



## FINAL AGENDA

FORREST C. SOTH CITY COUNCIL CHAMBER  
4755 SW GRIFFITH DRIVE  
BEAVERTON, OR 97005

REGULAR MEETING  
JULY 11, 2006  
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

PUBLIC HEARINGS:

06124            APP 2006-0004: Appeal of Town Square Too - Wal-Mart Approval (DR  
2005-0068) - *Continued from July 10, 2006 Meeting*

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** APP 2006-0004: Appeal of Town Square  
Too – Wal Mart Approval (DR 2005-0068)

**FOR AGENDA OF:** 07-10-06 **BILL NO:** 06124

**Mayor's Approval:** *[Signature]*

**DEPARTMENT OF ORIGIN:** CDD *[Signature]*

**DATE SUBMITTED:** 06-30-06

**CLEARANCES:** City Attorney *[Signature]*

Devel. Services *[Signature]*

**PROCEEDING:** Public Hearing

**EXHIBITS:** **Section 1** – Exhibits regarding the Appeal; 06-09-06 – 06-29-06.  
**Section 2** – Exhibits submitted by staff, applicant and public during the period of BDR hearings; 05-02-06 – 06-01-06.  
**Section 3** – Exhibits submitted by staff and applicant during review period and reviewed as part of BDR staff report; 6-30-05 – 06-01-06.  
**Section 4** – Public testimony submitted 05-16-05– 05-01-06.  
See Table of Contents for complete listing.

**BUDGET IMPACT**

EXPENDITURE REQUIRED\$0	AMOUNT BUDGETED\$0	APPROPRIATION REQUIRED \$0
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**HISTORICAL PERSPECTIVE:**

The Washington County Community Plan zones this site (Transit Oriented – Retail Commercial, TO-RC), but the property has been annexed to the City of Beaverton. Until such time that the City establishes City zoning, the City is required to review development on the site in accordance with both Washington County Development Code standards and City of Beaverton Development Code standards. After annexation and prior to the subject development application being filed with the City, the property owner and the City agreed to submit an Inter-Governmental Agreement (IGA) to Washington County the effect of which would suspend the application of Beaverton Development Code standards on the subject site and would allow the County to review and process the land use application for the development of the subject site subject to all applicable Washington County Development Code standards. The Washington County Board of Commissioners declined to enter into the proposed IGA and therefore declined to process the Wal Mart applications. Because the County declined to review and process the land use applications for the proposed development, the City conducted the review in accordance with Section 10.40.1 of the City's Development Code. This section of Beaverton's Development Code requires that the City use the County's Code standards unless there are comparable City standards to use in the review. Therefore, the Town Square Too – Wal Mart development has been reviewed according to a combination of City and County Code requirements.

The applicant requests Design Review Three (DR 2005-0068) approval of proposed development on the subject site. The scope of the Design Review application is for a development containing an approximately 152,300 square foot retail building, a 4,265 sq.ft. office/retail building, a 9,200 sq.ft. retail building, pedestrian plaza areas, public and private streets, driveways, parking within open lots and a parking garage, street and traffic signal improvements. The site is approximately 9.3 acres in size. The Loading Determination (LO 2005-0003) has been approved by the BDR and was not appealed. A Tree Plan Two application, (TP 2005-0017), was determined to be unnecessary and staff have recommended that the applicant withdraw the TP application. At the Board of Design Review hearing, the applicant stated for the record that they would be withdrawing the TP application.

**INFORMATION FOR CONSIDERATION:**

The appellant, Save Cedar Mill, has submitted an appeal (APP 2006-0004) objecting to the BDR's approval of the Design Review application. A staff report is prepared in response to the appeal and to the applicant's appeal response, and is attached to this Agenda Bill under Section 1 for consideration.

**RECOMMENDED ACTION:**

Staff recommend that the City Council uphold the Board of Design Review's approval of DR 2005-0068, as summarized in the BDR Land Use Order #1871 dated June 9, 2006, by denying the appeal, APP 2006-0004. Staff further recommend that the City Council direct staff to prepare findings based on the Council's decision and provide the Notice of Decision to all parties on record.

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**Appeal No. APP 2006-0004**

Appeal of Board of Design Review's Approval of  
 DR2005-0068 (Town Square Too – Wal Mart)

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Exhibit 2.28	Memo by Loretta Skurdahl, Sr. Assistant Washington County Counsel and Phil Healy, Senior Planner, subject: 'County Traffic Analysis of Proposed Beaverton Wal-Mart' with regard to matter of Wal Mart traffic analysis and consideration of vehicle trips generated by St. Vincent Hospital, dated May 11, 2006.	536-539
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**Page nos. 2101 through 2799 were deliberately not used.**



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Exhibit 2.8	<b>City letter of Facilities Review Committee’s determination that of Town Square Too – Wal Mart applications <u>incomplete</u>, dated July 27, 2005. Includes attachment by Randy Wooley (City), and attachments by ODOT and Washington County</b>	3156-3177

Exhibit 2.9	<b>Letter by E. Michael Connors, Davis Wright Tremaine LLP, to the City, dated December 23, 2005.</b> Letter references response to City's incompleteness letter, includes request to deem application complete pursuant to ORS 227.178(2)(a, b), and provides first waiver and time extension for City application processing (ORS 227.178(5).	3178-3180
Exhibit 2.10	<b>Public Notice of Board of Design Review hearing and City review of Town Square Too - Wal Mart applications, mailed March 9, 2006.</b> Includes attached notice map and 3 notice lists comprising total of 1500 individuals providing written testimony on or before March 6, 2006.	3181-3227
Exhibit 2.11	<b>Letter by Phil Healy Senior Planner, including memo by Jinde Zhu PE, Traffic Engineer, Washington County, dated March 3, 2006.</b>	3228-3243
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Exhibit 2.16	<b>Site Plan portion (Sheet C-1.0) by PACLAND showing areas of proposed right-of-way dedication, dated March 27, 2006.</b>	3272-3273
Exhibit 2.17	<b>Letter by Lois Ditmars, VP, J. Peterkort &amp; Co., dated March 28, 2006.</b> Re: intent to dedicate right-of-way for Wal Mart roadway improvements.	3274-3275

- Exhibit 2.18 **City Ordinance 4384, ‘Ordinance Prohibiting Vehicle Camping in Parking Lots Associated with Commercial Structures’.** Approved March 7, 2006, dated as received March 29, 2006. 3276-3278
- Exhibit 2.19 **Sign-In Sheet for Facilities Review Meeting dated April 5, 2006.** 3279-3280
- Exhibit 2.20 **Letter by George and Anastasia Choban, with regard to Wal Mart development and access modification, dated April 5, 2006.** Includes attached Notice of Washington County land use approval, Casefile 04-521-E (dated January 13, 2005), approving gas station, retail, office development on Choban property. 3281-3284

**Exhibit 3 Materials Submitted by Applicant**

- Exhibit 3.1 **Development applications and all written materials submitted for Town Square Too – Wal Mart, revised dated April 20, 2006.** Provided under separate attachment. Older versions of documents have been superseded by the applicant’s submittal of the April 20, 2006 materials. Older documents by the applicant remain on file at the City, but are not provided to the Board of Design Review. Copies are available, subject printing charges, upon request. 3285-4142

- Exhibit 3.2 The following documents submitted by the applicant have not been re-submitted to the Board of Design Review as part of the April 20, 2006 materials. Such documents are not printed for review, but are part of the record. Copies are available, subject printing charges, upon request.

**Ex. 3.2.1 Phase 1 Environmental Site Assessment and Business Environmental Risk Evaluation, Proposed Retail Development,** by GeoEngineers, dated February 25, 2004.

**Ex. 3.2.2 Draft Final Report, Geotechnical Engineering Services, Proposed Retail Center Cedar Hills, Oregon,** dated January 10, 2005, by GeoEngineers.

**Ex. 3.2.3 Materials Board – Proposed Wal Mart,** by Perkowitz+Ruth Architects, dated March 4, 2005 (dated as received June 30, 2005). The Materials Board will be presented to the BDR at the public hearing and is available for public inspection. The

Materials Board is the companion document to the Description of Materials & Finishes contained within the applicant's April 20, 2006 submittal.

**Page nos. 4143 through 4999 were deliberately not used as a part of this Agenda Bill**

<b>SECTION 4</b>	<b>WAL MART PUBLIC WRITTEN TESTIMONY</b>	<b>5000 - 8385</b>
Exhibit C	Letters, E-mail and other Correspondences Dated <b>April 25, 2006 through May 1, 2006</b>	5000-5230
Exhibit B	Letters, E-mail and other Correspondences Dated <b>March 7, 2006 through April 24, 2006</b>	5231-6304
	<b>This Page Number Inadvertently Skipped</b>	6305
Exhibit A	Letters, E-mail and other Correspondences Dated <b>June 16, 2005 through March 6, 2006</b>	6306-8385

**Note: For Letters, E-mail, and other Correspondences submitted May 2 through June 1, 2006 see Section 2.**

**For Letters, E-mail, and other Correspondences submitted June 15 through June 29, 2006, see Section 1**

**EXHIBIT 1.1: VICINITY MAP**

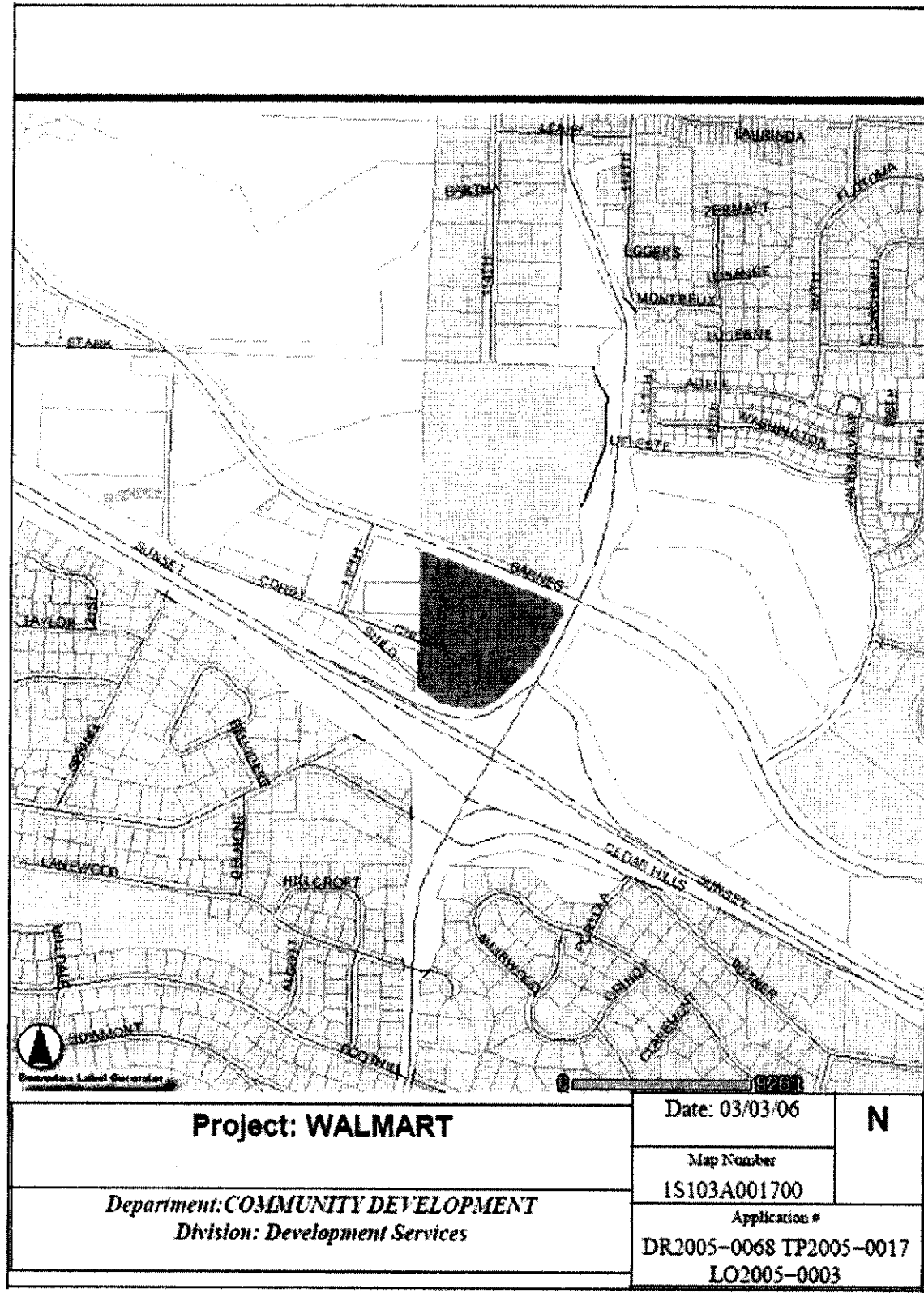


EXHIBIT 1.2 AERIAL PHOTO OF SITE





**MEMORANDUM**  
**City of Beaverton**  
**Community Development Department**

*"make it happen"*

**To:** Mayor and City Council  
**From:** John Osterberg, Senior Planner  
**Date:** June 29, 2006  
**Subject:** *Appeal of Town Square Too – Wal Mart (APP 2006-0004, DR 2005-0068)*  
*Response to Notice of Appeal and Amended Findings*

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Staff provide this memorandum to the Mayor and City Council which contains responses to the matters raised by the appellant, Jeffrey Kleinman legal representative of "Save Cedar Mill", and provides additional findings in support of the Board of Design Review's approval of the application. Objections raised in the appeal are addressed below in approximately the same order.

**I. Introduction.**

No staff comment

**II. Traffic and Transportation Related Issues**

Staff have no written comments to make under the objections raised under Item II of the appeal. The appellants have not raised new issues in the appeal refuting staff's recommendations and findings to the Board of Design Review. Transportation staff will be available at the appeal hearing to answer questions or clarify staff's findings with regard to Traffic and Transportation related matters.

**III. Design Review Issues**

The appellant states six (6) reasons, shown as bullet-points located on Page 8 of the notice of appeal, why the City's findings with regard to design issues are in error. Mr. Kleinman states that the reasons are set out in the memorandum by Tom Armstrong (Winterbrook Planning) dated April 17, 2006 (appellant's exhibit 4). Staff note that this Armstrong memo was written prior to the applicant's revised building and site designs were submitted to the City on May 11, 2006, (Tab 8 of Exhibit 3.12) and then



further revised in the submittal of May 30, 2006 (Exhibit 3.15). Therefore, the objections by Mr. Kleinman & Mr. Armstrong as to insufficient pedestrian oriented design and architectural quality is not based on the final designs, which focused on building architecture, pedestrian orientation and streetscape design, approved by the Board of Design Review.

Staff will address the six (6) reasons cited by the appellant in order, and assign the points raised with numbers.

**Point 1:** *The BDR failed to recognize the broad discretion the City has to deny or condition the project to assure compliance with the property's "transit-oriented development" designations.*

**Staff Response:**

The proposed development is unique in that the proposal is subject to both Washington County Development Code (WCDC) standards and Beaverton Development Code (BDC) standards. The subject site was annexed to the City on February 11, 2005. For a variety of reasons, the subject site was not rezoned to a City zoning designation immediately after annexation. Those reasons were as follows:

1. The annexation was challenged in Court;
2. The potential for creating a Ballot Measure 37 claim; and
3. The City and property owner offered Washington County an Intergovernmental Agreement to allow Washington County to review and process a land use application based entirely upon the WCDC provisions. The County rejected the offer.

Even if the City elected to proceed with assigning City zoning to the subject site immediately after annexation, the applicant could have easily filed their land use applications before the City zoning could become effective. The situation for review of those applications would be the same as is the current condition. The City had every reason to assume the applicant would file their applications since the applicant had stated to the City during the annexation process that they were ready to file their land use applications immediately after the annexation took effect.

Therefore, for this application, the City is faced with a site which continues to have a Washington County zoning designation, Transit Oriented - Retail Commercial, and is subject to the City's land use review procedures and development standards. This condition is legislated by BDC Section 10.40.1 which reads:

*“Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.”*

Section 10.40.1 means that the City’s zoning standards in Chapter 20 (Land Uses) do not apply while the subject site retains its Washington County zoning designation. The Section also means that any development proposal would be subject to the City’s applications, procedures, and development standards found in Chapter 60 (Special Requirements). The key phrase in Section 10.40.1 is “. . . except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.” The Community Development Director has interpreted this phrase to mean that if the BDC has a code provision for a development standard, that City standard prevails over a WCDC standard. For example, if both the BDC and WCDC have standards regarding the amount of glazing which should face a street, the City’s standard would apply. The City’s zoning provisions would apply even if the County’s standards were more restrictive. The Community Development Director has further interpreted that if the WCDC contained a standard on which the BDC was silent, the WCDC standard would be applicable. For example, if the WCDC contained a development standard regarding weather protection for pedestrians such as awnings or canopies, and the BDC had no comparable standard, the County standard would apply.

To assist the Board of Design Review in understanding which Code provisions were applicable to the subject application, the staff prepared a “crosswalk”, in the form of an analytical chart (Exhibit 3.1; beginning on page 3561) identifying WCDC provisions and BDC provisions. The provisions of the crosswalk were later amended upon additional analysis by staff during project, with comments found in BDR staff report Attachment 2 (Exhibit 2.2 beginning on page 2841). The appellant alleges that staff selected “the weakest criteria” by which the Board would review the application and continues by stating that the Board of Design Review mistakenly relied only on the Code provisions identified by staff. Further, the appellant alleges that the Board “had far more authority and discretion than it recognized or utilized” in evaluating the applicable code standards and rendering a decision on the application.

Much is being made of the argument that the combination of code provisions is confusing and leads to a lessening of regulation, especially with respect to design issues. At the Board's proceedings, the appellant identified other code provisions which they feel were applicable to the subject application. The appellant has identified these provisions in their appeal and have also attached the correspondence to the Board identifying those other provisions.

Staff is in full agreement that the process by which this application is being reviewed is unique. However, staff do not agree that other applicable provisions have been omitted. Staff's position continues to be that the crosswalk contained in the staff report to the Board is complete and identifies all the applicable code provisions including applicable design provisions. Specific to the issue of design provisions, the claim that more stringent County requirements have been omitted is inaccurate and misleading.

Staff have already responded to the omission claims specified in the correspondence submitted to the Board. Staff continues to rely on the staff responses to the Board contained in the record since the appellant has not raised new issues or claims relating to Code provisions. With respect to the appellant's claim being misleading, it is necessary for the Council to understand how the County would have reviewed this development proposal.

The County Code states that the proposal would be a Type 2 application if the proposal follows all of the applicable design standards contained in WCDC Section 431 (Transit Oriented Design Principles, Standards, and Guidelines). If the applicable design standards are not met, then the proposal would be reviewed as a Type 3 application and would be subject to the County's design principles or design standards. The County's procedure for design review is essentially the same as City's. There is no requirement to comply with the design standards in a Type 3 application. Therefore, to assert that there are applicable County design standards not being met by the application is misleading. Furthermore, staff find that the City's design guidelines are the same or more descriptive, with greater direction regarding design aspirations, than the County's design principles for new development.

To be clear about the City's Design Review process, it is important for the Council to understand the difference between the City's design standards and design guidelines. The City's design standards are not development requirements like building height or use restrictions. Design standards are the City's "safe harbor" approach to reviewing design concerns of proposed development of modest scale. An applicant can choose to meet the City's design standards and proceed with a Type 2 application. If an applicant is unable or unwilling to meet the applicable design standards, then the

proposal is subject to a Type 3 application and is subject to the applicable design guidelines. The City's design guidelines are more broadly written than the design standards since the design standards are quantifiable. However, when reviewing a proposal based on the guidelines, the design standards are used to illustrate the desire of the City.

The appellant further states in the appeal, under Point 1, that "the BDR failed to recognize the broad discretion the City has to deny or condition the project to assure compliance with the property's "transit-oriented development" designations." Staff do not agree with this assertion. The Board deliberated at length about the design issues relating to the site's location and zoning designation. The Board recognized that the subject zoning allows by right retail uses in excess of 5,000 square feet. Any argument that the proposed use is not transit oriented is misdirected since the legislative decision to establish uses in the To-RC zone has already taken place years ago. The Board considered the appellant's arguments and those of other persons objecting to the proposal that the proposed design was not transit oriented. The Board concluded that with conditions of approval, the proposal met the minimum requirements of the WCDC and BDC. The appellant has not provided any new evidence in the appeal which demonstrates how the proposal does not comply with the zoning of the site or the applicable code provisions.

**Point 2:** *The building design is not consistent with the Community Plan and the intent, purpose, principles and standards of the Washington County Transit Oriented - Retail Commercial (TO-RC) zoning to encourage development that is supportive of transit and generates a relatively high proportion of trips by transit.*

**Staff Response:**

Intent & Purpose of County Transit Oriented Districts

Mr. Armstrong cites the Intent and Purpose statement of Washington County Code Section 375-1 which states that the intent of the County transit oriented districts is to encourage development that is transit supportive and to limit development to that which, among other elements, generates a relatively high percentage of trips serviceable by transit, and is designed to encourage people to walk, ride a bicycle or use transit for a significant percentage of their trips.

Staff agree that Section 375-1 states that the TO-RC's zone's (in this case) purpose is to encourage transit supportive and pedestrian oriented development. Staff's findings, already contained in the record in Exhibit 2.31, are that:

- (1) The proposed Town Square Too – Wal Mart development is listed by the County Code in Table A of Section 375 as a permitted Type II commercial – retail use as the proposal is retail businesses greater, without limitation, than 5,000 square feet in size. Staff conclude that the County Code prohibits uses in the TO-RC zone that are not transit and pedestrian oriented, and permits those uses outright that are considered transit and pedestrian oriented. Listed uses permitted outright, carry out the Code’s purposes; they are acceptable and no further demonstration of purpose is necessary. Therefore, there is no need for the City to consider the pedestrian or transit trip generation of the use, or the amount of the use that is devoted to retail.
- (2) Mr. Armstrong is mistaken in his reading of the County Code that the zoning and design related requirements under Sections 375 and 431 prohibit, or should be construed to prohibit, a Wal-Mart store or any other large retail use, because the applicant has not submitted evidence regarding pedestrian or transit trip usage by which to gauge suitability. Such evidence is not required of the applicant because the County has already determined that large retail uses can be transit and pedestrian oriented, depending on the design and amenities provided by the development.
- (3) The County’s Intent and Purpose statement is not a criterion for approval. Section 375-4.4 of the County Code states that Type II permitted uses, if they do not meet design standards of Section 431 shall demonstrate compliance with the applicable design principles or standards of County Code Section 431, in addition the limitations listed under Section 375-7. Staff conclude that the Intent and Purpose statement of Sec. 375-1 is not to be used as a requirement or criteria for approval, because the County Code lists other requirements, such as standards and principles (as applicable), under Section 431.

**Point 3:** *The building design does not enhance the visual character of the area, nor does it create a sense of place for this important gateway location as required by the City of Beaverton’s Design Principles.*

**Staff Response:**

Mr. Armstrong raises the matter of the “Cedar Mill Gateway” on page 2, and City of Beaverton Design Principle #1 regarding ‘gateways’ and ‘sense of place’, on pages 3 and 4 of the Winterbrook memo of April 17, 2006 (appellant’s exhibit 4).

Gateway:

Mr. Armstrong states that the site is a gateway to the Cedar Mill/Cedar Hills community and that the building design does not enhance the visual character of this community, but instead offers bland corporate architecture. There is no land use designation of “gateway” found on any of the County maps of Exhibit 2.5, nor is there any notation of gateway in the Design Review section of the Beaverton Development Code, or the applicable Washington County Development Code. Additionally, the Board of Design Review found the architecture and design to be of sufficient quality and visual interest to meet the applicable design criteria of the City and County.

Mr. Armstrong states that planning objectives for the area envision a transit oriented corridor along Barnes Road between the Cedar Mill Town Center and the Sunset Transit Center area, and that a big box retail use does not fit with that vision. Staff disagree on both counts. First, while staff agree that both the Cedar Mill Town Center (Exhibit 2.5.14) and the Sunset Transit Center/Peterkort Station Sub Area (Exhibit 2.5.6) are intended by the County Development Code to have the highest level of pedestrian and transit oriented development and design features, the Wal Mart site is not located within either of those two areas mapped by the County.

The fact that the County has zoned the Wal Mart site as TO-RC without the Cedar Mill main street related standards, or the Peterkort Station Area special design standards, shows that the County Code does not require that the Wal Mart site have the same high level of pedestrian/transit development and design as the two areas to the west and east, respectively. There is no element of the County maps that would indicate a single highly-transit oriented development corridor along Barnes Road. Overall, County regulations provide the Wal Mart site and other properties in close proximity, a moderate level of pedestrian and transit oriented requirements, and not the highest level required in other locations.

Sense of Place

Tom Armstrong quotes Beaverton Design Review – Design Principle #1, under 60.05.10 of the Development Code, which states:

*Building Design and Orientation. Design buildings that enhance the visual character of the community and take into account the surrounding neighborhoods, provide permanence, and create a sense of place. In residential, commercial and multiple –use districts, design buildings that contribute to a safe, high quality pedestrian-oriented streetscape.*

Staff respond by noting that the Beaverton Design Principles are not criteria for review. The Code, under Section 40.20.15.3.C.4 states that for Design

Review Three applications, the development proposal is subject to the Design Review Guidelines of Section 60.05.35 through 60.05.50. It is these Design Guidelines, in addition to applicable design related requirements Section 375 and 431 of the Washington County code, that were reviewed by the Board of Design Review, and found within the staff report of April 25, 2006, and as supplemented by later memoranda by staff.

If the Council wish to consider Design Principle #1, staff find that the principle is met by the final designs submitted by the project architect, dated May 30, 2006, (Exhibit 3.15) adopted by the Board of Design Review in their oral decision of June 1, 2006. Design Principles are described by Section 60.05.10 of the Beaverton Code as general guidance statements which are implemented by either Design Standards or Design Guidelines. Therefore, by meeting the building and site design related Design Guidelines of Section 60.05.35 through 60.05.50, any of the Design Principles are met, including Principle #1.

**Point 4:** *The Barnes Road frontage is not pedestrian-friendly and does not comply with the City's design guidelines or the intent, purpose and design principles of the County's Transit Oriented zoning designation.*

**Staff Response:**

Mr. Armstrong cites Beaverton Design Guidelines in the Winterbrook memo of April 17, 2006 (appellant's exhibit 4), as not being met. The Design Guidelines cited, have been addressed in the April 25, 2006 BDR staff report and again in Exhibit 2.31, and were found to be met by the Board, are listed below:

Section 60.05.35.1 Building Design and Orientation

- B. Building elevations should be varied and articulated to provide visual interest to pedestrians. Within larger projects, variations in architectural elements such as: building elevations, roof levels, architectural features, and exterior finishes should be provided.*
  
- E. Excluding manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in industrial districts, buildings should promote and enhance a comfortable pedestrian scale and orientation.*
  
- F. Building elevations visible from and within 200 feet of an adjacent street or major parking area should be articulated with architectural features such as windows, dormers, off-setting walls, alcoves, balconies or bays, or by other design features that reflect the building's structural*

*system. Undifferentiated blank walls facing a street or major parking area should be avoided.*

Section 60.05.35.6. Building Location and Orientation in Multiple Use and Commercial districts.

- A. Buildings should be oriented and located within close proximity to public streets and public street intersections. The overall impression, particularly on Class 1 Major Pedestrian Routes, should be that architecture is the predominant design element over parking areas and landscaping.*
- B. The design of buildings located at the intersection of two streets should consider the use of a corner entrance to the building.*

Section 60.05.35.7 Building Scale along Major Pedestrian Routes.

- A. Architecture helps define the character and quality of a street. Along Major Pedestrian Routes, low height, single story buildings located at the right-of-way edge are discouraged.*
- B. Building heights at the right-of-way edge should help form a sense of street enclosure, but should not create a sheer wall out of scale with pedestrians. Building heights at the street edge should be no higher than sixty (60) feet without the upper portions of the building being set back from the vertical building line of the lower building stories.*

Section 60.05.35.8 Ground Floor Elevations on Commercial and Multiple Use Buildings.

- A. Excluding residential only development, ground floor building elevations should be pedestrian oriented and provide views into retail, office or lobby space, pedestrian entrances or retail display windows.*
- B. Except those used exclusively for residential use, ground floor elevations that are located on a Major Pedestrian Route, sidewalk, or other space where pedestrians are allowed to walk, should provide weather protection for pedestrians on building elevations.*

60.05.40.6 Street frontages in Multiple Use districts.

- A. Surface parking should occur to the side or rear of buildings and should not occur at the corner of two Major Pedestrian Routes.*
- B. Surface parking areas should not be the predominant design element along Major Pedestrian Routes and should be located on the site to safely and conveniently serve the intended users of the development, without precluding future site intensification.*



60.05.40.7 Sidewalks along streets and primary building elevations in Multiple Use and Commercial districts

- A. *Pedestrian connections designed for high levels of pedestrian activity should be provided along all streets.*
  
- B. *Pedestrian connections should be provided along primary building elevations having building and tenant entrances.*

Staff Response to Design Guidelines Cited by Appellant:

Mr. Armstrong further states “*the building design does nothing to create a comfortable pedestrian streetscape to provide a continuous high quality pedestrian experience along Barnes Road from Cedar Mill to the Sunset Transit Center*”. Staff respond by noting, as described under Point #3 above, that there is no specific pedestrian or transit corridor designated on Barnes Road. This is evidenced by the Pedestrian System Designations Map (Exhibit 2.5.13) of the Cedar Hills-Cedar Mill Community Plan contains designations for pedestrian “focus areas” and pedestrian “trails” and “corridors”, but does not designate anything for Barnes Road in the vicinity of the Wal Mart site. With regard to City designations, the City of Beaverton has not designated any street abutting the site as a Major Pedestrian Route because the site is not yet subject to the City Comprehensive Plan or Development Code.

Mr. Armstrong states that the elevated Wal Mart retail space “*sucks all the life of the street*”, the office space is an “*afterthought*”, and that the Barnes Road pedestrian environment suffers due to poor design of the strip commercial building, and describes the potential for retailers who may not use the entrance doors to Barnes Road. Mr. Armstrong further states that the building placement is weak treatment of the corner and provides “*absolutely zero presence on Cedar Hills Blvd.*”. Mr. Armstrong provides several more opinions alleging the failure of the architecture and design of the buildings and site.

Staff responds by noting that the following design matters have been raised in the appeal: pedestrian scale and orientation, the impression that architecture makes upon pedestrians as viewed from the street, the desirability of a sense of enclosure for pedestrians without excessive building mass pedestrian and building spaces being visually open in feeling. Staff find that these matters are important and are the subject of both City and County design principles and guidelines. However, such matters are by nature, highly discretionary and subject to varied opinions by citizens, design professionals, and public

decision-makers. For instance, what one person may feel is a desirably wide building separation from street traffic, another person may feel that a building may be uncomfortably setback too far from a street. Staff considers that many design opinions are valid, and are acceptable under the broad discretion afforded under City Design Guidelines and County Design Principles or Guidelines, so long as the space for pedestrian usage is properly designed, contains appropriate pedestrian amenities, and is functional for its intended purpose.

Regardless of the possible myriad of opinions about the proposal's design, staff respond by citing the findings of the BDR staff report (Exhibit 2.2), the Staff memorandum to the BDR (Exhibit 2.31), the applicant's revised building and site designs submitted to the City on May 11, 2006, (Tab 8 of Exhibit 3.12) and then further revised in the submittal of May 30, 2006 (Exhibit 3.15), and the BDR's Land Use Order (Exhibit 2.33), which contain findings that all of the City Design Guidelines have been met with regard to building architecture and site design with respect to the necessary level of pedestrian orientation.

**Point 5:** *The Cedar Hills Boulevard frontage is dominated by a surface parking lot and has no pedestrian orientation a required by the City design guidelines.*

**Staff Response:**

Mr. Armstrong acknowledges that Cedar Hills Blvd. and Barnes Road are not designated by the City as Major Pedestrian Routes because the City has not yet applied its planning and zoning designations for this area, but states that because of the Comprehensive Plan definition of the term "major pedestrian route", that definition should lead to the conclusion that Barnes Road and Cedar Hills Blvd. should never-the-less be considered Major Pedestrian Routes during the Wal-Mart land use review.

Appendix 2 of the Beaverton Comprehensive Plan's Glossary of Terms lists the following definition of Major Pedestrian Route: *"Any pedestrian way in a public right-of-way or easement leading to a light rail station or transit stop, that is presently used, or likely to be used, by pedestrians to access public transportation service including light rail or transit stations"*.

Staff find that the purpose of the Comprehensive Plan's glossary of terms is to define the meaning of terminology used in the Plan. The glossary does not in itself establish Plan designations. Staff considers the glossary definition not useful by itself to determine the locations of MPR's, because with such a broad definition, most any sidewalk that might be used by pedestrian to access transit meets the definition. At such time in the future when the City

is ready to establish Comprehensive Plan designations to the area, the City will determine which streets in the area, if any, will be appropriate to receive the Major Pedestrian Route (MPR) designation.

The appellant notes that Figure 12D “Trails and Pedestrian System”, of the County’s 2020 Transportation Plan (attached by the appellant and found under Exhibit C.2.152, and reviewed by staff under Exhibit 2.31), shows a large area in the Cedar Mill and Sunset Transit Center areas as a ‘Pedestrian District’, which includes the proposed Wal Mart site. The City’s Transportation System Plan (TSP) Map also identifies a similar area under the term “RTP Pedestrian District”. Therefore, the two Plans are compatible in this regard. However, the City Plan designation is not yet in effect for the site, and will not be until such time as the applies the City’s Comprehensive Plan to the area. Because the Beaverton Comprehensive Plan does not yet apply, the County Plan designation should be used instead.

Staff conclude that although City and County Transportation Plan Maps identify the Wal Mart site and street frontages as “pedestrian district”, neither of these maps nor the definitions of Major Pedestrian Routes found in the Beaverton Plan, specifically designate either the Cedar Hills Blvd or the Barnes Road street frontages as a Major Pedestrian Route. Again, this is evidenced by the Pedestrian System Designations Map (Exhibit 2.5.13) of the Cedar Hills-Cedar Mill Community Plan which does not designate a pedestrian route, trail or similar, in the vicinity of the Wal Mart site.

With regard to the amount of pedestrian orientation to Cedar Hills Blvd., which the appellant claims to be inadequate, staff considers the applicant’s site building location and orientation to be an appropriate design response because it is likely that at this location, Cedar Hills Blvd. will be less utilized by pedestrians in comparison to Barnes Road. Staff reaches this conclusion because of Cedar Hills Blvd’s freeway orientation along the eastern and southern portion of street frontage where the westbound freeway on-ramp begins. Cedar Hills Blvd. between Barnes Road and Butner Road, (located south of Hwy. 26) is an ODOT facility, not a County Road, and is designated by ODOT (see Exhibit 2.23) as part of the Hwy 26 freeway ramp.

The County Development Code, under the Transit Oriented Design section definitions (Sec. 431-3.7), defines Pedestrian Street as “*any public or private street, but not including freeways, alleys, parking lot access drives and parking lot aisles*”, and that a “*Pedestrian Route*” is *any accessway or greenway defined by Section 408-3, and any pedestrian street*. Therefore, staff concluded during the review of the proposal that requirements with regard to pedestrian streets or routes do not apply to the Cedar Hills Blvd. frontage because as an ODOT freeway ramp, the street is not subject to the

County pedestrian related principle or guidelines and is not subject to City Design Guidelines with regard to pedestrian orientation, as cited by Mr. Armstrong and listed under Point 5, above; Sections 60.05.35.6 A and B, Sections 60.05.35.7 A and B, Section 60.05.35.8.A and B, Section 60.05.40.6.A and B, and Sections 60.05.40.7.A and B.

Staff conclude that the design of the proposed development meets all of the applicable City of Beaverton Design Guidelines, cited by the applicant and as addressed by staff in the findings of the BDR staff report (Exhibit 2.2), the Staff memorandum to the BDR (Exhibit 2.31), the applicant's revised building and site designs submitted to the City on May 11, 2006, (Tab 8 of Exhibit 3.12) and then further revised in the submittal of May 30, 2006 (Exhibit 3.15), and the BDR's Land Use Order (Exhibit 2.33), which contain findings that all of the City Design Guidelines have been met with regard to building architecture and site design with respect to the necessary level of pedestrian orientation.

**Point 6:** *The building design along the private access street fails to integrate the adjacent area to the east by presenting a massive, undifferentiated wall with no sidewalk and minimal landscaping.*

**Staff Response:**

Mr. Armstrong states that the west elevation of the building does not have pedestrian orientation and turns it back on the site, and that a sidewalk should be required to provide pedestrian scale and so meet the building and orientation guidelines below.

Section 60.05.35.1 Building Design and Orientation

- B. Building elevations should be varied and articulated to provide visual interest to pedestrians. Within larger projects, variations in architectural elements such as: building elevations, roof levels, architectural features, and exterior finishes should be provided.*
- E. Excluding manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a building in industrial districts, buildings should promote and enhance a comfortable pedestrian scale and orientation.*
- F. Building elevations visible from and within 200 feet of an adjacent street or major parking area should be articulated with architectural features such as windows, dormers, off-setting walls, alcoves, balconies or bays, or by other design features that reflect the building's structural system. Undifferentiated blank walls facing a street or major parking area should be avoided.*

Staff respond by citing the findings of the April 25, 2006 staff report (Exhibit 2.2) with regard to supporting the decision for approval by the BDR.

All building walls on all buildings are visible from and within 200 feet of an adjacent street or parking area. The west elevation of the building is broken into two segments; the office building and the main parking garage building elevations. Although the west elevations of the main building have a lesser amount of articulation and visual interest in comparison with other elevation on the main building, the corresponding pedestrian orientation is similarly different, so that the west elevation of the main building garage is appropriate for the low level of pedestrian use expected along the west side of the building. In any case, the west elevation of the main building provides adequate articulation with building openings, with offsetting building wall planes and recesses, covered entry features for autos and the garden center area. There are few windows on the west elevation. However, the west elevation does provide a varied roofline, and bold timber beamed entrance covers and canopies, and large building openings to the parking garage and to recessed wall segments that provide an adequate variety of building wall planes. Therefore, the Board concluded in approving the proposal that the west elevation is not an undifferentiated blank wall.

With the sidewalk located on the west side of the new private street/access drive, there will not be a sidewalk along the building edge, except for a short sidewalk length of approximately 25 feet, that the BDR adopted as part of condition of approval #34, requiring a pedestrian crossing across the western private access drive. The addition of the short stretch of sidewalk will be placed along the west face of the building in order to connect an internal pedestrian route within the garage out to the intersection of SW Choban Lane. In association with other internal pedestrian walkways within the garage, staff find that adequate pedestrian connections will be provided.

In regard to the proposed new private street along the west edge of the site, the applicant does not propose a sidewalk along the east side of the street, so that there would not be a sidewalk along the west building elevation of the parking garage. Sidewalk Guideline B (60.05.40.7.B) above, intends that pedestrian connections be provided for the purpose accommodating expected use by pedestrians to connect to building and tenant entrances.

Staff find that a sidewalk is not necessary along the west side of the structure because from the southeast corner of the signalized intersection of Barnes Road and the new private street, pedestrians intending to access building entrances in the Town Square Too development would find a more convenient travel path a short distance to the east along the combined sidewalk and

pedestrian plaza. If pedestrians wanted to travel to the parking garage from that corner, they would enter the garage near its northwest corner and travel along the internal delineated walkway along the west edge of the aiseways, as shown on Sheet C-1.0.

Staff find that there is no reason for pedestrians to travel along the east side of the private street, along the face of the parking garage, because there are no pedestrian or customer destinations to the south outside Wal Mart site that would not be more easily accessed by the proposed sidewalk along the west side of the private street. Along the east side of the private street, only the proposed Wal Mart parking garage driveways and the truck/loading area driveway are located to the south, prior to reaching the Hwy 26 freeway. These are areas on the site where pedestrians should not be encouraged to walk to, for safety reasons. BDR Condition 34 does not encourage pedestrians to walk along the face of the parking building, but walk only a short distance in order to cross the access drive at the Choban Lane intersection.

To conclude, staff find that the area along the east side of the private street/access drive (the west elevation of the parking garage) contains no building or tenant entrance that is intended for pedestrian use. Suitable alternate pedestrian connection routes to retail, office and parking area destinations, both within and outside of the Town Square Too – Wal Mart development, are provided elsewhere in the design for convenient pedestrian circulation and pedestrian orientation. Therefore, a sidewalk is not necessary or appropriate along the east edge of the private street. Staff conclude that a combination of public sidewalks and private internal walkways, located and designed to encourage desirable pedestrian travel patterns, are proposed and as further conditioned, meets the Design Guidelines.

#### **IV. Improper Deferral of Modification to Washington County Access Spacing Standard**

##### **Staff Response:**

The appellant claims that the BDR decision lacks authority to defer the County approval of access spacing modification to a later time, as found by the BDR under Section 2 of Land Use Order 1871 (Exhibit 2.33). Staff respond by stating that the deferral of the access modification approval by the County is an appropriate and permitted deferral, and is not improperly deferred.

The City of Beaverton Development Code, under Section 60.55.10.1, (below), requires the City to ensure that applicants, as a condition of approval, receive the necessary transportation facility permits from the particular governmental agencies; notably Washington County and ODOT, depending on the jurisdiction of the roadway.

Section 60.55.10.1 of the Beaverton Development Code states:

*“All transportation facilities shall be designed and improved in accordance with the standards of this Code and the Engineering Design Manual and Standard Drawings. In addition, when a development abuts or impacts a transportation facility under the jurisdiction of one or more other governmental agencies, the City shall condition the development to obtain permits required by the other agencies.”*

The findings contained in the page 3 and 4 of Land Use Order 1871 (Exhibit 2.33) summarize the matter satisfactorily, and no additional information is needed by staff with the exception of citing the Development Code requirement above.

With regard to the remainder of the appellant’s objections under Section 4 of the appeal document, staff provide no additional written comments at this time. The appellants have not raised new issues in the appeal to refute staff’s recommendations and findings to the Board of Design Review. Transportation staff will be available at the appeal hearing to answer questions or clarify staff’s findings with regard to Traffic and Transportation related matters.

# MEMORANDUM

**City of Beaverton**  
**Office of the City Recorder**

**To:** Mayor Drake and Councilors  
**From:** Sue Nelson, City Recorder  
**Date:** July 5, 2006  
**Subject:** **Agenda Bill 06124: APP 2006-0004: Appeal  
of Town Square Too - Wal Mart Approval  
(DR 2005-0068)**

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The complete agenda bill and attachments for Agenda Bill 06124 are available for review in the City Recorder's Office on the third floor of Beaverton City Hall, 4755 SW Griffith Drive, Beaverton, OR. The office is open weekdays between 8:00 a.m. and 5:00 p.m. Due to the large volume of the attachments, they were not included with the agenda bill and staff report on the Web site.

If you have any questions regarding this item, please call (503) 526-2650.