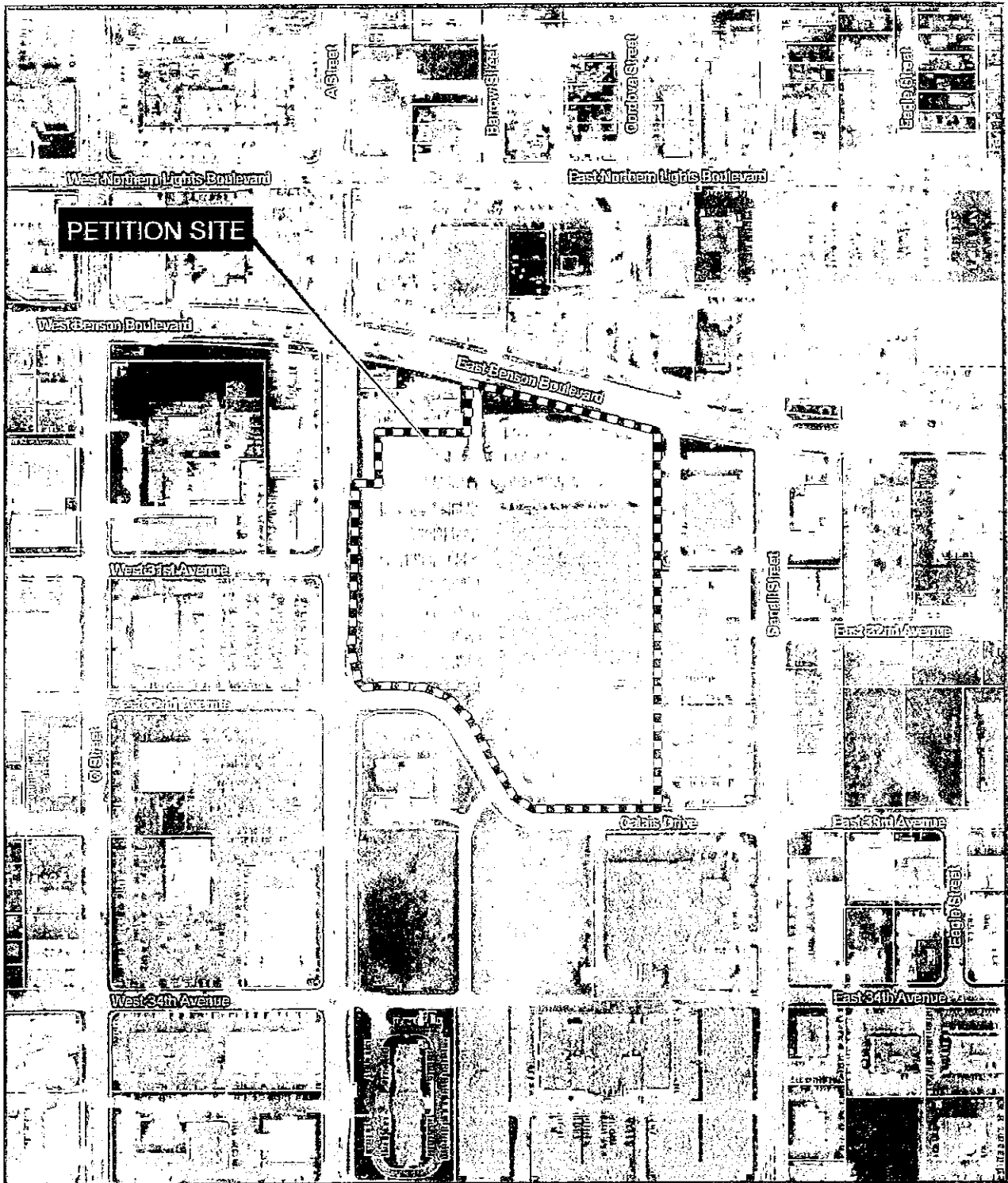
This application for a conditional use for alcoholic beverages in the B-3 District to allow a package store use and license number 4669 per AMC 21.15.030, AMC 21.45.180.D8, and AMC 21.50.160 for 3101 A Street, Anchorage, AK, generally meets the required standards of AMC Title 10 and Title 21.

If after a public hearing on the matter, the Anchorage Assembly finds that the required standards have been met, staff recommends the following conditions of approval:

1. A Notice of Zoning Action shall be filed with the District Recorder's Office within 120 days of the Assembly's approval for this Package Store use and license in the B-3 District.

2. All uses shall conform to the plans and narrative submitted with this conditional use application.
3. This approval is for an Alcoholic Beverages Conditional Use in the B-3 District for a Package Store Use and License Number 4669 per AMC 21.15.030, AMC 21.45.180.D8, and AMC 21.50.160 for approximately 3,626 square feet of gross leasable area located at 3101 A Street, Anchorage, AK, on Calais Subdivision, Tracts D-11 and D-12.
4. On-premise sale of alcohol beverages will be seven days a week as permitted per the Alaska Alcoholic Beverage Control Board requirements
5. All employees will be trained in accordance with the Alcoholic Beverage Control Board's "Liquor Server Awareness Training Program." Upon demand, the applicant shall demonstrate compliance with a liquor "Server Awareness Training Program" approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to, the program for "Techniques in Alcohol Management (T.A.M.)."
6. The use of the property by any person for the permitted purposes shall comply with all current and future Federal, State and local laws and regulations including but not limited to laws and regulations pertaining to the sale, dispensing, service and consumption of alcoholic beverages and the storage, preparation, sale, service and consumption of food. The owner of the property, the licensee under the Alcoholic Beverage Control license and their officers, agents and employees shall not knowingly permit or negligently fail to prevent the occurrence of illegal activity on the property.
7. A copy of the conditions imposed by the Assembly in connection with this conditional use approval shall be maintained on the premise at a location visible to the public.

2011-062



Municipality of Anchorage
Planning Department

Date: May 02, 2011

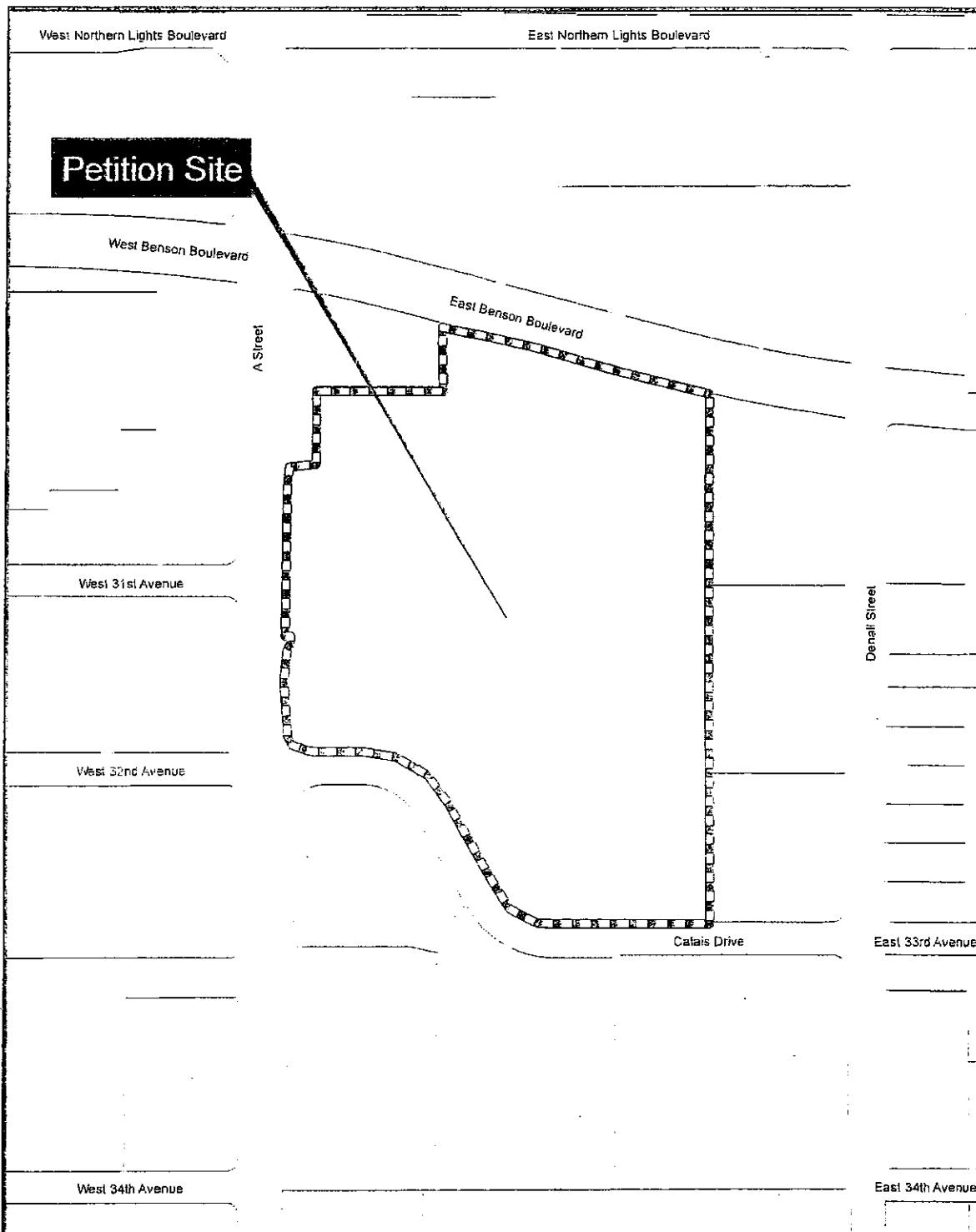
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Feet

ORTHOPHOTO 2007 USGS 1FT






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2011-062



Municipality of Anchorage
Planning Department

Date: May 02, 2011

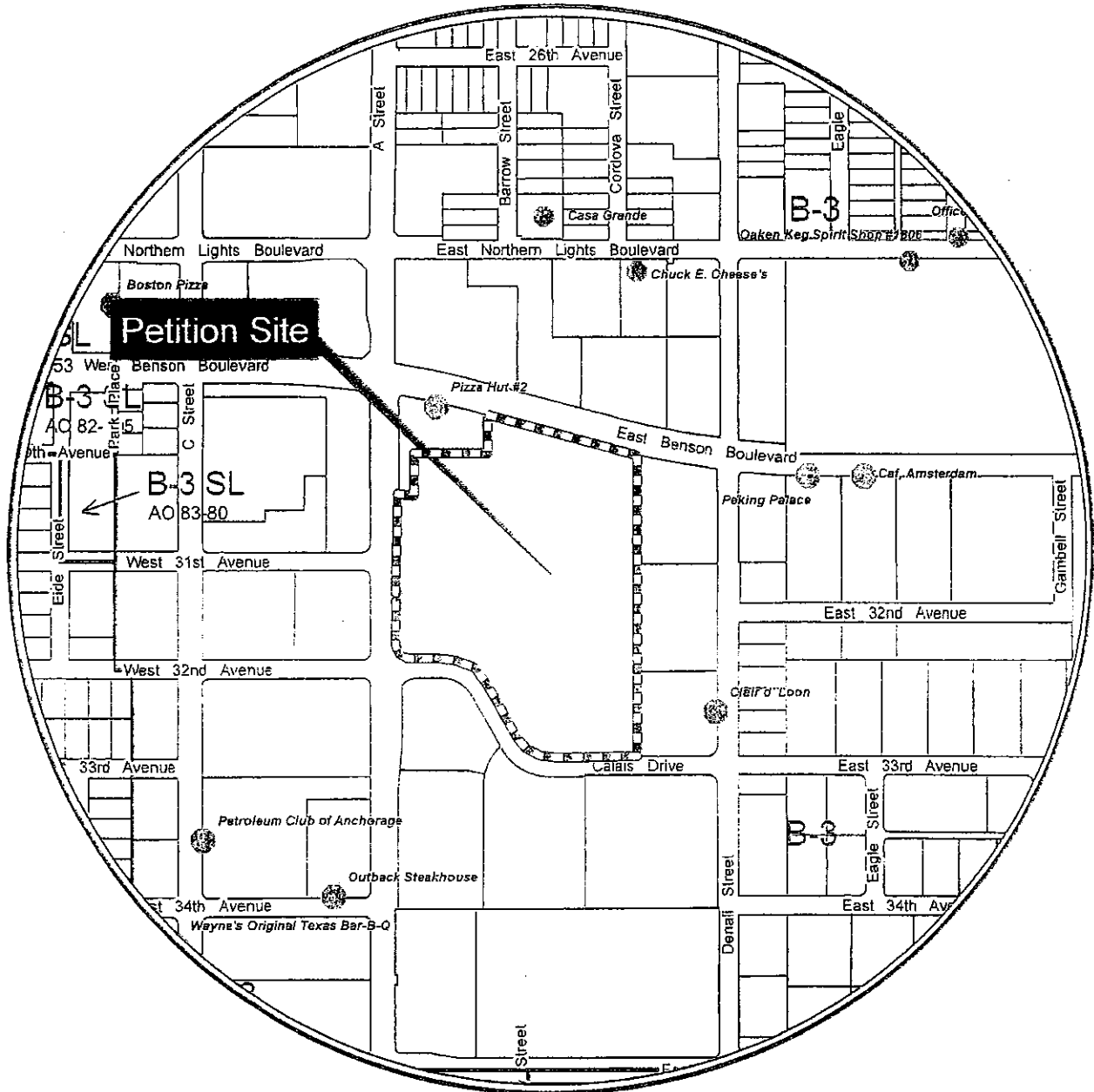
-  Mobile Home Park
-  Multi-Family
-  Single Family

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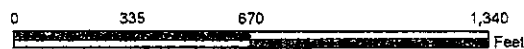
2011-062

EXISTING LIQUOR LICENSES WITHIN 1000'



Municipality of Anchorage
Planning Department

Date: May 16, 2011



Alcohol Existing License List Report

Case Number: 2011-062 Description: 1000'

Parcel Business Name	Parcel Owner Name Applicant Name	Parcel Owner Address Business Address	City Lic. Number	State Lic. Zone	Zip Lic. Type
00903709000 Harry's Restaurant	FOSS C R LIV TRUST 26.25 % & Harry's Bar and Grill, Inc.	3201 C ST SUITE 200 6601 Blackberry St	ANCHORAGE 323	AK B3	99503 Beverage Dispensary
00904115000 Pizza Hut #2	CALAIS CO INC Kurani, Inc.	MS 0555 100 E. Benson Blvd	BENTONVILLE 3712	AR B3	72712 Restaurant/Eating Place
00904201000 Oaken Keg Spirit Shop #1806	SEARS ROEBUCK & COMPANY Carr Gottstein Food Co.	3333 BEVERLY ROAD/B2-122A 600 E Northern Lights Blvd	HOFFMAN ESTA 795	IL B3	60179 Package Store
00904333000 Peking Palace	TKB LLC John S Lee	6130 OLD SEWARD HWY # B 500 E Benson Blvd	ANCHORAGE 1691	AK B3	99518 Restaurant/Eating Place
00904334000 Café Amsterdam	SHIMEK JOSEPH R W Shauna Pajak	PO BOX 93890 530 E Benson Blvd #3	ANCHORAGE 3961	AK B3	99509 Restaurant/Eating Place
00905111000 Clair d' Loon	CALAIS CO INC Karen Lesko, Stephen P. Lesko	2525 BLUEBERRY RD STE 204 3210 Denali St #8	ANCHORAGE 4291	AK B3	99503 Restaurant/Eating Place
00906283000 Petroleum Club of Anchorage	SJ/JL CALAIS OFFICE II LLC Petroleum Club of Anch., Inc.	18818 TELLER AVE SUITE 277 3301 C St #120	IRVINE 3586	CA B3	92612 Club
00906284000 Outback Steakhouse	SJ/JL CALAIS OFFICE II LLC Anchorage Outback	PO BOX 320099 101 W 34th Ave	ALEXANDRIA 3753	VA B3	22320 Beverage Dispensary

Alcohol Church and School List Report

Case Number: 2011-062 Description: 200'

Parcel	Parcel Owner Name	Parcel Site Address	Description
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Departmental Comments

MUNICIPALITY OF ANCHORAGE



Planning & Development Services Dept.
Development Services Division

Building Safety

MEMORANDUM

Comments to Miscellaneous Planning and Zoning Applications

DATE: May 23, 2011
TO: Angela Chambers, Manager, Zoning and Platting
FROM: Ron Wilde, P.E.
Building Safety
SUBJECT: Comments for Case 2011-062

RECEIVED
MAY 23 2011
MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

No Comment.

Municipality of Anchorage
MEMORANDUM

RECEIVED

MAY 26 2011

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

DATE: May 26, 2011
TO: Angela Chambers, Manager, Current Planning Section
FROM: Jillanne Inglis, Land Use Plan Reviewer
SUBJECT: Land Use Review Comments, May 31, 2011

Case #: 2011-062
Type: Assembly, Conditional Use Permit
Subdivision: Calais Subdivision, Tracts D-11 and D-12
Grid: SW 1631
Tax ID #: 009-041-14
Zoning: B-3, General Business District

Land Use Review has no adverse comment concerning this case. The parking spaces provided are in compliance with AMC Title 21. This is an existing site plan for a large retail establishment.

(Reviewer: Jillanne Inglis)

Municipality of Anchorage
Treasury Division
Memorandum

RECEIVED

MAY 16 2011

MUNICIPALITY OF ANCHORAGE
PLATTING DIVISION

Date: May 16, 2011
To: Angela Chambers
Patty Long
Planning Dept.
From: Diana Flavin, Revenue Officer
Subject: Liquor License Conditional Use Comments

Request for conditional use permit 2011-062 for Wal Mart, located at 3101 A St., Anchorage, AK.

I find no outstanding taxes on this account and have no reason to protest it.

Application

PATTON BOGGS LLP

601 West Fifth Avenue
Suite 700
Anchorage, Alaska 99501
907-263-6300

Facsimile 907-263-6345
www.pattonboggs.com

April 19, 2011

Lynne E. Manna
LManna@PattonBoggs.com

RECEIVED

APR 19 2011

PLANNING DIVISION

Francis D. McLaughlin
Senior Planner
MOA
4700 Elmore Road
Anchorage, AK 99507

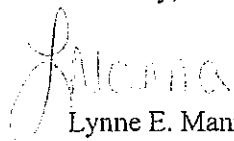
Re: Additional Items needed for the Conditional Use Permit Application for Wal-Mart
Store No. 2070

Dear Francis:

Please find enclosed 13 copies of the liquor store floor plan and the letter of authorization from Calais Company, Inc. I will forward you the original letter of authorization as soon as I receive it.

Please contact me should you have any questions. Thank you.

Sincerely,



Lynne E. Manna
Project Clerk

Enclosures

CALAIS COMPANY, INC.
Commercial Properties
3111 DENALI STREET, SUITE 201
ANCHORAGE, ALASKA 99503

2011-0607

PHONE: (907) 277-3531

FAX: (907) 277-3632

April 26, 2011

Sarah Cox Reyes
Realty Manager
Walmart and Sam's Club Realty-West Division
2001 SE 10th Street
Bentonville, AR 73716-0550
Sarah.cox@Wal-mart.com

Re: Wal-Mart #2070 – Anchorage, AK

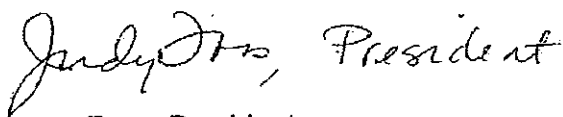
Dear Ms. Reyes:

Calais Company, Inc. (Calais) has received a request from our property managers, Frampton and Opinsky, LLC, to write a letter supporting the issuance of a conditional use permit for alcoholic beverage sales at the midtown Wal-Mart store. Calais is the owner of the real property located at 3101 A Street (Wal-Mart store #2070).

While we do not want to be in a position to negatively influence Wal-Mart's decision to sell liquor in midtown, we do want the record to reflect conversations that we have had with Wal-Mart's General Manager, Marlene Munsell, related to potential problems and concerns that need to be addressed. We have been made aware of the ongoing and prevalent inebriate problem in the vicinity of this Wal-Mart store which has had an adverse impact on our property values and on the overall business of our tenants in midtown. We understand that last year there was a run on cough medicine at the midtown Wal-Mart. We have discussed with Marlene the fact that some of the businesses in the area have developed practices and policies to insure that the liquor sold was not of a quantity or price that would promote and aggravate an already sensitive issue. Knowing how sensitive and pervasive this issue has become, we hope that Wal-Mart will want to voluntarily promote some internal restrictions and controls. Calais remains willing to help address problems as they occur.

Having said that, as the owner of the real property at Wal-Mart's location at 3101 A Street in Anchorage, store #2070, Calais authorizes the application for a Conditional Use Permit for alcoholic beverage sales.

Sincerely,


Judy Foss, President

Application for Conditional Use Retail Sale Alcoholic Beverages

Municipality of Anchorage
Planning Department
PO Box 196650
Anchorage, AK 99519-6650

Please fill in the information asked for below.

PETITIONER*		PETITIONER REPRESENTATIVE (IF ANY)	
Name (last name first) Wal-Mart Stores, Inc.		Name (last name first) White, Michael D., Patton Boggs, LLP	
Mailing Address 702 S.W. 8th Street, Dept. 8916 Bentonville, AR 72716-0500		Mailing Address 601 W. Fifth Avenue, Suite 700 Anchorage, AK 99501	
Contact Phone: Day: (479) 204-2233 Night:		Contact Phone: Day: (907) 263-6300 Night:	
FAX: (479) 204-9864		FAX: (907) 263-6345	
E-mail: Arn.Heese@wal-mart.com		E-mail: mwhite@pattonboggs.com	

*Report additional petitioners or disclose other co-owners on supplemental form. Failure to divulge other beneficial interest owners may delay processing of this application.

PROPERTY INFORMATION		
Property Tax #(000-000-00-000): 09-041-14-000		
Site Street Address: 3101 A Street, Anchorage, AK 99503		
Property Owner (if not the Petitioner): Wal-Mart Real Estate Business Trust		
Current legal description: (use additional sheet in necessary) Tracts D-11 and D-12, Calais Subdivision according to Plat 76-152 on file in the office of the Anchorage District Recorder, Third Judicial District, State of Alaska.		
Zoning: GBD B3	Acreage: 15.539	Grid # SW1631

ALCOHOLIC BEVERAGE CONTROL BOARD LICENSE PROPOSED		
<input type="checkbox"/> Beverage Dispensary	<input type="checkbox"/> Private Club	<input type="checkbox"/> Restaurant, exempt
<input type="checkbox"/> Beverage Dispensary-Tourism	<input type="checkbox"/> Public Convenience	<input type="checkbox"/> Theater
<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Recreational	<input type="checkbox"/> Other (Please explain):
<input checked="" type="checkbox"/> Package Store	<input type="checkbox"/> Restaurant	
Is the proposed license: <input type="checkbox"/> New <input checked="" type="checkbox"/> Transfer of location: ABC license number:		
Transfer license location:		
Transfer licensed premises doing business as:		

I hereby certify that (I am)/(I have been authorized to act for) owner of the property described above and that I petition for a retail sale of alcoholic beverages conditional use permit in conformance with Title 21 of the Anchorage Municipal, Code of Ordinances. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the conditional use. I also understand that assigned hearing dates are tentative and may have to be postponed by Planning Department, Municipal Clerk, or the Assembly for administrative reasons.

3-30-11	<i>Lori Cottrell</i>
Date	Signature (Agents must provide written proof of authorization) Lori Cottrell, Assistant Secretary
Accepted by:	Fee
Case Number	

COMPREHENSIVE PLAN INFORMATION			
Anchorage 2020 Urban/Rural Services: <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural			
Anchorage 2020 West Anchorage Planning Area: <input type="checkbox"/> Inside <input checked="" type="checkbox"/> Outside			
Anchorage 2020 Major Urban Elements: Site is within or abuts:			
<input checked="" type="checkbox"/> Major Employment Center	<input type="checkbox"/> Redevelopment/Mixed Use Area <input type="checkbox"/> Town Center		
<input type="checkbox"/> Neighborhood Commercial Center	<input type="checkbox"/> Industrial Center		
<input type="checkbox"/> Transit - Supportive Development Corridor			
Eagle River-Chugiak-Peters Creek Land Use Classification:			
<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Parks/opens space	<input type="checkbox"/> Public Land Institutions
<input type="checkbox"/> Marginal land	<input type="checkbox"/> Alpine/Slope Affected	<input type="checkbox"/> Special Study	
<input type="checkbox"/> Residential at _____ dwelling units per acre			
Girdwood- Turnagain Arm			
<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Parks/opens space	<input type="checkbox"/> Public Land Institutions
<input type="checkbox"/> Marginal land	<input type="checkbox"/> Alpine/Slope Affected	<input type="checkbox"/> Special Study	
<input type="checkbox"/> Residential at _____ dwelling units per acre			

ENVIRONMENTAL INFORMATION (All or portion site affected)					
Wetland Classification:	<input checked="" type="checkbox"/> None	<input type="checkbox"/> "C"	<input type="checkbox"/> "B"	<input type="checkbox"/> "A"	
Avalanche Zone:	<input checked="" type="checkbox"/> None	<input type="checkbox"/> Blue Zone	<input type="checkbox"/> Red Zone		
Floodplain:	<input type="checkbox"/> None	<input type="checkbox"/> 100 year	<input type="checkbox"/> 500 year		
Seismic Zone (Harding/Lawson):	<input type="checkbox"/> "1"	<input type="checkbox"/> "2"	<input type="checkbox"/> "3"	<input type="checkbox"/> "4"	<input type="checkbox"/> "5"

RECENT REGULATORY INFORMATION (Events that have occurred in last 5 years for all or portion site)	
<input type="checkbox"/> Rezoning - Case Number:	
<input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Final Plat - Case Number(s):	
<input type="checkbox"/> Conditional Use - Case Number(s):	
<input type="checkbox"/> Zoning variance - Case Number(s):	
<input type="checkbox"/> Land Use Enforcement Action for	
<input type="checkbox"/> Building or Land Use Permit for	
<input type="checkbox"/> Wetland permit: <input type="checkbox"/> Army Corp of Engineers <input type="checkbox"/> Municipality of Anchorage	

DOCUMENTATION	
Required:	<input checked="" type="checkbox"/> Site plan to scale depicting: building footprints; parking areas; vehicle and pedestrian circulation; lighting; landscaping; signage; and licensed premises location. <input checked="" type="checkbox"/> Building plans to scale depicting: floor plans indicating the location of sales and service areas; building elevations (photographs are acceptable). <input checked="" type="checkbox"/> Photographs of premises from each street frontage that include and show relationship to adjacent structures and the premises visible street address number. <input checked="" type="checkbox"/> Narrative: explaining the project; construction, operation schedule, and open for business target date. <input checked="" type="checkbox"/> Copy of a zoning map showing the proposed location. <input checked="" type="checkbox"/> Copy of completed Alcoholic Beverage Control Board liquor license application form including all drawings and attachments, if filed with ABC Board.
Optional:	<input type="checkbox"/> Traffic impact analysis <input type="checkbox"/> Economic impact analysis <input type="checkbox"/> Noise impact analysis

PROPERTY OWNER AUTHORIZATION* (if petitioner is not property owner)

(I)(WE) hereby grant permission to and acknowledge that person shown as the petitioner on this application is applying for a conditional use permit for the retail sales of alcoholic beverages on a property under (MY)(OUR) ownership and that as part of the conditional use permit process the Assembly may apply conditions which will be (MY)(OUR) responsibility to satisfy.

	See attached lease
--	--------------------

Date

Signature

*Report additional petitioners or disclose other co-owners on supplemental form. Failure to divulge other beneficial interest owners may delay processing of this application.

FACILITY OPERATIONAL INFORMATION

What is the proposed or existing business name (Provide both if name is changing):

Wal-Mart Supercenter #2070

What is the gross leaseable floor space in square feet?

180,859 for the entire store

What is the facility occupant capacity?

Liquor Area: 14; Building: 4,966

What is the number of fixed seats(booth and non movable seats)?

No fixed seats

What is the number non-fixed seats(movable chairs, stools, etc.)?

No non-fixed seats

What will be the normal business hours of operation?

24 hours per day, 7 days per week

What will be the business hours that alcoholic beverages will be sold or dispensed?

During legal sales hours. Systems will prompt at the register when sales are not allowed based on local regulations.

What do you estimate the ratio of food sales to alcohol beverage sales will be?

2% Alcoholic beverage sales

98% Food sales

Type of entertainment proposed: (Mark all that apply)

☐ Recorded music ☐ Live music ☐ Floor shows ☐ Patron dancing ☐ Sporting events ☐ Other ☒ None

Do you propose entertainment or environmental conditions in the facility that will meet the definition of "indecent material" or "adult entertainment" as set forth by AMC 8.05.420 Minors-Disseminating Indecent material or AMC 10.40.050 Adult oriented establishment? ☐ Yes ☒ No

DISTANCE FROM CHURCHES, DAY CARE, AND SCHOOLS

Locate and provide the names and address of all churches, day care, and public or private schools within 200 feet of the site property lines

Name	Address
None within 200 feet.	

PACKAGE STORES

Provide the projected percentage of alcoholic product inventory in the store where the retail unit price is:

14.00 % less than \$5.00

9.00 % \$5.00 to \$10.00

56.00 % \$10.00 to \$25.00

21.00 % greater than \$25.00

CONDITIONAL USE STANDARDS

The Assembly may only approve the conditional use if it finds that all of the following 4 standards are satisfied. Each standard must have a response in as much detail as it takes to explain how your project satisfies the standard. The burden of proof rests with you. Use additional paper if needed.

Explain how the proposed conditional use furthers the goals and policies of the comprehensive development plan and conforms to the comprehensive development plan in the manner required by AMC 21.05.

The proposed conditional use meets the goals of the comprehensive development plan.
The use will contribute to the continuing growth and success of the area.

Explain how the proposed conditional use conforms to the standards for that use in this title and regulations promulgated under this title.

The proposed conditional use conforms to all such standards. AMC §21.50.160(B) requires that a conditional use involving the sale of alcoholic beverages must meet the standards of AMC §21.5.200. As detailed in the application, all of these standards are met by the Petitioner. The proposed use conforms to the Anchorage 2020 comprehensive development plan. The proposed use will be compatible with existing and planned land uses in the district and will not have a negative impact on such matters as vehicular traffic, demand for public services and environmental pollution.

Explain how the proposed conditional use will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district.

The store compliments the surrounding commercial development and the addition of alcohol sales does not conflict with existing or planned uses in the immediate vicinity.

Explain how the proposed conditional use will not have a permanent negative impact on the items listed below substantially greater than that anticipated from permitted development:

1. Pedestrian and vehicular traffic circulation and safety.

The proposed conditional use is not anticipated to cause traffic or pedestrian flows to increase beyond the level of traffic normally utilizing the store for other purchases.

2. The demand for and availability of public services and facilities.

The demand for public services will not be greater than anticipated. The following public services are available currently at the Walmart location: public utilities, police and fire protection, People Move Bus services.

3. Noise, air, water or other forms of environmental pollution.

These will not be impacted as the services offered will be the same as has been offered historically since this Walmart location has been built and there have been no adverse environmental impact from the impact of the service provided.

4. The maintenance of compatible and efficient development patterns and land use intensities.

The addition of being able to offer the sale of alcoholic beverages at the existing Walmart location will compliment the development of the area. No significant change to the existing operation, land use or use impact is expected to occur.

STANDARDS CHAPTER 10.50 ALCOHOLIC BEVERAGES

In the exercise of its powers and under AS 04.11.480 and 15 AAC 104.145 to protest issue, renewal and transfer of alcoholic beverage licenses within the Municipality of Anchorage, the Assembly shall consider whether the proposed license meets each and every factor and standard set forth below.

Concentration and land use. Whether transfer of location or issue of the requested license will negatively impact the community through an increase in the concentration of uses involving the sale or service of alcoholic beverages within the area affected and will conform to the separate standards of AMC 21.50.020.

How many active liquor licenses are located on the same property as your proposed license? None

Within 1,000 feet of your site are how many active liquor licenses? 4, see attached

How would you rate this area's license concentration on a scale of 1 to 5 with 5 = high 1

How many active liquor licenses are within the boundaries of the local community council?

In your opinion, is this quantity of licenses a negative impact on the local community? No

The area is growing and gaining more residents who want to shop close to home. The number of licenses in that area reflect that land use pattern. The issuance of this license will not cause any significant change to the area. Allowing liquor sales at this store will continue to improve the economic viability of the community by allowing residents to shop closer to home.

Training. If application is made for issue, renewal or transfer of a beverage dispensary license, restaurant or eating place license, or package store license, whether the applicant can demonstrate prospective or continued compliance with a Liquor "Server Awareness Training Program approved by the State of Alaska Alcoholic Beverage Control Board, such as or similar to the program for techniques in alcohol management (T.A.M.). Until such plan is approved, training by a licensee's employees in the T.A.M. shall constitute compliance with this ordinance.

How many employees in direct contact with alcohol will be trained in accordance with the Alcoholic Beverage Control Board's Liquor Server Awareness Training Program?

All. In addition, all associates go through a computer based learning (CBL) program covering alcohol sales. Attached please find the CBL script for this training.

Operations procedures. If application is made for issue, renewal, or transfer of a license, whether the applicant can demonstrate prospective or continued compliance with operations procedures for licensed premises set forth in Section 10.50.035 of this code.

- ☐ Yes ☒ No Happy hours?
- ☐ Yes ☒ No Games or contests that include consumption of alcoholic beverages?
- ☒ Yes ☐ No Patron access and assistance to public transportation?
- ☒ Yes ☐ No Notice of penalties for driving while intoxicated posted or will be posted?
- ☒ Yes ☐ No Non-alcoholic drinks available to patrons?
- ☐ Yes ☒ No Solicitation or encouragement of alcoholic beverage consumption?

Public safety. When application is made for the renewal or transfer of location or transfer of ownership of a beverage dispensary license restaurant or eating place license, or package store license, the Assembly shall consider whether the operator can demonstrate the ability to maintain order and prevent unlawful conduct in a licensed premises. In determining the operator's demonstrated ability to maintain order and prevent unlawful conduct, the Assembly may consider police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection. For purposes of this section and Section 10.50.035 "licensed premises" shall include any adjacent area under the control or management of the licensee.

What are the proposed precautions to maintain order and prevent unlawful conduct at the licensed premises?

inside facility:

The store will have two closed circuit security cameras to monitor the alcohol sales area and public view monitor. When necessary, Walmart will use locking security caps to prevent theft of liquor items.

outside facility:

Walmart will use cameras and other security measures to monitor conduct outside the facility, also.

Payment of taxes and debts. When application is made for renewal of a license the assembly shall consider, pursuant to AS 4.11.330, whether the applicant is delinquent in payment of taxes owed to the Municipality. When application is made for transfer of ownership of a license the Assembly shall consider, pursuant to AS 4.11.360, whether the municipality has received either payment or adequate security, for the payment of any debts or taxes, including any estimated taxes for the current year, arising from the conduct of the licensed business. Adequate security" for the payment of debts and taxes may be in the form of: 1) escrowed funds sufficient to Pay the debts and taxes claimed and any escrow fees; 2) actual payment of debts and taxes claimed; or, 3) a guarantee agreement in accordance AMC 10.50.030. Any guarantee agreement shall be in writing. signed by the transferor, transferee and Municipality

☒ Yes ☐ No *Are real estate and business property taxes current?*
☐ Yes ☒ No *Are there any other debts owed to the Municipality of Anchorage?*

Public health. If application is made for the renewal or transfer of location or transfer of ownership of a license, the Assembly shall consider whether the operator has engaged in a pattern of practices injurious to public health or safety, such as providing alcohol to minors or intoxicated persons, committing serious violations of State law relevant to public health or safety, or other actions within the knowledge and control of the operator which place the public health or safety at risk. In determining if a pattern of practices injurious to public health or safety exists, the Assembly may consider criminal convictions, credible proof of illegal activity even if not prosecuted, police reports, testimony presented before the Assembly, written comments submitted prior to or during the public hearing, or other evidence deemed to be reliable and relevant to the purpose of this subsection.

☒ Yes ☐ No *As the applicant and operator can you comply? If no explain*

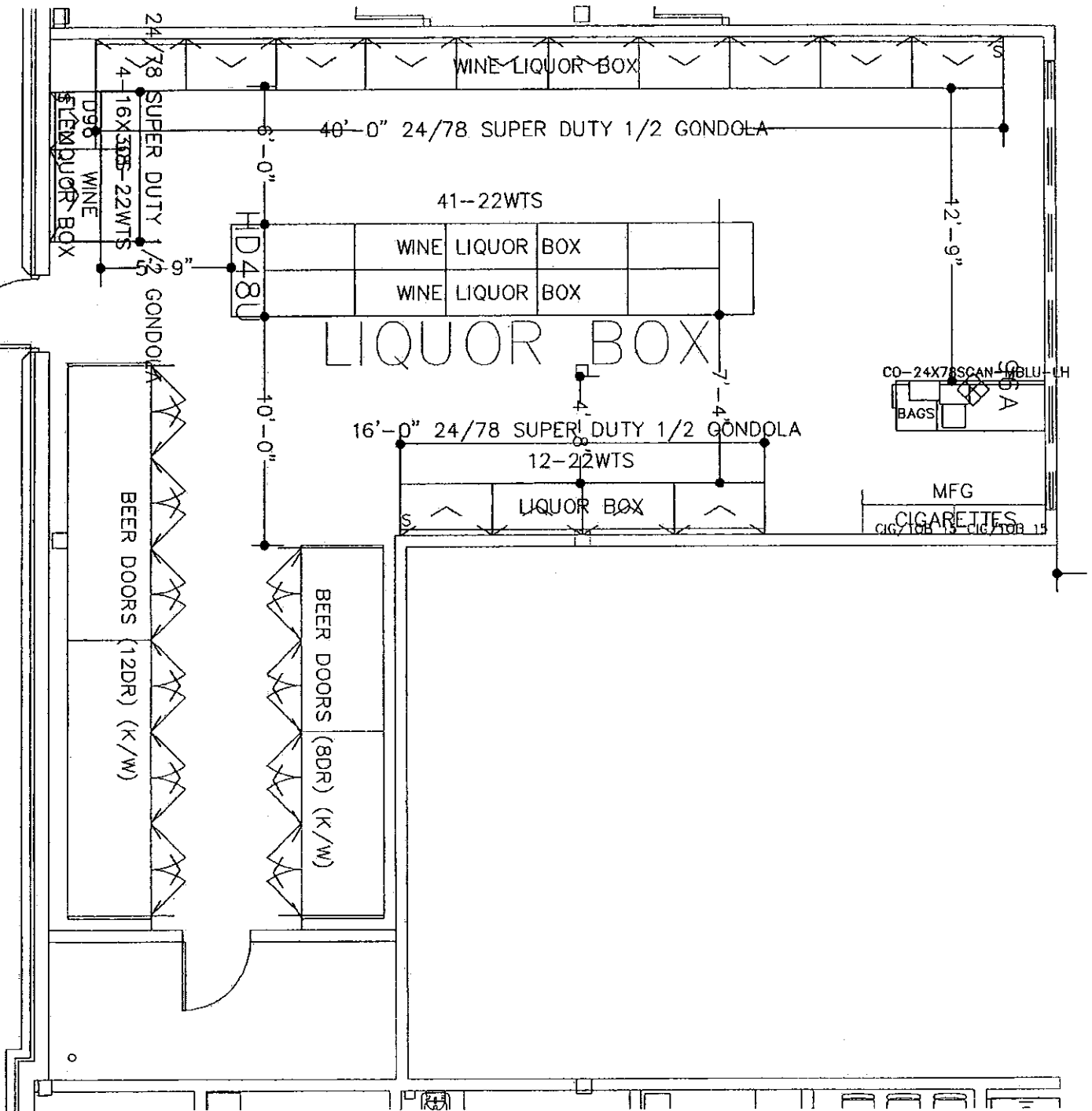
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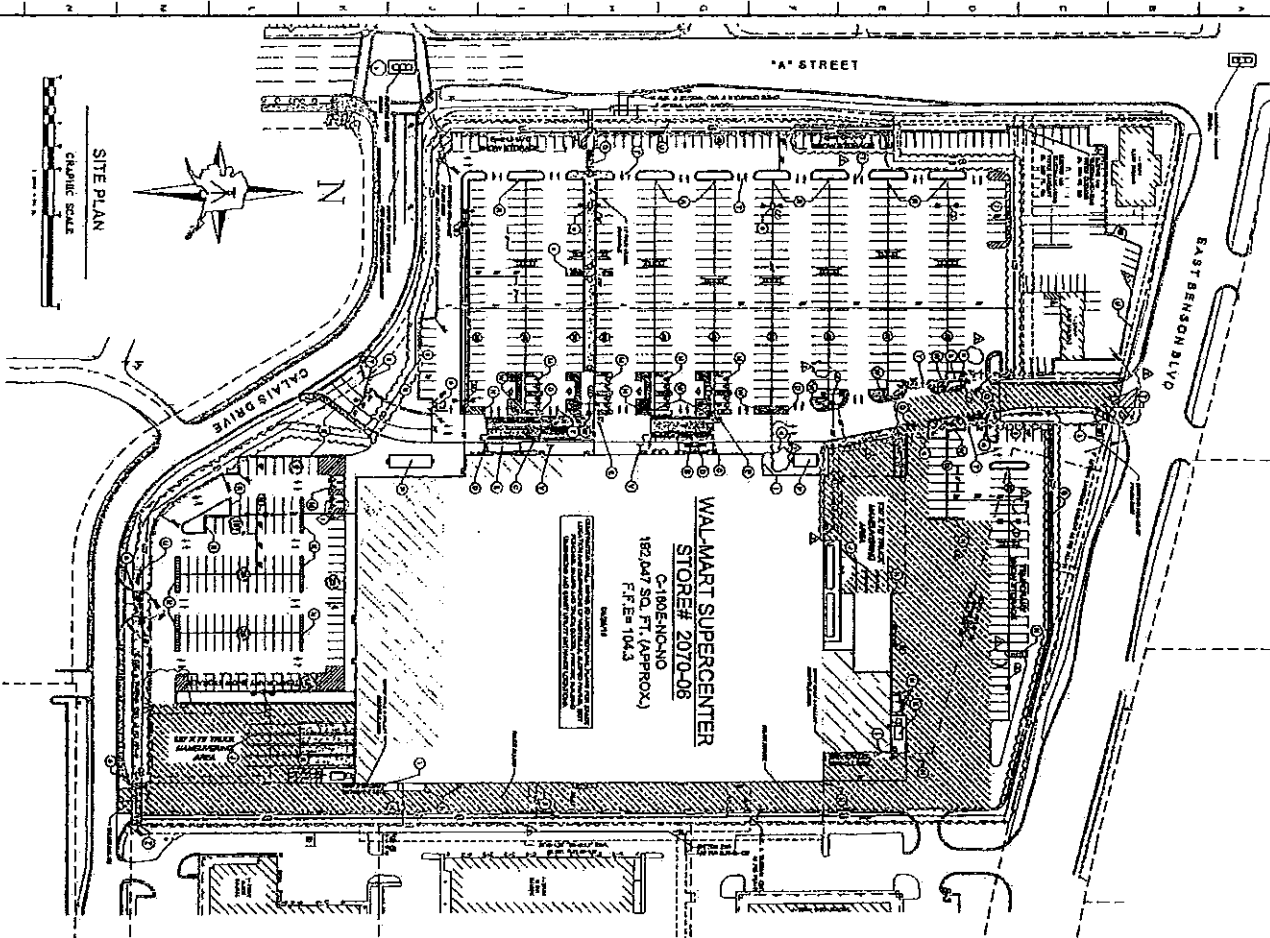
This Walmart Store 2070 has been undergoing an expansion into a Supercenter at the existing location. This expansion will add groceries, alcohol and additional available products to the existing location. The construction is currently underway and the store is projecting a grand opening in September, 2011.

Active Liquor Licenses within 1,000 feet of Wal-Mart

1. Boston's The Gourmet Pizza
2830 C Street
Anchorage, AK 99503
2. Billiards Palace Bar & Grill
3400 C Street
Anchorage, AK 99503
3. Outback Steakhouse
101 W. 34th
Anchorage, AK 99503
4. Oaken Keg Spirit Shop
600 E. Northern Lights Blvd.
Anchorage, Alaska 99503

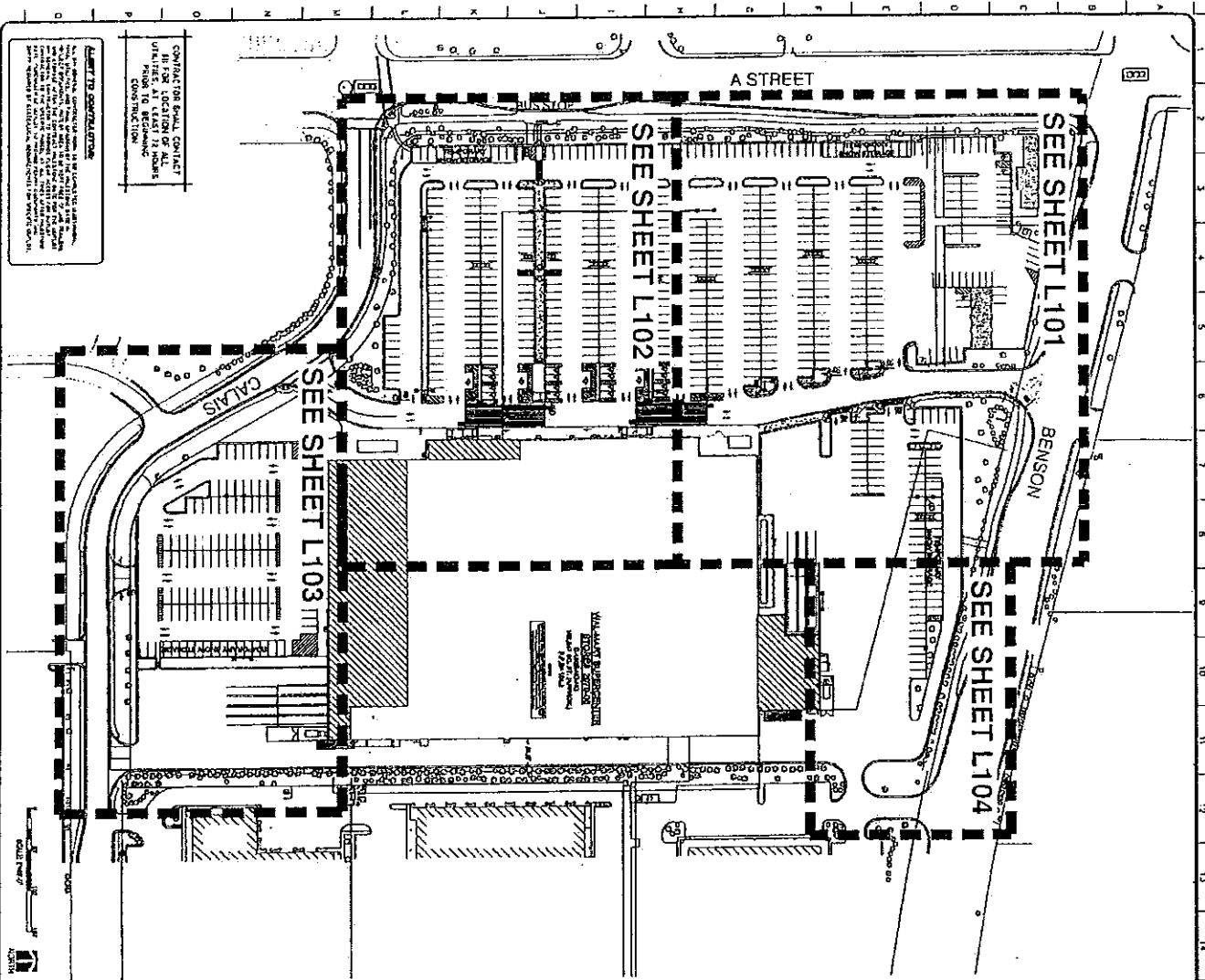
2070 ANCHORAGE AK



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SITE ANALYSIS TABLE	
WALLABY	192 AGZ, S.E.
PARKING (including carports)	618 SPACES
ACCESSIBLE	26 SPACES
TOTAL PARKING (including carports)	675 SPACES
RATIO	3,671/1,000 S.F.
CARPORTS	24 CARPORTS/875 SPACES

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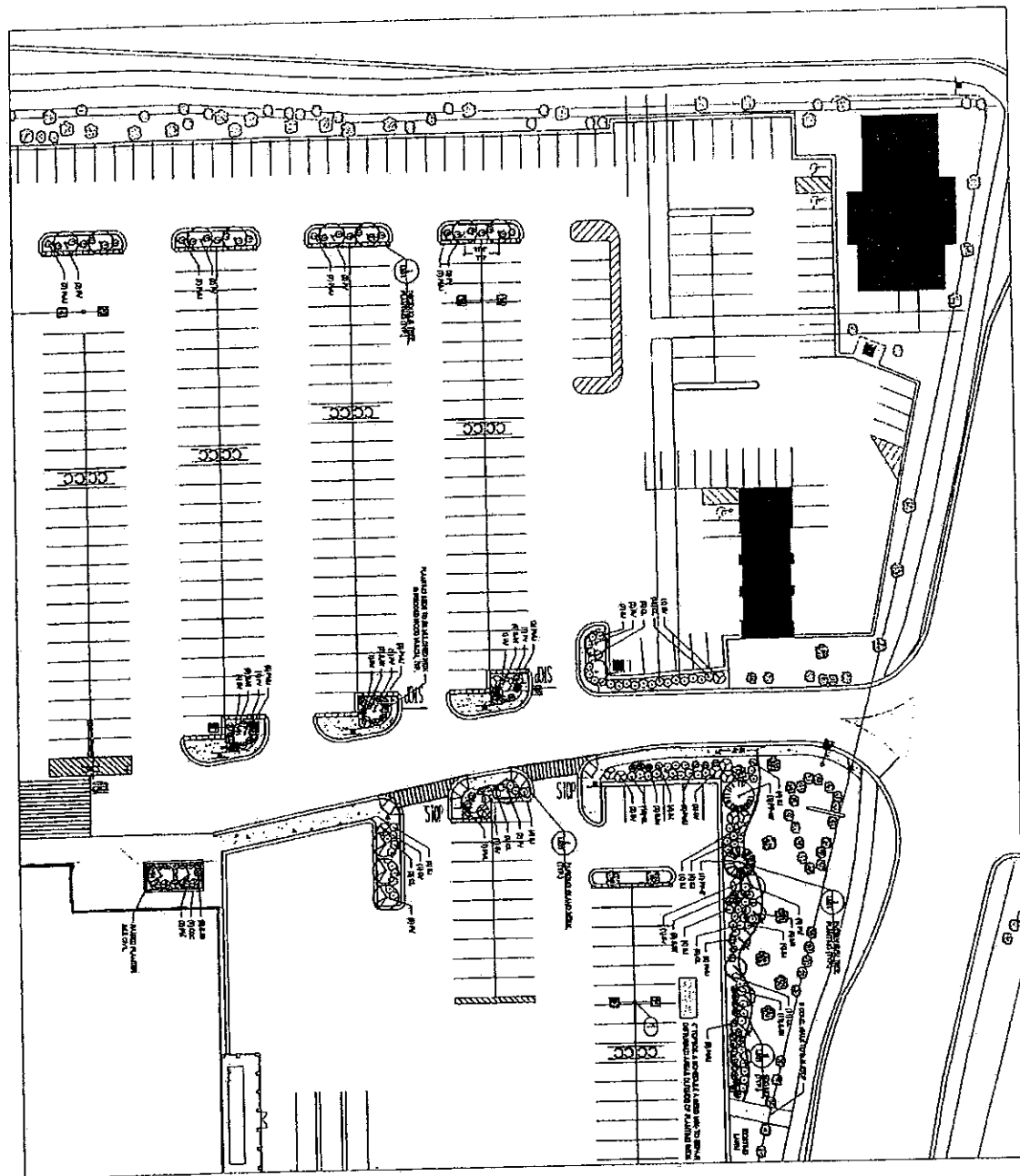
LETTER TO CONTRACTOR

THE CONTRACTOR SHALL CONTACT THE ARCHITECT FOR ALL INFORMATION CONCERNING THE PROJECT. THE ARCHITECT'S OFFICE IS LOCATED AT 1000 11TH AVENUE, SUITE 100, ANCHORAGE, ALASKA 99501. PHONE: 273-1000. FAX: 273-1001.

CONTRACTOR SHALL CONTACT ARCHITECT FOR ALL INFORMATION CONCERNING THE PROJECT.

CONTRACTOR SHALL CONTACT ARCHITECT FOR ALL INFORMATION CONCERNING THE PROJECT.

PLANNING SCHEDULE			
ITEM	DATE	DESCRIPTION	STATUS
1	10/1/99	PRELIMINARY DESIGN	COMPLETE
2	10/1/99	PRELIMINARY DESIGN	COMPLETE
3	10/1/99	PRELIMINARY DESIGN	COMPLETE
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100	10/1/99	PRELIMINARY DESIGN	COMPLETE

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L101

**LANDSCAPE
PLAN**

WALMART #2070-06, MID-TOWN ANCHORAGE
ANCHORAGE, ALASKA



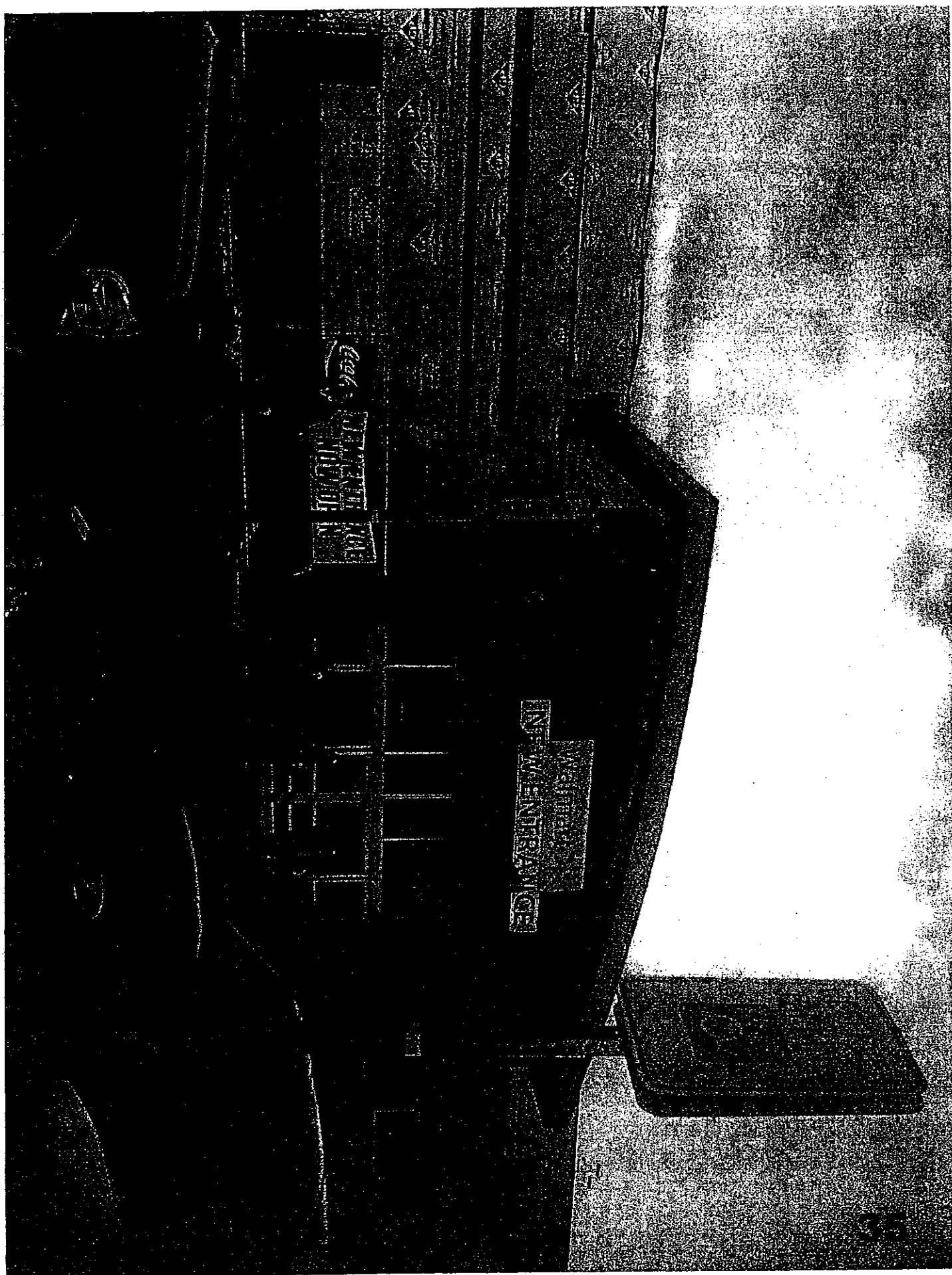
WALMART STORES, INC.
BENTONVILLE, ARKANSAS

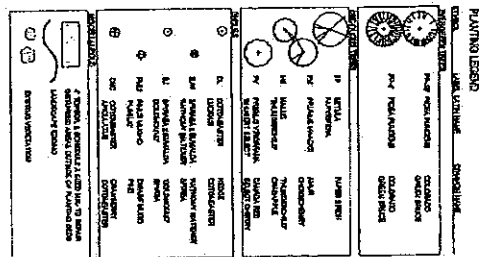


401 W. 5th Ave., Suite 200
Anchorage, Alaska 99501
Tel: 907.275.5445
Fax: 907.274.3037

EDMUND WENTRANCE

EDMUND WENTRANCE





REVISIONS	
REV.	DESCRIPTION
1	Initial Design
2	Revised Design
3	Revised Design
4	Revised Design
5	Revised Design
6	Revised Design
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(110%) of the annual rent due during the fourth ten (10) year extension;

(9) During the sixth ten (10) year extension the annual rent shall be ~~one hundred and ten percent~~ of the fair market value of the Premises as determined at the beginning of that extension period; and

(10) During the seventh ten (10) year extension the annual rent shall be one hundred and ten percent (110%) of the annual rent due during the sixth ten (10) year extension.

Such rent shall be payable on the first day of each month in advance in equal monthly installments (except that rental payable for less than a full month shall be payable based on the number of days in such month for which such rental is payable) at Landlord's mailing address stated above or at such other place as Landlord has notified Tenant in writing at least thirty (30) days in advance.

(c) Once the necessary information is available, Landlord and Tenant shall sign an addendum or addenda to this Lease specifying the exact Anniversary Date and the dollar amounts of the annual rents as calculated under the formulas specified above.

(d) In determining the fair market value of the Premises for purposes of fixing the rent during an

extension period, the Premises shall be valued and appraised as unimproved land as defined herein. Unimproved land shall mean the demised land in its existing condition at the date of valuation or appraisal, disregarding all building or structural improvements above or below grade (building or structural improvements do not include excavation or backfill) and disregarding all landscaping, paving, leases and encumbrances. The unimproved land, as above defined, shall be valued or appraised at its highest and best use regardless of its actual use.

(e) If the Landlord and Tenant are unable to agree on the fair market value of the land at least thirty (30) days prior to the commencement of an extension period, Landlord and Tenant shall jointly select an appraiser from the regular Alaska membership of the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers, or the successor body of either group, who has been properly designated M.A.I. or S.R.E.A., or S.R.P.A., or any future similar designation which denotes proficiency in the appraisal of commercial property and which is recognized as such by either of the above two groups or their successor bodies. The written report of the above selected appraiser on the appraised fair market value of the Premises (using the aforesaid definitions and methods)

shall be conclusive and binding upon Landlord and Tenant for the purpose of determining rental for that extension period, unless either Landlord or Tenant object to such appraised value. The cost of the appraisal report shall be shared equally by Landlord and Tenant, even if objected to by either party.

(f) If Landlord and Tenant cannot agree on one appraiser as above provided, or either objects to the written report of the appraiser as above provided, Landlord and Tenant shall each select an appraiser from either of the above groups who holds any of the above-required designations. Either party may select the appraiser who was jointly selected as above provided and whose report was rejected. Those two appraisers shall select a third appraiser from either of the above groups and who holds any of the required designations. The appraised fair market value agreed upon in writing by two of these appraisers, or upon failure of any two to agree, the average value of the two appraisals closest to each other, shall be conclusive and binding upon Landlord and Tenant for the purposes of determining the rental for that extension period. Each party shall pay the fee of its selected appraiser and one-half the fee of the third appraiser.

4. RENTAL ADJUSTMENT:

(a) Notwithstanding subsection 3(b) above, the rent Tenant shall pay to Landlord shall be subject to an adjustment after there has been a "substantial change" in the use of the Premises or any part thereof. At the execution of this Lease, Tenant intends to use the Premises to operate a discount department store to make retail sales of consumers goods to the public. A "substantial change" will occur when the use of the Premises, or any part thereof, is changed by redevelopment or otherwise to any use other than the wholesale or retail sale of consumer goods to the public, or general office purposes ancillary to the wholesale or retail sale of consumer goods to the public, or entertainment purposes (e.g., a theater or bowling alley). By way of example and not by way of limitation, a change of use from a discount department store to a clothing manufacturer's outlet store would not be a "substantial change" in use, but a change of use of the building on the Premises from a discount department store to an office building, or a significant redevelopment of the Premises involving the demolition of the then existing building and the construction of a new office building or office buildings, would be a "substantial change" in use. A "substantial change" in the use of one

portion of the Premises shall be cause for an adjustment in the rent for that portion of the Premises affected by the "substantial change" of use whether or not the use of another portion of the Premises has been changed. For instance, the construction of an office building on one portion of the Premises that had previously been used as parking for a discount department store would constitute a "substantial change" that provides a basis for a rent adjustment as to that portion of the Premises required for the self-sufficient operation of the office building even though the remainder of the Premises is still being used for a discount department store. However, Tenant shall have the right to "outpad" by developing the perimeter of the Premises, or any other portions not utilized in the operation of the principal retail store, for any incidental, complementary business that provides goods or services to the public, such as a restaurant or a one-story branch bank or credit union. "Outpad" development for any incidental, complementary business shall not constitute a "substantial change" in use within the meaning of this Section 4.

(b) Effective as of the first extension period following a "substantial change" in the use of the entire Premises, the annual rent shall be increased so as

to equal eight percent (8%) of the fair market value of the Premises at the time of the commencement of such extension period. Effective as of the first extension period following a "substantial change" in the use of a portion of the Premises, the annual rent shall be adjusted so that the annual rental paid for that portion of the Premises affected by the "substantial change" in use shall be eight percent (8%) of the fair market value of such portion of the Premises. The annual rental paid for the remaining portion of the Premises not affected by the "substantial change" in use shall be at the rates specified for such extension period in subsection 3(b) above, except that such rates shall be applied so that only the portion of the Premises not affected by the "substantial change" in use is considered. In determining that portion of the Premises affected by a "substantial change" in use, all the land reasonably necessary to the self-sufficient operation of the building or improvements utilized for the "substantial change" in use shall be included. For purposes of this subsection 4(b), the fair market value of the Premises shall be determined as though the land were unimproved, and unimproved land for this purpose shall be defined in the same manner as it is defined in subsection 3(d) above.

(c) When a "substantial change" in the use of the Premises or a part thereof has occurred, Landlord and Tenant shall confer on the fair market value for the Premises (or the various portions thereof) and the appropriate rental adjustment. If at least thirty (30) days prior to the commencement of the first extension period following a "substantial change" in use Landlord and Tenant are unable to agree on the appropriate rental adjustment, the fair market value of the Premises (or the various portions thereof) shall be determined by an appraiser or appraisers in the same manner described in subsections 3(d), (e) and (f) above. The fair market value (or values) so determined shall then be used to calculate the rental adjustment under the methods set out above in subsection 4(b). No rental adjustment upon a "substantial change" in use shall be made if it would result in a lower annual rent for the entire Premises than that specified in subsection 3(b) above; in that event, Tenant shall pay Landlord the amount of rent specified in subsection 3(b) despite the "substantial change" in use.

(d) If a "substantial change" in use occurs and a rental adjustment is made, Tenant shall pay the rent as adjusted for the entire extension period first occurring after a "substantial change" in use. If the term of this

Lease is thereafter extended, the annual rental during such extension period and all subsequent extension periods for that portion of the Premises affected by the "substantial change" in use shall be eight percent (8%) of the fair market value of the land as determined at the beginning of each extension period, and the annual rental during such extension period and all subsequent extension periods for that portion of the Premises not affected by the "substantial change" in use shall be at the rates specified in subsection 3(b) as applied to just that portion of the Premises not affected by the "substantial change" in use. However, in no event shall the annual rent for the entire Premises for any extension period be less than the annual rent for such period specified for the entire Premises in subsection 3(b) above. For the purposes of this subsection, the fair market value of the land shall be determined by an appraiser or appraisers in the same manner described in subsections 3(d), (e) and (f) above.

5. USE OF PREMISES:

The Premises may be used for any lawful purpose subject to the provisions of this Lease.

6. TAXES AND UTILITY EXPENSES:

(a) During the term of this Lease, Tenant shall pay any water or sewer rents or charges imposed with

respect to the Premises or any improvements thereon and Tenant shall pay all charges for sewer, water, and electricity or other services furnished to the Premises or the occupants thereof during the term of this Lease.

(b) Beginning on June 1, 1993, or the date Tenant first commences its initial construction on the Premises, whichever occurs first, and continuing throughout the remainder of the term of this Lease and any extension periods, Tenant shall be responsible for paying all real estate taxes and special assessments assessed or levied against the Premises. For taxes and assessments assessed or levied prior to the separate platting of the Premises, Tenant shall promptly reimburse Landlord for its pro-rata share thereof after receiving Landlord's invoice. For taxes and assessments assessed or levied after the separate platting of the Premises, Tenant shall directly pay the local taxing authority.

(c) Tenant may, in its own name or in Landlord's name, take any action deferring payment of any amount due under this Section 6, or contest any tax or other charge for which Tenant is responsible hereunder. Landlord will execute any documents relating to any such action provided that Tenant shall indemnify, defend and hold Landlord harmless from any liability therefor and that

all reasonable expenses of any such action shall be borne by Tenant.

(d) Any refunds or rebates of amounts paid hereunder shall belong to Tenant and Landlord shall aid Tenant in obtaining any such refund or rebate, provided that the cost of obtaining the same be paid by Tenant.

(e) Nothing in this Lease shall be construed to require Tenant to pay inheritance, estate, transfer, successions, gift, income, franchise or profit taxes that are or may be imposed upon Landlord, its successors or assigns; however, if an income tax is imposed on the rentals Landlord receives for the Premises as a full or partial substitute for a tax on the real property encompassed by the Premises, then Tenant shall pay such income tax.

(f) If a sales tax on the rentals Landlord receives under this Lease is imposed, Tenant shall promptly reimburse Landlord for such sales tax after receiving an invoice from Landlord therefor.

7. IMPROVEMENTS:

(a) Tenant may at its own cost construct any buildings or other improvements on the Premises, provided that they shall be in accordance with all applicable building regulations.

(b) Prior to the commencement of construction of a building or other improvements, Tenant shall deliver to Landlord one set of construction plans and specifications for the exterior of the improvements, a plot plan showing the proposed location of the improvements, all utilities and service connections and all places of ingress and egress to public streets and roads, and plans for outdoor signs, lighting and landscaping. So long as the corporate entity named above as Tenant remains the Tenant under this Lease or continues to conduct business on the Premises after a transfer of the leasehold estate to a lender for security or sale/leaseback purposes, Landlord's approval of the plans, specifications or plot plans shall not be required before the construction of any buildings or other improvements is commenced. However, if some other person or entity succeeds to the named Tenant's interest under this Lease and the named Tenant does not continue to conduct business thereon, then such successor Tenant must first obtain Landlord's approval of the plans, specifications and plot plans before such construction is commenced and all construction shall only proceed in accordance with the plans and specifications approved by Landlord. Landlord shall not unreasonably withhold its approval of any plans or specifications.

(c) The review or approval by Landlord of any plans, specifications or plot plans shall not be for the purposes of assessing the architectural or engineering design and, by reviewing or approving such plans and specifications, Landlord assumes no liability or responsibility therefor, or for any defect in any structure constructed from such plans or specifications.

(d) All buildings, structures and permanent improvements, including signs which have been or may be installed, placed or attached in or about the Premises by Tenant, shall remain the property of Tenant until the termination of the Lease. At the expiration or termination of the term of the Lease, or any extended term thereof, Landlord shall become the owner of all buildings, structures and improvements located on the Premises without any obligation to pay therefor, or Landlord may, at its option, require Tenant to remove such buildings, structures and improvements down to the slab-on-grade. In the event Landlord elects to require Tenant to remove the buildings, structures and improvements, Landlord shall notify Tenant of such election within sixty (60) days of Landlord's receipt of Tenant's notice that it will not extend the term of this Lease, or one hundred twenty (120) days prior to the end of the seventh extension period if this Lease has

been extended for that long. Upon such notice from Landlord, Tenant shall then have until one hundred twenty (120) days after the end of the term of this Lease to complete removal of the buildings, structures and improvements down to the slab-on-grade, unless Tenant is delayed by adverse weather, act of God, labor strike or other cause beyond Tenant's control, in which case the time for Tenant to complete the removal of the buildings, structures and improvements shall be extended accordingly. Tenant shall retain all salvage rights in the buildings, structures and improvements that Landlord requires Tenant to remove from the Premises.

(e) All utilities within and serving the Premises that are installed during Tenant's initial construction on the Premises shall be installed underground. All utilities installed after the initial construction shall be installed underground or in any other manner that is consistent with customary practice then followed for new construction in the area surrounding the Premises.

(f) Tenant agrees that that portion of the Premises along the eastern and northern boundaries which is shown by shading on Exhibit A hereto shall be a "no-build" zone. Within the "no-build" zone, Tenant shall not

construct any above-ground buildings, structures or improvements of any kind (except for signs or kiosk-type structures not exceeding 400 square feet) without first obtaining Landlord's prior written consent.. Landlord's consent to any construction in the "no-build" zone shall not be unreasonably withheld, but Tenant agrees that it shall not be unreasonable for Landlord to withhold its consent if any proposed building, structure or improvement within the "no-build" zone materially interferes with the exposure of the Denali Retail Center on Landlord's adjoining property to the traffic on Benson Boulevard.

8. REQUIREMENTS OF PUBLIC AUTHORITY AND CARE OF PREMISES:

(a) Tenant shall, during the term of this Lease, comply with all laws and regulations of any governmental authority with respect to the Premises, provided that Tenant may in its own or in Landlord's name contest the validity or enforcement of any such law or regulation at Tenant's cost. Landlord shall execute any papers necessary to Tenant in any such action. Tenant shall indemnify and defend Landlord against any claim, loss or liability arising or resulting from Tenant's failure to comply with all laws and regulations of any governmental

authority, or from Tenant's contest of the validity of any such law or regulation.

(b) Tenant, at its own cost and expense, shall keep the Premises and all improvements which at any time during the term of this Lease may be situated thereon, in good order, condition and repair during the entire term of this Lease, and Tenant hereby expressly waives the right to make repairs at the expense of Landlord as provided for in any statute or law in effect at the time of the execution of this Lease, or any amendment thereof, or any other statute or law which may be hereafter passed during the term of this Lease.

9. LIENS:

Tenant shall cause to be promptly discharged any mechanic's or other lien filed against the Premises by reason of any act or omission of Tenant, or by reason of any work performed or claimed to have been performed by or at the direction or sufferance of Tenant, provided that this section shall not be applicable to the lien of any mortgage or Deed of Trust or security agreement. It is understood and agreed that Tenant shall have the right, at its expense, to contest any lien filed against the Premises. In the event of such contest, Tenant shall give to Landlord, if requested by Landlord, a bond or other

reasonable security to insure payment of the lien and to prevent any sale, foreclosure or forfeiture of the Premises or improvements by reason of nonpayment. Tenant shall immediately pay any adverse judgment resulting from a lien contest and shall have such lien or liens released at Tenant's own expense. Without limiting Landlord's other rights with respect to liens, Landlord shall have the right to enter on the Premises at any time to post notices of non-responsibility under AS 34.35.065.

10. BOND FOR CONSTRUCTION:

So long as the corporate entity named above as Tenant remains the Tenant under this Lease, it shall not be required, for Landlord's benefit, to post a payment or performance bond prior to constructing any buildings or improvements on the Premises. However, if some other person or entity succeeds to the named Tenant's interest under this Lease, and such successor Tenant's net worth does not equal or exceed one hundred and fifty percent (150%) of the cost of constructing the buildings or improvements proposed to be constructed, then such successor Tenant shall, before commencing the construction of any buildings or other improvements where the contract price or cost thereof exceeds \$250,000, furnish to Landlord a performance and payment bond or bonds that provide for

the payment of all claims for labor and materials, and the complete and faithful performance of the construction work. The payment and performance bond or bonds shall name Landlord as an obligee, shall be in the amount of the cost or contract price of construction work, and shall have one or more corporate sureties acceptable to Landlord.

11. ASSIGNMENT AND SUBLETTING:

(a) Tenant may sublease this Lease or any part of the Premises provided that Tenant shall remain liable for the performance of all obligations hereunder. Tenant may assign this Lease and be relieved of any further liability only with the written consent of Landlord, which consent shall not be withheld unreasonably.

(b) Tenant agrees that Landlord shall not be obligated to consider or consent to any request for assignment of this Lease (except an assignment for loan security or sale/leaseback purposes) until or unless a Certificate of Occupancy for the retail store Tenant intends to build on the Premises has first been issued and is in effect. However, this subparagraph 11(b) shall not be construed as requiring Tenant to build on the Premises or to pursue a Certificate of Occupancy therefor.

12. INDEMNITY AND INSURANCE:

(a) Tenant agrees to provide and keep in force general liability insurance naming the Landlord as an additional insured in an amount not less than the greater of: (1) one million dollars (\$1,000,000) in respect to injuries to any one person, two million dollars (\$2,000,000) in respect to any one accident, and three hundred thousand dollars (\$300,000) in respect to property damage; or (2) amounts which Landlord reasonably requires to adequately cover the risks involved so long as such amounts are not in excess of those customarily required in Anchorage, Alaska for similar developments or business operations. Tenant shall deliver certificates of such insurance to Landlord. Tenant shall have the right to provide self-insurance against risks covered by a standard general liability policy so long as Tenant's net worth shall equal or exceed \$150,000,000.

(b) Tenant agrees to indemnify, defend and hold Landlord harmless from liability from injury or damage to any person or property, or from death of any person, resulting from the condition of the Premises (if said condition is not a result of Landlord's breach of its covenants contained in this Lease, or has not otherwise been caused by Landlord, its agents or servants), or

resulting from any acts or omissions of Tenant or anyone under its direction or control, including, but not limited to Tenant's agents or servants.

13. CONDEMNATION:

If the whole of the Premises shall be taken or condemned by any competent authority for any public use or purpose under any statute or by right of eminent domain, or by private purchase in lieu thereof under threat of such eminent domain proceedings, then in either of such events, this Lease shall expire on the date when the Premises shall be so taken and the rent shall be prorated as of that date. Nothing contained herein shall prevent Landlord and Tenant from prosecuting claims in any condemnation proceedings for the value of their respective interests.

In the event that part of the Premises shall be taken or condemned and the part so taken shall include any portion of a building(s) on the Premises or the part so taken shall remove ten percent (10%) or more of the total roadfront footage of the Premises, or the part so taken shall remove or separate twenty percent (20%) of the total parking area constructed on the Premises, or such partial taking shall result in cutting off or severely impairing direct access from the Premises to any adjoining street or highway, then, and in any such event, Tenant may elect to terminate this

Lease as of the date possession shall be taken by such authority. Such notice of election to terminate shall be given in writing to Landlord within ninety (90) days after official notice to Tenant of the portion to be taken. In the event Tenant shall not execute such option to terminate this Lease, or if part of the Premises shall be taken or condemned under the circumstances whereby Tenant does not have such option, then, and in either of such events, the rental for the balance of the term of this Lease shall be adjusted in an equitable manner. Any dispute about Tenant's right to terminate this Lease after condemnation or the adjustment of the rental after condemnation shall be submitted to nonbinding mediation conducted in Anchorage, Alaska, before any litigation over such dispute is commenced.

14. UTILITY EASEMENTS:

Tenant may grant reasonable easements to utility companies as may be required to service the improvements on the Premises and Landlord agrees to execute any documents necessary to evidence the same. Such easements, however, may not be for a period in excess of the term of this Lease unless Landlord expressly consents to extending such easements for a longer period. Landlord shall not unreasonably withhold its consent if longer term easements

are required by governmental authorities or the utility companies providing service to the Premises.

15. MORTGAGES:

(a) Landlord may, during the term of this Lease, mortgage or otherwise encumber the fee interest in the Premises, provided that such mortgage or encumbrance shall be subject to Tenant's rights under this Lease, and provided that the mortgagee or encumbrancer shall execute a non-disturbance agreement with Tenant confirming that Tenant's possession and occupancy of the Premises will not be disturbed so long as Tenant performs all its obligations under this Lease.

(b) Tenant may mortgage its interest in this Lease, the Premises or the improvements thereon, or any part thereof, under any first or other leasehold mortgage, Deed of Trust or security agreement and upon Landlord being notified of the making of any such mortgage, Deed of Trust or security agreement Landlord agrees that (i) as a result of any default there shall be no cancellation, amendment or termination of this Lease by joint action of Landlord and Tenant without first providing the secured party an opportunity to satisfy said default in a reasonable time; (ii) Landlord shall give any secured party simultaneous notice of termination and such party shall have the same

period after service of such notice to remedy the default and Landlord shall accept such performance as if the same had been done by Tenant and (iii) Landlord will execute any agreement requested by Tenant acknowledging the above rights of any secured party and granting to such party reasonable notice of any default hereunder and an opportunity to cure the same.

16. REPLATTING:

(a) At the execution of this Lease, the Premises are part of a larger tract (or larger tracts) of land owned by Landlord. Tenant shall, at its expense, have a survey conducted of that part of the larger tract (or tracts) of land in order to determine the precise land Tenant requires to be included in the Premises. Once that survey has been completed and provided to Landlord, and Landlord has agreed to the land to be included, Tenant shall proceed to re-plat the property so that the Premises is legally separate from Landlord's other property. Landlord shall cooperate with Tenant in completing the re-platting. The re-platting shall be at the expense of the Tenant except that, if the public authorities require as a condition of replatting that Tenant install roads or other improvements, and such roads or other improvements benefit Landlord's property adjoining the Premises,

Landlord shall share the costs of such roads or improvements with Tenant on an equitable basis. The re-plat shall not be recorded until after Tenant's right of early cancellation as provided in Section 20 has lapsed or been waived.

(b) If, after the initial re-platting, a public authority requires, or Tenant desires, the re-platting of the Premises, Tenant shall perform such re-platting and shall bear all costs thereof. Tenant shall not re-plat the Premises of its own volition without first obtaining Landlord's written consent to such re-platting, which consent shall not be unreasonably withheld. In such re-platting, Tenant shall provide for reasonable access to Landlord's adjacent property from and through the Premises. Landlord shall cooperate with Tenant in completing such re-platting.

17. QUIET ENJOYMENT:

(a) Tenant, upon paying rent and complying with all other provisions hereof, shall quietly have and enjoy the Premises during the term of this Lease.

(b) Landlord represents and warrants that it has fee simple title to the Premises and the power and authority to execute and deliver this Lease and to comply with all the provisions hereof, and further warrants that

(i) the Premises is free from all liens, encumbrances and title defects except those matters set forth in the Preliminary Commitment for Title Insurance that Landlord has provided to Tenant under Section 21, and (ii) that when the Premises is to be delivered to Tenant possession of the entire Premises will be delivered to Tenant and the same shall be free and clear from liens, encumbrances and defects in title except those matters set forth in the Preliminary Commitment for Title Insurance Landlord has provided to Tenant under Section 21.

18. DEFAULTS:

(a) The occurrence of any of the following shall constitute a default by Tenant: (i) a failure to pay any installment of rent within ten (10) days of the date it is due; (ii) a failure to pay within ten (10) days of the date it is due any other charge that Tenant is required to pay under this Lease; or (iii) a failure to perform or comply with any other provision of this Lease within thirty (30) days after Landlord has given Tenant notice in writing of such failure to perform or comply.

(b) Upon default, Landlord shall have the right at its election, at the time of Tenant's default or at any time thereafter, and while such default shall continue, to give Tenant notice of termination of this

Lease and all Tenant's rights hereunder, which termination shall be effective upon the date (at least twenty (20) days hence) specified in the notice. On the effective date of the Lease termination, the term of this Lease and all rights granted Tenant hereunder shall come to an end as fully as if the Lease then expired by its own terms, and Tenant covenants to peaceably and quietly yield up and surrender to Landlord the Premises and all structures and improvements thereon (excluding any personal property, trade fixtures, goods and equipment), and to execute and deliver to Landlord such instrument or instruments as shall be required by Landlord to properly evidence termination of Tenant's rights hereunder. Upon termination as provided for above, Landlord shall have the right to repossess the Premises and the structures and improvements thereon, either with process of law or through any form of suit or proceeding, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination. No rentals shall be due under this Lease for the unexpired portion of the Lease term that remains after the date of termination.

(c) Upon default, Landlord shall also have the right at its election, without terminating this Lease, to sue for and recover all rents and other sums, including

damages, from time to time accruing hereunder. Landlord's re-entry of the Premises, or its acts in maintaining the Premises, or its efforts to relet the Premises after Tenant has defaulted, shall constitute an election by Landlord to terminate this Lease.

(d) If Landlord gives notice of any default under subsection 18(a)(iii) above, which by its nature cannot be cured within the period specified therein, then such period shall be extended for so long as Tenant is diligently proceeding to cure such default as soon as is reasonably possible under the circumstances.

19. WAIVERS:

Neither party hereto shall be deemed to have waived any right hereunder for failure to complain of any act or omission of the other party.

20. RIGHT OF EARLY CANCELLATION:

It is understood and agreed between the parties that Tenant intends to develop and erect a discount department store in and upon said land, and shall require a period of time within which to develop plans therefor, and to secure loan commitments therefor. It is therefore agreed between the parties that Tenant shall have the right to cancel the within Lease at any time before June 1, 1993,

by furnishing notice in writing to Landlord at the address herein provided if any of the following occur:

(1) if it is determined by Tenant that the soil on or under the Premises is such that it is not economically feasible to use the Premises for the location of a shopping center;

(2) if Tenant is prevented from constructing improvements as presently contemplated on the Premises, by any zoning, building or other regulation issued by any authority having authority over the development of the Premises;

(3) if Tenant determines that necessary utilities, including water, sewer, electricity and gas are not available at the edge of the Premises without Tenant incurring costs in excess of thirty thousand dollars (\$30,000); or

(4) if Tenant is unable to obtain loan commitments to finance the construction of improvements on the Premises.

In the event notice shall not be delivered to Landlord by the deadline provided, then this Lease shall remain in full force and effect for all purposes.

21. TITLE EXAMINATION AND INSURANCE:

Prior to the execution of this Lease, Tenant has obtained a Preliminary Commitment for Title Insurance issued by TransAlaska Title Insurance Agency, Inc. and dated August 25, 1992. Within fifteen (15) days after Tenant's request therefor, Landlord shall furnish Tenant a policy of title insurance in an amount equal Three million seven hundred to forty one thousand dollars (\$ 3,741,000.00) issued by the same company, or by another company approved by Tenant, insuring Landlord's marketable title in the leasehold estate created hereunder. Tenant shall reimburse Landlord for the cost of such title insurance.

22. INDIVIDUAL LEASES:

Landlord shall, if requested by Tenant, split this Lease into several leases which shall collectively cover the entire Premises, shall collectively provide for rental equal to the rental reserved hereunder, shall otherwise be upon the same terms and conditions as are provided herein and shall provide for such cross-easements for access as Tenant may reasonably request. Such several Leases shall not affect Tenant's liability for rental and for performance.

23. ZONING:

Landlord hereby represents and affirms that, at the time of the execution of this Lease, the Premises is presently zoned for commercial purposes of such designation as will now permit the erection of a shopping center under the terms of the zoning ordinances now applicable to the property.

24. RIGHT OF FIRST REFUSAL:

In the event that at any time during the term of this Lease, Landlord shall elect to sell to a third person all or a portion of the Premises as described in Exhibit "A" hereto, Tenant or its successors or assigns shall be given the right of first refusal to purchase the same in accordance with the procedures hereafter set forth. In the event Landlord shall secure a firm offer in contract form executed by any third person, said offer shall be submitted to Tenant, or its successors or assigns, in writing, and the latter shall have sixty (60) days from the date of receipt of said notice in which to meet the terms of said purchase as set forth in said contract. In the event Tenant shall not have notified Landlord in writing of its election to purchase the property within the sixty (60) day period aforesaid, or if Tenant shall fail to comply with the terms of said offer to purchase within the

periods therein provided, the Landlord shall have the right to sell the property upon the terms and conditions set forth in said notice to the third person designated therein. In the event Landlord shall not forthwith thereafter consummate said sale, then the right of first refusal herein shall continue in full force and effect with respect to any future contemplated sale. In the event Tenant, or its assigns, shall elect to purchase upon the terms contained in said notice, then Tenant shall consummate said purchase in accordance with the terms and Landlord shall convey the property executing good and sufficient warranty deed, and shall furnish an owner's title policy to Tenant, or its assigns, in the amount of the purchase price. For the purposes of this Section 24, a third person shall mean any person, partnership, firm or corporation other than Landlord, except that the provisions of this Section 24 shall not apply to transfers from Landlord to: (1) any subsidiary, parent or sister corporation of Landlord; (2) any successor entity (incorporated or unincorporated) that differs from Landlord only in form or name; or (3) a liquidating trustee or the shareholders of Landlord in the liquidation or dissolution of the corporation. The provisions of this Section 24

shall also not apply to any sale or transfer of the shares in the corporation that is Landlord.

25. DAMAGE TO IMPROVEMENTS BY FIRE, THE ELEMENTS, OR OTHER CASUALTY:

Should Tenant's improvements be damaged by fire, the elements or other casualty in any amount exceeding ten percent (10%) of the total replacement cost of all Tenant's improvements, then Tenant may at its option terminate this Lease by written notice to Landlord within thirty (30) days after said casualty. Whether or not this Lease is terminated after such casualty, Tenant shall remove the debris and clean up the affected area within 120 days of the casualty.

26. UNDERGROUND CONDITIONS AND WATER DRAINAGE:

(a) Tenant has made, or prior to the construction of any building will make, its own soil tests and this Lease is made subject to and without liability because of or resulting from any fill or any subsurface or soil condition upon the leased land.

(b) Unless previously agreed upon by Landlord and Tenant, Tenant shall not drain or discharge water from the leased land on to adjoining land except for historical drainage or discharge; the leased land shall be graded and drained to cause the discharge of all water on the streets

adjoining the leased land or into an established drainage easement, if any, on the leased land.

27. MINERAL RESERVATION CLAUSE:

(a) Landlord expressly reserves unto itself, its successors and assigns, all oil, gas, associated hydro-carbons and minerals and the right to prospect for, mine and remove said oil, gas, hydro-carbons and minerals, provided that such reserved estate and the rights incident thereto are limited to a depth more than five hundred feet (500') below the surface of the real estate conveyed, or more than five hundred feet (500') below any surface use of said real estate, whichever depth is the greater. In any event, Tenant's use of the surface and such portion of subsurface as is necessary for effective use of the surface shall not be disturbed or impaired by this mineral reservation or the exercise of any rights pertaining thereto.

(b) Landlord agrees that it shall not erect, install or use on the Premises any well, structure or equipment of any kind whatsoever for the prospecting, drilling, producing or development of any oil, gas, associated hydrocarbons or minerals without the prior written consent of Tenant, which consent may be withheld in Tenant's sole and absolute discretion. In the event

Landlord conducts any prospecting, drilling, producing, or development of any oil, gas, associated hydrocarbons or minerals on or around the Premises, Landlord agrees that: (i) the surface and surface improvements on the Premises shall be fully supported; (ii) any wellhead shall be located no closer than two hundred (200) feet from the closest boundary of the Premises; (iii) no mine shaft shall be closer than five hundred (500) feet to the surface of the Premises; and (iv) no mining pit shall be located closer than two hundred (200) feet to the closest boundary of the Premises.

28. HAZARDOUS MATERIALS:

(a) Tenant agrees that it shall not use or store Hazardous Materials on the Premises or permit others to use or store Hazardous Materials on the Premises except in accordance with applicable law. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all losses, liabilities, fines, damages, injuries, clean-up costs, penalties, expenses and claims of every kind, to the extent the same (1) are attributable to Tenant, or Tenant's employees, lessees or invitees, or Tenant's use or occupancy of the premises, and (2) result from or are related to the presence of Hazardous Materials on or under the Premises, or the escape, seepage, leakage, spillage,

discharge, emission or release of Hazardous Materials on, under or from the Premises. However, Tenant shall not be responsible for any Hazardous Materials placed or existing on or under the Premises prior to the date of this Lease, nor shall Tenant be responsible for any Hazardous Materials that are leaked, spilled, emitted, released or discharged on to the Premises from adjoining property or from other sources outside the boundaries of the Premises.

(b) Landlord shall indemnify, defend and hold Tenant harmless from and against any and all losses, liabilities, fines, damages, injuries, clean-up costs, penalties, expenses and claims of every kind, to the extent the same result from or are related to the presence of Hazardous Materials on or under the Premises at the time of the execution of this Lease, or the escape, seepage, leakage, spillage, discharge, emission or release of Hazardous Materials on, under or from the Premises at any time prior to the date of this Lease.

(c) For purposes of this Section 28, "Hazardous Materials" means oil, oil products and by-products, refined oil products and by-products, and any substance, waste or material now or hereafter regulated by federal, state or local governmental authority.

(d) The indemnity, defense and hold harmless obligations of Tenant and Landlord under this Section 28 shall survive the termination of this Lease.

29. NO DEDICATION:

After consultation and coordination with Tenant, Landlord shall have the right to close, from time to time, any or all portions of the parking area or areas to such extent as may, in the opinion of Landlord's counsel, be legally sufficient to prevent a dedication thereof or the accrual of any rights therein to any person or to the public.

30. SCREENING OF GARBAGE STORAGE AREA:

Tenant must provide a screened or fenced area for the temporary storage of garbage or trash pending removal of such material. Plans for such screening or fencing shall be submitted to Landlord in accordance with Section 7 above.

31. MISCELLANEOUS:

(a) Time is of the essence in the performance of each provision of this Lease.

(b) No notice hereunder shall be effective unless sent postage prepaid by United States registered or certified mail, return receipt requested, direct to the other party at the address first mentioned above or at such

other address as either party may designate by notice given in accordance with this section.

(c) Either party shall, without charge and within ten (10) days after any request of the other, certify in writing to any person specified in such request, as to the existence, amendment, validity of this Lease, the existence of any default or counterclaim hereunder and any other matter reasonably requested. Any such certificate may be relied upon by any party requesting it and by any person to whom the same may be exhibited.

(d) This Lease shall be construed under and governed by the laws of the State of Alaska. Any lawsuit arising out of or related to this Lease shall only be initiated in a state or federal court of competent jurisdiction in Anchorage, Alaska.

(f) This Lease shall not be recorded. The parties will, within fifteen (15) days of the date hereof, execute a memorandum of lease and record the same in the real estate records for the Anchorage Recording District. The memorandum of lease shall include all provisions requested by either party, except that the amount of rent shall not be set forth.

(g) In the event that Tenant holds over at or after the end of the term, the tenancy shall be deemed a month-to-month tenancy.

(h) As used herein, the singular shall include the plural and the masculine gender shall include the feminine and neuter genders unless the context shall require otherwise. Section headings are for convenience and shall not be used to construe this Lease. This Lease may be executed in multiple counterparts, each of which shall be an original. The terms "Landlord" and "Tenant" as used herein shall mean only the owner at the time of Landlord's or Tenant's interest herein (or any part thereof) and, unless provided otherwise herein, upon the sale or assignment of the interest of either party hereto, their successors in interest shall be deemed to be Landlord or Tenant, as the case may be.

(i) This Agreement contains the entire Agreement among the parties hereto, supersedes all prior agreements and may be modified only in writing.

(j) Unless otherwise expressly provided herein, the provisions of this Lease shall bind and inure to the benefit of Landlord and Tenant and their respective successors.

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President of CALAIS COMPANY, INC., an Alaska corporation,
on behalf of the corporation.

Chile Ann Harms
Notary Public in and for Washington
My Commission Expires: April 8, 1993

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before
me this 10th day of December, 1992, by JOHN P. MCMANAMIN,
Secretary of CALAIS COMPANY, INC., an Alaska corporation,
on behalf of the corporation.

Chile Ann Harms
Notary Public in and for Alaska
My Commission Expires: April 8, 1993

PSA92:334/4493.99999

This application is for:

- ☐ Seasonal – Two 6-month periods in each year of the biennial period beginning _____ and ending _____
☒ Full 2-year period _____ Mo/Day _____ Mo/Day

SECTION A - LICENSE INFORMATION. Must be completed for all types of applications.				FEES	
License Year:		License Type:		Statute Reference	
License #: 4669		Package Store		Sec. 04.11. <u>150</u>	
Local Governing Body: (City, Borough or Unorganized)		Community Council Name(s) & Mailing Address:		License Fee: \$	
Municipality of Anchorage				Filing Fee: \$100.00	
Name of Applicant (Corp/LLC/LP/LLP/Individual/Partnership):				Fingerprint: (\$54.25 per person)	
Wal-Mart Stores, Inc.		Doing Business As (Business Name):		Total Submitted: \$	
		Wal-Mart Supercenter # 2070		Business Telephone Number: (479) 277-8015	
Mailing Address: 702 Southwest 8 th Street		Street Address or Location of Premise:		Fax Number: (479) 204-9864	
City, State, Zip: Bentonville, AR 72716-0500		3101 A Street Anchorage, AK 99503		Email Address: louis.knapp@wal-mart.com	

SECTION B - TRANSFER INFORMATION.	
<input checked="" type="checkbox"/> Regular Transfer	Name and Mailing Address of <i>CURRENT</i> Licensee: Wal-Mart Stores, Inc.
<input type="checkbox"/> Transfer with security interest: Any instrument executed under AS 04.11.670 for purposes of applying AS 04.11.360(4)(b) in a later involuntary transfer, must be filed with this Application (15 AAC 104.107). Real or personal property conveyed with this transfer must be described. Provide security interest documents.	Business Name (dba) <i>BEFORE</i> transfer: Wal-Mart Supercenter # 3813
<input type="checkbox"/> Involuntary Transfer. Attach documents which evidence default under AS 04.11.670.	Street Address or Location <i>BEFORE</i> transfer: No premise

SECTION C - PREMISES TO BE LICENSED. Must be completed for RELOCATION applications.		
Closest school grounds: .45 miles	<i>Distance measured under:</i> <input type="checkbox"/> AS 04.11.410 <i>OR</i> <input checked="" type="checkbox"/> Local ordinance No.	<input type="checkbox"/> Premises is GREATER than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. <input type="checkbox"/> Premises is LESS than 50 miles from the boundaries of an incorporated city, borough, or unified municipality. <input checked="" type="checkbox"/> Not applicable
Closest church: .55 miles	<i>Distance measured under:</i> <input type="checkbox"/> AS 04.11.410 <i>OR</i> <input checked="" type="checkbox"/> Local ordinance No.	
Premises to be licensed is: <input type="checkbox"/> Proposed building <input checked="" type="checkbox"/> Existing facility <input type="checkbox"/> New building		<input type="checkbox"/> Plans submitted to Fire Marshall (required for new & proposed buildings) <input checked="" type="checkbox"/> Diagram of premises attached

☐ New building

Does any individual, corporate officer, director, limited liability organization member, manager or partner named in this application have any direct or indirect interest in any other alcoholic beverage business licensed in Alaska or any other state?

X Yes ☐ No If Yes, complete the following: Attach additional sheets if necessary.

X Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, complete the following: Attach additional sheets if necessary.				
Name	Name of Business	Type of License	Business Street Address	State
See attached list				

Has any individual, corporate officer, director, limited liability organization member, manager or partner named in this application been convicted of a felony, a violation of AS 04, or been convicted as a licensee or manager of licensed premises in another state of the liquor laws of that state?

☒ Yes ☐ No If Yes, attach written explanation. **See attached list**

Office use only	
Date Approved	Director's Signature

76

Liquor License

Corporations, LLCs, LLPs and LPs must be registered with the Dept. of Community and Economic Development.			
Name of Entity (Corporation/LLC/LLP/LP) (or N/A if an individual ownership): Wal-Mart Stores, Inc.		Telephone Number: (479) 204-2188	Fax Number: (479) 204-9864
Corporate Mailing Address: 702 S.W. 8th Street	City: Bentonville	State: AR	Zip Code: 72716-0500
Name, Mailing Address and Telephone Number of Registered Agent: CT Corporation Systems, 801 W. 10th St., Suite 300, Juneau, AK 99801		Date of Incorporation OR Certification with DCED: 1/29/99	State of Incorporation: Alaska
Is the Entity in compliance with the reporting requirements of Title 10 of the Alaska Statutes? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If no, attach written explanation. Your entity <i>must</i> be in compliance with Title 10 of the Alaska Statutes to be a valid liquor licensee.			

Entity Members (Must include President, Secretary, Treasurer, Vice-President, Manager and Shareholder/Member with at least 10%)					
Name	Title	%	Home Address & Telephone Number	Work Telephone Number	Date of Birth
See attached officer list.					

NOTE: On a separate sheet provide information on ownership other organized entities that are shareholders of the licensee.

Individual Licensees/Affiliates (The ABC Board defines an "Affiliate" as the spouse or significant other of a licensee. Each Affiliate must be listed.)			
Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:	Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:
Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:	Name: Address: Home Phone: Work Phone:	Applicant <input type="checkbox"/> Affiliate <input type="checkbox"/> Date of Birth:

Declaration <ul style="list-style-type: none"> I declare under penalty of perjury that I have examined this application, including the accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete, and this application is not in violation of any security interest or other contracted obligations. I hereby certify that there have been no changes in officers or stockholders that have not been reported to the Alcoholic Beverage Control Board. The undersigned certifies on behalf of the organized entity, it is understood that a misrepresentation of fact is cause for rejection of this application or revocation of any license issued. I further certify that I have read and am familiar with Title 4 of the Alaska statutes and its regulations, and that in accordance with AS 04.11.450, no person other than the licensee(s) has any direct or indirect financial interest in the licensed business. I agree to provide all information required by the Alcoholic Beverage Control Board in support of this application.
--

Signature of Current Licensee(s) Signature <i>Amy Thrasher</i>	Signature of Transferee(s) Signature <i>Amy Thrasher</i>
Signature	Signature
Name & Title (Please Print) Amy Thrasher, Assistant Secretary	Name & Title (Please Print) Amy Thrasher, Assistant Secretary
Subscribed and sworn to before me this 1 st day of MARCH, 2011	Subscribed and sworn to before me this 1 st day of MARCH, 2011
Notary Public in and for the State of Alaska Arkansas <i>Orlando Heese</i>	Notary Public in and for the State of Alaska <i>Orlando Heese</i>
My commission expires: 7/28/2020	My commission expires: 7/28/2020

STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD

STATEMENT OF FINANCIAL INTEREST

CONFIDENTIAL

TO BE COMPLETED BY EACH APPLICANT, EITHER INDIVIDUAL OR CORPORATE

AS 04.11.450(a) states that no person other than a licensee may have a direct or indirect financial interest in the business for which the license is issued.

Applicant: Wal-Mart Stores, Inc. 702 Southwest 8 th Street Bentonville, AR 72716-0500	DBA: Wal-Mart Supercenter # 2070 3101 A Street Anchorage, AK 99503
EIN or SSN: [REDACTED]	Location: 3101 A Street, Anchorage, AK 99503
List each owner, shareholder, member in the boxes below:	
Please see attached	

List below persons, firms, lending institutions or corporations which have or may have any financial involvement in furthering purchases of assets, revenues or operating capital for the licensed business operations.

NAME	ADDRESS	AMOUNT	PURPOSE
None			

Under the penalties of perjury, I declare that I have examined this application, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signature of Applicant/Transferee

Amy Thrasher

Amy Thrasher, Assistant Secretary

Date

Subscribed and sworn to before me this

24th Day of March 20 11

[Signature]

Notary Public in and for the State of Arkansas


My commission expires July 28, 2020

78

AFFIDAVIT

Wal-Mart Stores, Inc. stock is publicly traded on the New York Stock Exchange

with 11 billion shares authorized and approximately 4,614,000,000 shares issued as of January 31, 2011. No individual owns more than 1% stock.

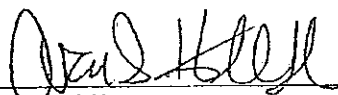


Amy Thrasher
Assistant Secretary

STATE OF ARKANSAS)
)
COUNTY OF BENTON)

Sworn to and subscribed before me this 24th day of March, 2011, by
Amy Thrasher.

My commission expires July 28, 2020.



Notary Public

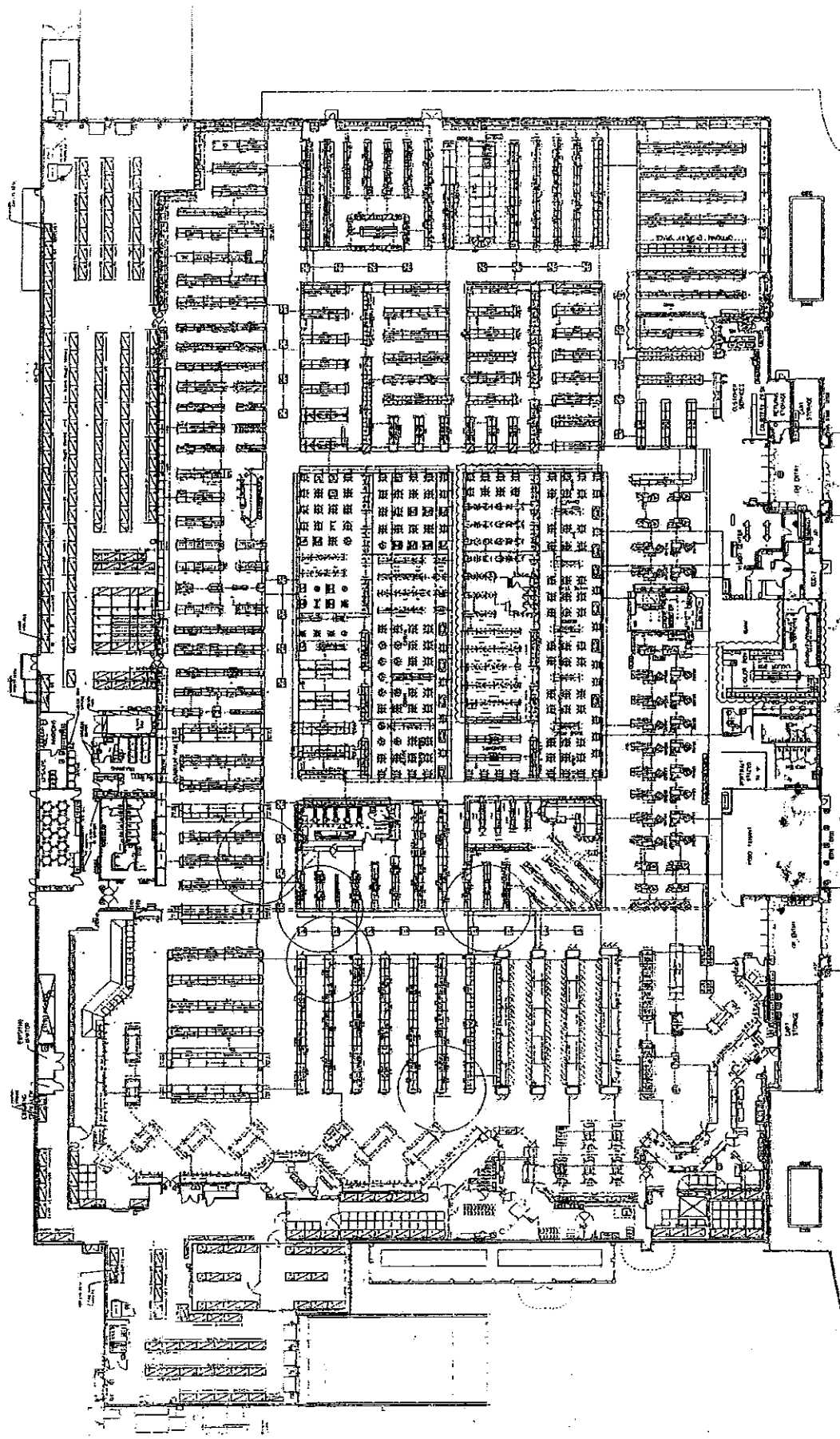
WAL-MART STORES, INC.
FEIN 71-0415188

WAL-MART

NAME AND TITLE	RESIDENCE ADDRESS	SSN & DOB
Michael Duke President & CEO Director	16 Pinnacle Drive Rogers, AR 72758	[REDACTED] [REDACTED]
Karen Roberts Sr. VP & Chief Compliance Officer	19 Stonehenge Drive Bentonville, AR 72712	[REDACTED] [REDACTED]
Charles Holley Treasurer Rogers, AR	2 Vintage Point 72758	[REDACTED] [REDACTED]
Lori Cottrell 11600 Assistant Secretary	Mill Dam Road Bentonville, AR 72712	[REDACTED]
Amy Thrasher Assistant Secretary	30 Watson Drive Bella Vista, AR 72714	[REDACTED]

The above officers / directors own less than 1% stock of Wal-Mart Stores, Inc., a public corporation.
Wal-Mart Private

The above officers / directors own less than 1% stock of Wal-Mart Stores, Inc., a public corporation.



2070 ANCHORAGE, AK

Location: ANCHORAGE, AK

User: lawools Store: 2070

Date: Mar 04 2011

**CURRENT FINGERPRINT
CARDS WERE PROVIDED
WITH WAL-MART
LICENSE RENEWALS AND
ARE ON FILE WITH THE
ABC**

RECEIVED

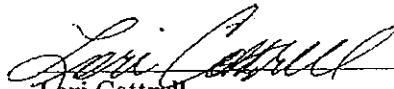
MAR 17 2011

AFFIDAVIT

PATTON BOGGS LLP

Wal-Mart Stores, Inc. stock is publicly traded on the New York Stock Exchange

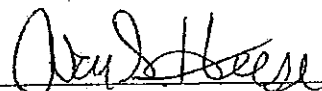
with 11 billion shares authorized and approximately 4,614,000,000 shares issued as of January 31, 2011. No individual owns more than 1% stock.


Lori Cottrell
Assistant Secretary

STATE OF ARKANSAS)
COUNTY OF BENTON)

Sworn to and subscribed before me this 9th day of March, 2011, by
Lori Cottrell.

My commission expires 7/28/2020.


Notary Public

PATT0709
L47497-01
\$245.10

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Hope Bauman
being first duly sworn on oath
deposes and says that he is
a representative of the
Anchorage Daily News, a
daily newspaper. That said
newspaper has been approved
by the Third Judicial Court,
Anchorage, Alaska, and it now
and has been published in the
English language continually as a
daily newspaper in Anchorage,
Alaska, and it is now and during
all said time was printed in an
office maintained at the aforesaid
place of publication of said
newspaper. That the annexed is
a copy of an advertisement as it
was published in regular issues
(and not in supplemental form)
of said newspaper on

February 23, 2011

and that such newspaper was
regularly distributed to its
subscribers during all of said
period. That the full amount of
the fee charged for the foregoing
publication is not in excess of
the rate charged private individuals.

Signed

Hope E. Bauman

Subscribed and sworn to before

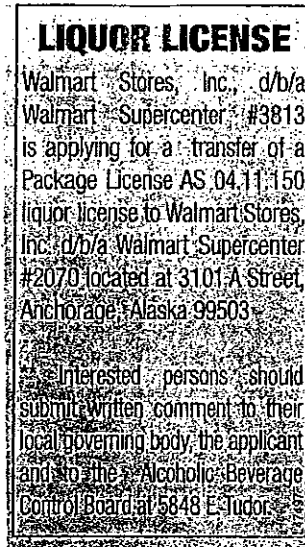
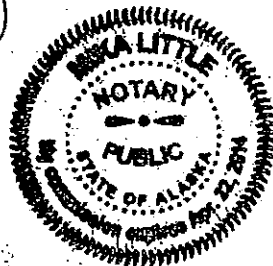
me this 8 day of March

20 11

M. Little

Notary Public in and for
The State of Alaska,
Third Division
Anchorage, Alaska
MY COMMISSION EXPIRES

4-22-14



STATE OF ALASKA
ALCOHOLIC BEVERAGE CONTROL BOARD

AFFIDAVIT IN CONNECTION WITH POSTING LIQUOR LICENSE APPLICATION
Section 04.11.260, 04.11.310, & AAC 104.125 Alaska Statutes, Title 4

POSTING AFFIDAVIT

I, the undersigned, being first duly sworn on oath, depose and say that:

1. a. Posting of application for a new Transfer liquor license
for Wal-Mart Supercenter #2070
located at 3101 A Street, Anchorage, AK 99503
(address and/or location)

OR

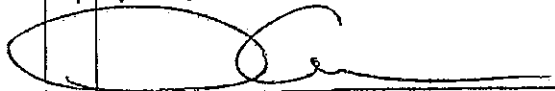
- b. Posting of application for transfer of a Package Store liquor license
currently issued to No Premise whose business name (d/b/a)
is _____ located at _____
(address and/or location)

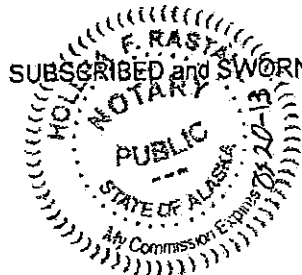
2. Has been completed by me for the following 10 FULL day period

03/03/2011 to 03/13/2011

- *** Prior to the filing of said application, a true copy of the application was posted at the following described locations: (name and address of location)

- a. Location of premises to be licensed 3101 A Street, Anchorage, AK 99503
b. Other conspicuous location in the area Post Office, 3720 Barrow Street, Anchorage, AK 99503
3. I believe that with the approval of this application population would not at one time exceed in the aggregate of one license of the type requested for population as provided by law. AS 04.11.400 (check one)
a. ☐ a radius of five (5) miles of the proposed location.
b. ☒ an incorporated city, organized borough or unified municipality.
c. ☐ does not apply (application filed under AS 04.11.400(d)(a)(g) or transfer of license holder or location within an incorporated city or unified municipality or organized borough).
d. ☐ established village.


(signature)



SUBSCRIBED and SWORN to me this 23 day of March, 20 11

Helen F Rastall
Notary Public in and for Alaska
My commission expires: 01-20-13

AFFIDAVIT - RETURN OF SERVICE

FILE STAMP

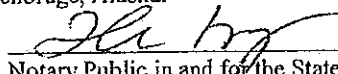
I posted the TRANSFER OF LIQUOR LICENSE at the main entrance of the Wal-Mart Superstore at 3101 A Street,
Anchorage, Alaska 99510 ten (10) days from March 3, 2011 through March 13, 2011.

RECEIVED
HD
MAR 16 2011

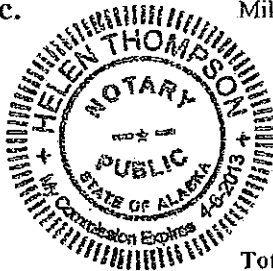

DOUGLAS CALLISON
Civilian Process Server

SUBSCRIBED AND SWORN to before me on this 14th day of March, 2011 in Anchorage, Alaska.

Client: PATTON BOGGS LLP
Client: MICHELLE
File Number: 012384.0110


Notary Public in and for the State of Alaska
My Commission Expires: 4/6/2013

North Country Process, Inc.
P.O. Box 101126
Anchorage, Alaska 99510
Office: (907) 274-2023
Fax Line: (907) 274-2823
NCPI@alaska.net



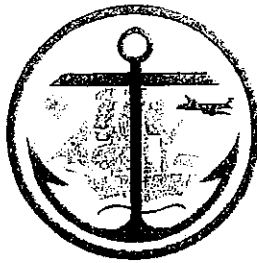
Service Fee [Rule 11(a)(1)(ii)]:	\$40.00
Mileage Fee [Rule 11(a)(7)]:	\$20.00

Total Recoverable Fees per Admin Rule 11:	\$60.00
---	---------

Return 100054

Total Service Fees:	\$60.00
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Posting Affidavit and Historical Information



RECEIVED

12-11-08

PLANNING DIVISION

AFFIDAVIT OF POSTING

Case Number: 2011-062

I, Lynne Manna, hereby certify that I have posted a **Notice of Public Hearing** as prescribed by Anchorage Municipal Code 21.15.005 on the property that I have petitioned for Condition Use. The notice was posted on April 29, 2011 which is at least 21 days prior to the public hearing on this petition. I acknowledge this Notice(s) must be posted in plain sight and displayed until all public hearings have been completed.

Affirmed and signed this 29 day of April, 2011.

Lynne Manna
Signature

LEGAL DESCRIPTION

Tract or Lot D11-C
Block —
Subdivision Catalis Subdivision

