

**CITY COUNCIL RESOLUTION NO. 2002-40
CONDITIONAL USE PERMIT 2002-067 - APPROVED
STAMKO DEVELOPMENT CO.
ADOPTED: MARCH 19, 2002**

GENERAL

1. The approved Conditional Use Permit shall be used within five years of the effective date of approval, otherwise, it shall become null and void and of no effect whatsoever.

“Used” means the issuance of a building permit. A time extension may be requested as permitted in Municipal Code Section 9.200.080D.

2. The use of this site shall be in conformance with the approved exhibits contained in Conditional Use Permit 2002-067, Site Development Permit 2002-728, and Specific Plan 97-029, unless otherwise amended by the following conditions.
3. The applicant agrees to defend, indemnify, and hold harmless the City of La Quinta (the “City”), its agents, officers and employees from any claim, action or proceeding to attack, set aside, void, or annul the approval of this development application or any application thereunder. The City shall have sole discretion in selecting its defense counsel.

The City shall promptly notify the applicant of any claim, action or proceeding and shall cooperate fully in the defense.

4. The Applicant has indicated its belief that the Retail B Building will be occupied by Walmart, which would relocate to Retail B from its existing building in La Quinta. Should this relocation occur, in order to ensure the re-occupancy of the existing Walmart building and to avoid a situation in which vacant structures would remain along the Highway 111 business corridor, the following conditions shall apply:
 - A. As a condition to relocating to the Retail B Building, Walmart shall keep the landscape, hardscape, and building exterior at the existing Walmart site well maintained. The physical condition of the structure, and hardscape shall be kept, at a minimum, at the level of condition that exists as of the date the Project is approved. The physical condition of the landscaping shall be maintained to the reasonable satisfaction of the Community Development Director. The determination of the Community Development Director shall be subject to appeal to the Planning Commission in accordance with the City’s Municipal Code. In addition, nothing shall be done to the existing structure that would give the appearance that the building has been vacated. As an example, the windows may not be boarded. Any graffiti shall be removed within two

business days. The site shall not be used for storage.

- b. In order to ensure the full reoccupation of the existing Walmart building by one or more commercial retail users within a reasonable time period (not to exceed 24 months) following any relocation of Walmart from the existing building and into the Retail B Building, the following additional condition is imposed upon the Project. Within 90 days of approval of this Project, and prior to issuance of a building permit for Retail B Building, the City and Walmart shall execute either (i) an option agreement satisfactory to the City which provides the City the option of purchasing the approximately 13 acre Walmart property in the City of La Quinta, both the existing Walmart building and all surrounding parking lot areas owned by Walmart (the "Existing Building"), or (ii) at the City's option, shall execute other agreements satisfactory to the City that ensure that the Existing Building will be fully reoccupied by one or more commercial retail users within a reasonable time period, as defined above. The agreement referenced in (i) or (ii) shall be referred to hereinafter as the "Agreement". If the City and Walmart fail to execute the Agreement within 90 days of Project approval, Stamko Development's entitlement approvals shall remain effective for Retail B Building -- and this condition of approval shall be deemed satisfied by the City -- so long as Retail B Building at The Centre at La Quinta is not to be occupied by Walmart. The City and Walmart may extend this 90 day period, if agreed to in writing, up to 150 days, but in no event will a building permit be issued for a building to be occupied by Walmart if the Agreement has not been executed. Any extensions agreed to beyond 150 days shall require Stamko Development's prior written approval.

This condition of approval applies to Retail B Building only, and will have no application to the issuance of building permits for any other development in Planning Area III of The Centre of La Quinta Specific Plan.

5. The auto/retail gas station shall incorporate vertical elements contained on Building "B". The elevations shall be submitted to the Community Development Director for review and subsequent action.