

AMENDMENT TO EASEMENTS, COVENANTS AND RESTRICTIONS AFFECTING LAND ("ECR")

3864

RECORDING FEE \$ 25.00  
RMA FEE

COUNCIL BLUFFS

THIS AMENDMENT TO EASEMENTS, COVENANTS AND RESTRICTIONS AFFECTING LAND ("ECR") ("Amendment") is made and entered into as of this 28<sup>th</sup> day of December, 1992, between Wal-Mart Stores, Inc., a Delaware corporation, of 702 S.W. Eighth Street, Bentonville, Arkansas 72716 ("Wal-Mart"), Lake Manawa Centre Limited Partnership, a Nebraska limited partnership, of 11506 Nicholas Street, Suite 200, Omaha, Nebraska 68154 ("Developer");

WHEREAS, Wal-Mart and Developer on the 12th day of August, 1992, entered into a certain Easements with Covenants and Restrictions Affecting Land ("ECR") covering certain property located in the city of Council Bluffs, Pottawattamie County, Iowa, which is more particularly described on Exhibit "1", attached hereto and made a part hereof, (which shall hereinafter be collectively referred to as the "Property");

WHEREAS, said ECR was recorded on the 4<sup>th</sup> day of December, 1992, as Instrument No. 93 16493, in the Recorder's Office of Pottawattamie County, Iowa;

WHEREAS, the parties desire to amend the ECR upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of Ten and no/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Paragraph 1 of the ECR is hereby amended to provide that the maximum building size on Lot 9 is hereby increased to six thousand (6,000) square feet, the maximum building size on Lot 8 is hereby reduced to four thousand (4,000) square feet and that the maximum building size on Lot 5 is hereby increased to fourteen thousand four hundred fifty (14,450) square feet.

2. Developer shall have the right but not the obligation to create additional legal lots out of Lots 16 and 17 (as those were depicted on Exhibit "2" attached to the ECR) and that Developer shall have the right to construct one or more buildings on such legal lots subject only to local governmental approval, the height restriction set forth in Paragraph 4.a. and the parking ratios set forth in the ECR which are applicable to parcels other than Outparcel(s).

3. With respect to proposed Lots 13B, 14A and 14B, as depicted on Exhibit "3", attached hereto, Paragraph 4.a. of the ECR shall be amended to provide that a three-story building(s) may be constructed on said parcels provided no building(s) constructed

OFFICE OF AREA RECORDERS CLERK  
Filed for record this 28<sup>th</sup> day of December, 1992  
16493  
John Scirtino  
94-23521

94-23521

thereon shall exceed forty (40) feet in height above finished grade.

4. Developer shall have the right to either construct one or more buildings on any legal lot or to subdivide any parcel into two or more legal lots and construct one or more buildings thereon, provided, however, in no event shall the aggregate square footage of all buildings built on any such subdivided parcels exceed the limit for said Lot established by the BCR as amended by this Amendment.

5. Except as otherwise provided for herein, the terms and conditions of the BCR shall not be amended or modified.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first written above.

WAL-MART:

WAL-MART STORES, INC., a corporation,

BY:

*[Signature]*  
Assistant Vice President

DEVELOPER:

LAKE MANAWA LIMITED PARTNERSHIP, a Nebraska limited partnership,

BY:

Lake Manawa Centre, Inc.,

BY:

*[Signature]*  
One Partner

ATTEST:

Secretary

31

*[Signature]*  
Chelli L. Stevens  
Secretary

ATTEST:

Secretary

*[Signature]*  
[Signature]  
Secretary

SEARCHED

STATE OF ARKANSAS }  
COUNTY OF BENTON } ss.

On this 21st day of November, 1998, before me, the undersigned Notary Public in and for said County and State, personally appeared David W. Heltzer, to me personally known, who being by me duly sworn, did say that he is the President of said Wal-Mart Stores, Inc., executing the within and foregoing instrument and acknowledged that the execution of said instrument was his voluntary act and deed and the voluntary act and deed of said corporation.

(S)

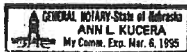
William O. Mattson  
Notary Public



STATE OF NEBRASKA }  
COUNTY OF DOUGLAS } ss.

On this 5th day of January, 1999, before me, the undersigned Notary Public in and for said County and State, personally appeared Robert L. Williams, to me personally known, who being by me duly sworn, did say that he is the Vice President of said Lake Manawa Limited Partnership, executing the within and foregoing instrument and acknowledged that the execution of said instrument was his voluntary act and deed and the voluntary act and deed of said corporation.

(S)



Ann L. Kucera  
Notary Public

DECLARATION FOR 12/1998



**CON...**

**EXHIBIT 1**

**TO**

**AMENDMENT TO EASEMENTS, COVENANTS AND  
RESTRICTIONS AFFECTING LAND ("ECR")**

**Wal-Mart Stores, Inc., a Delaware corporation, as owner of the  
following described real estate:**

**Lot Two (2), Three (3), and Three A (3A) of  
Lake Manawa Centre Subdivision, a subdivision  
located in the City of Council Bluffs,  
Pottawattamie County, Iowa.**

**Lake Manawa Centre Limited Partnership, a Nebraska limited  
partnership, as owner of the following described real estate:**

**Lots 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16  
and 17 of Lake Manawa Centre subdivision, a  
subdivision located in the City of Council  
Bluffs, Pottawattamie County, Iowa.**

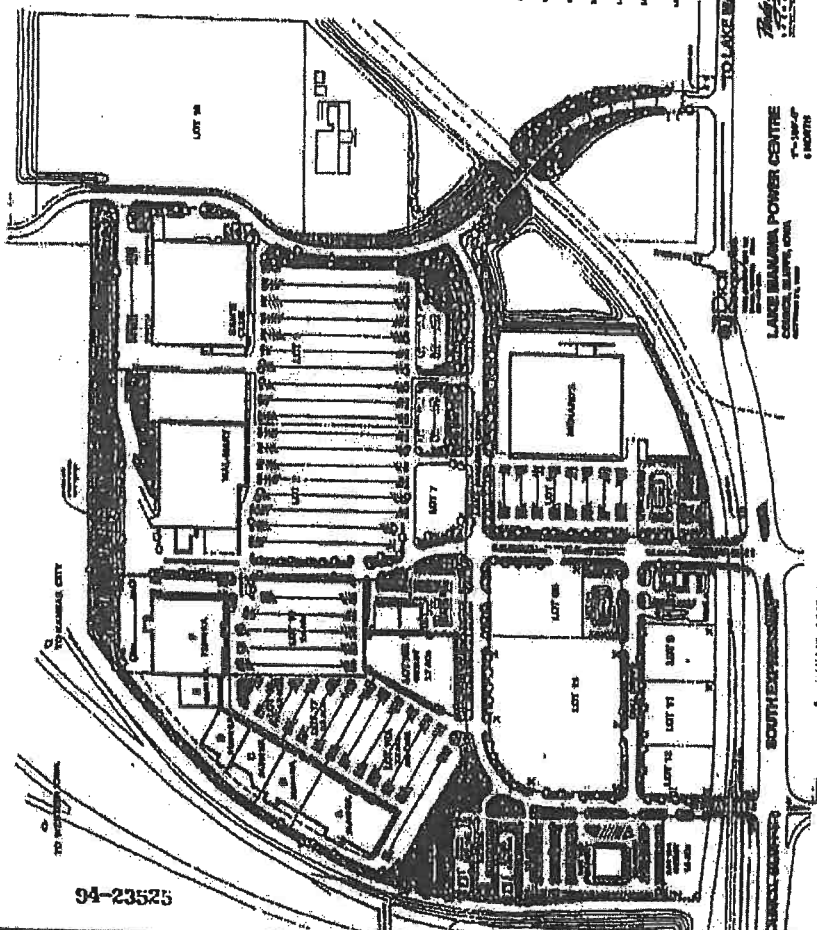
**94-23521**

EXHIBIT 2

TO

AMENDMENT TO BASEMENTS, COVENANTS AND RESTRICTIONS AFFECTING LAND ("BCR")

LOT NO.	AREA (SQ. FT.)	AREA (SQ. M.)	PERCENTAGE OF TOTAL AREA	REMARKS
LOT 1	10,000	929.03	1.12%	
LOT 2	10,000	929.03	1.12%	
LOT 3	10,000	929.03	1.12%	
LOT 4	10,000	929.03	1.12%	
LOT 5	10,000	929.03	1.12%	
LOT 6	10,000	929.03	1.12%	
LOT 7	10,000	929.03	1.12%	
LOT 8	10,000	929.03	1.12%	
LOT 9	10,000	929.03	1.12%	
LOT 10	10,000	929.03	1.12%	
LOT 11	10,000	929.03	1.12%	
LOT 12	10,000	929.03	1.12%	
LOT 13	10,000	929.03	1.12%	
LOT 14	10,000	929.03	1.12%	
LOT 15	10,000	929.03	1.12%	
LOT 16	10,000	929.03	1.12%	
LOT 17	10,000	929.03	1.12%	
LOT 18	10,000	929.03	1.12%	
LOT 19	10,000	929.03	1.12%	
LOT 20	10,000	929.03	1.12%	
LOT 21	10,000	929.03	1.12%	
LOT 22	10,000	929.03	1.12%	
LOT 23	10,000	929.03	1.12%	
LOT 24	10,000	929.03	1.12%	
LOT 25	10,000	929.03	1.12%	
LOT 26	10,000	929.03	1.12%	
LOT 27	10,000	929.03	1.12%	
LOT 28	10,000	929.03	1.12%	
LOT 29	10,000	929.03	1.12%	
LOT 30	10,000	929.03	1.12%	
LOT 31	10,000	929.03	1.12%	
LOT 32	10,000	929.03	1.12%	
LOT 33	10,000	929.03	1.12%	
LOT 34	10,000	929.03	1.12%	
LOT 35	10,000	929.03	1.12%	
LOT 36	10,000	929.03	1.12%	
LOT 37	10,000	929.03	1.12%	
LOT 38	10,000	929.03	1.12%	
LOT 39	10,000	929.03	1.12%	
LOT 40	10,000	929.03	1.12%	
LOT 41	10,000	929.03	1.12%	
LOT 42	10,000	929.03	1.12%	
LOT 43	10,000	929.03	1.12%	
LOT 44	10,000	929.03	1.12%	
LOT 45	10,000	929.03	1.12%	
LOT 46	10,000	929.03	1.12%	
LOT 47	10,000	929.03	1.12%	
LOT 48	10,000	929.03	1.12%	
LOT 49	10,000	929.03	1.12%	
LOT 50	10,000	929.03	1.12%	
LOT 51	10,000	929.03	1.12%	
LOT 52	10,000	929.03	1.12%	
LOT 53	10,000	929.03	1.12%	
LOT 54	10,000	929.03	1.12%	
LOT 55	10,000	929.03	1.12%	
LOT 56	10,000	929.03	1.12%	
LOT 57	10,000	929.03	1.12%	
LOT 58	10,000	929.03	1.12%	
LOT 59	10,000	929.03	1.12%	
LOT 60	10,000	929.03	1.12%	
LOT 61	10,000	929.03	1.12%	
LOT 62	10,000	929.03	1.12%	
LOT 63	10,000	929.03	1.12%	
LOT 64	10,000	929.03	1.12%	
LOT 65	10,000	929.03	1.12%	
LOT 66	10,000	929.03	1.12%	
LOT 67	10,000	929.03	1.12%	
LOT 68	10,000	929.03	1.12%	
LOT 69	10,000	929.03	1.12%	
LOT 70	10,000	929.03	1.12%	
LOT 71	10,000	929.03	1.12%	
LOT 72	10,000	929.03	1.12%	
LOT 73	10,000	929.03	1.12%	
LOT 74	10,000	929.03	1.12%	
LOT 75	10,000	929.03	1.12%	
LOT 76	10,000	929.03	1.12%	
LOT 77	10,000	929.03	1.12%	
LOT 78	10,000	929.03	1.12%	
LOT 79	10,000	929.03	1.12%	
LOT 80	10,000	929.03	1.12%	
LOT 81	10,000	929.03	1.12%	
LOT 82	10,000	929.03	1.12%	
LOT 83	10,000	929.03	1.12%	
LOT 84	10,000	929.03	1.12%	
LOT 85	10,000	929.03	1.12%	
LOT 86	10,000	929.03	1.12%	
LOT 87	10,000	929.03	1.12%	
LOT 88	10,000	929.03	1.12%	
LOT 89	10,000	929.03	1.12%	
LOT 90	10,000	929.03	1.12%	
LOT 91	10,000	929.03	1.12%	
LOT 92	10,000	929.03	1.12%	
LOT 93	10,000	929.03	1.12%	
LOT 94	10,000	929.03	1.12%	
LOT 95	10,000	929.03	1.12%	
LOT 96	10,000	929.03	1.12%	
LOT 97	10,000	929.03	1.12%	
LOT 98	10,000	929.03	1.12%	
LOT 99	10,000	929.03	1.12%	
LOT 100	10,000	929.03	1.12%	



94-23525