

G 3.1120

PRE-ANNEXATION AGREEMENT

THIS AGREEMENT is entered into by and between the City of Port Angeles, Washington (City) and Wal-Mart Stores, Inc., a Delaware corporation (Developer).

WHEREAS, the Developer owns or is in the process of acquiring ownership of real property which is outside the present city limits of Port Angeles but is within the Port Angeles Urban Growth Area (PAUGA) as designated by Clallam County pursuant to the Washington State Growth Management Act, Ch. 36.70A RCW (GMA); and

WHEREAS, the Developer is in the process of developing said property as a retail shopping area currently referred to as the Ridgeview Shopping Center proposal (the "Project"), as described in Clallam County Application No. BPT 95-C067; and

WHEREAS, the Developer is willing to enter into the following Pre-Annexation Agreement, provided that no annexation will occur until at least eighteen months after the project is constructed; and

WHEREAS, Clallam County zoning of the subject property and the City of Port Angeles Comprehensive Plan presently allow for commercial retail use of said property such as the Project, and the Project is consistent with said Comprehensive Plan;

NOW, THEREFORE, in consideration of the above-representations and the covenants and conditions set forth herein, the City and the Developer agree as follows:

1. The Developer, by and through the undersigned duly authorized representative(s), warrants that it is the legal and

equitable owner of, or is in the process of acquiring all legal and equitable ownership in, the real property as legally described in the attached Exhibit "A" and as depicted in the survey set forth in the attached Exhibit "B", which are incorporated herein by this reference (the "Property").

2. The City agrees that upon annexation into the City, the Property shall be zoned consistent with the present County zoning of such property and the City's comprehensive plan, which allow for commercial retail use of said property such as the Project, and which will permit expansion of the Project by approximately ~~24,000~~ ^{35,000} square feet of floor area.

3. The Developer agrees that, effective no sooner than eighteen (18) months following the execution of this Agreement, this Pre-Annexation Agreement shall be considered a valid petition for annexation, signed by the Developer, its heirs or assigns, for the Property or any area of which it constitutes a portion, subject to any debt requirements imposed by the City upon such petition and such zoning provisions as are consistent with this Agreement.

4. The Developer agrees that in the event of a sale or transfer of the Property, it will, as a condition of such sale or transfer, require the purchaser, or other new owner, to sign a duplicate of this Pre-Annexation Agreement and that this Agreement, and the promises made herein, do constitute a covenant running with

the Property and shall be binding on the undersigned developer and its successors and interest to such property and that this Agreement shall be filed for record in the office of the Clallam County Auditor.

5. The City agrees that it will cooperate with, and not take action to hinder or delay, the development of the Project, and specifically: (a) concurs with the County's issuance of a Mitigated Determination of Nonsignificance for the Project under SEPA; and (b) will not deny approval for the PUD to supply water to the Project.

6. If any improvement districts including the Property following annexation of the Property, Developer shall not be required to pay assessments thereunder in excess of its fair and equitable share for such improvements. The City hereby waives the requirement for payment by Wal-Mart of sanitary sewer connection charges for the Project that may arise within eight (8) years of the date hereof.

DATED this 31st day of January, 1995.

CITY OF PORT ANGELES

By: Joan K. Sargent
Joan K. Sargent, Mayor

By: Becky D. Upton
Becky Upton, City Clerk

WAL-MART STORES, INC.

By: Robert M. Braden
Its: _____

STATE OF Arkansas)
)
COUNTY OF Washington) ss.

I certify that I know or have satisfactory evidence that Robert M. Beaudin, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Assistant Vice President of Walmart Stores, Inc., to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned.

Given under my hand and official seal this 31st day of January, 1995.

Stacy
Notary Public in and for the State
of Arkansas, residing at
Washington County
My commission expires: 10-1-2004