



**ANALYSIS FOR MODIFICATIONS
TO LOADING BERTHS FOR
CLASS II SPECIAL PERMIT**

File No. 12-0054

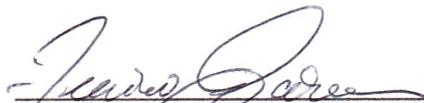
APPLICANT	Wal-Mart Stores East, LP, a Delaware L.P. c/o Alfredo L. Gonzalez Genovese Joblove & Battista P.A. 1000 Southeast Second Street, 44 th Floor
LOCATION	3055 N. Miami Ave., Miami, Fl.
NET OFFICE:	Wynwood
COMMISSION DISTRICT:	2

FINDINGS AND COMMENTS:

1. On October 15th, 2014 the Miami-Dade County Circuit Court, Appellate Division ruled as follows regarding this application:
*"Since the Project provides for five (5) berths and the Code requires three (3) berths total, this Court finds that the Commission's Resolution finding that the Project complied with the requirements under the Code is a departure from the essential requirements of the law.
For the above-stated reason, we hereby quash the Commission's decision as set forth in Resolution R-13-0471 (File No.13-0103ii), and remand this cause for proceedings consistent herein."*
The above is the sole grounds on which the Class II Special Permit was found defective and all other claims by the petitioners were rejected by the court.

2. On November 13th, 2014, at the request of the City of Miami Planning and Zoning Department, Mr. Emanuele on behalf of Wal-Mart Stores East, LP, provided revised plans reflecting a total of three (3) Loading Berths.
3. In these plans, the applicant has voluntarily proffered to modify the number of Loading Berths along N.E. 31st Street from four (4) to three (3) 12'x55'x15'(H) Loading Berths.
4. The applicant's proposed loading area at deck level 2 has been eliminated and it will only be designated as a staging area and not for loading.
5. The proffered modification to the project reflects a reduction to the total number of loading bays in accordance with the Opinion issued by the Miami-Dade County Circuit Court, Appellate Division on October 15, 2014 in Case No. 14-004 AP.
6. The plans and supporting information, as presented, confirm that the elimination of (1) 12'x55'x15' (H) Loading Berth and the proposed loading area at deck level 2 have no negative repercussion on the proper and sound operation of the proposed commercial building and is in compliance with all applicable regulatory parameters including loading, parking, F.A.R., liners, setbacks, turning radii, etc.
7. These plans dated November 13th, 2014 are found to be in compliance with Section 1305 of Zoning Ordinance 11,000, as applicable, and the Miami 21 Code, Appendix C: Midtown Overlay District 6.27.2 Midtown Miami West and the Circuit Court's mandate.

Based on the above findings, the considered advice of officers and agencies consulted on this matter, the Opinion of the 11th Judicial Circuit Court in Case No. 14-004 AP, and pursuant to Section 1306 of Zoning Ordinance 11000, as applicable, and the Miami 21 Code Appendix C: Midtown Overlay District 6.27.2 Midtown Miami West, the subject revision is hereby approved subject to plans and supplementary materials submitted by the applicant and on file with the Planning and Zoning Department.



Francisco J. Garcia, Director
Planning and Zoning Department

15 November, 2014

Date