



LODI CITY COUNCIL

**Hutchins Street Square
125 S. Hutchins Street, Lodi**

AGENDA – SPECIAL MEETING

Date: May 13, 2009

Time: 6:30 p.m.

For information regarding this agenda please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

NOTE: All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

A. Roll call

B. Public Hearings

Res. B-1 Public Hearing to Consider the Appeals Filed by Wal-Mart Stores, Inc., Browman Development Company, Lodi First, and PAQ, Inc. Regarding the Decision of the Planning Commission to Deny Use Permit (U-02-12) Concerning the Construction of a Commercial Center in a C-S, Commercial Shopping District, and the Sale of Alcoholic Beverages at the Proposed Wal-Mart Supercenter; Vesting Tentative Parcel Map (03-P-001) Concerning the Creation of 12 Parcels for the Project; and Site Plan and Architectural Review (08-SP-08) Concerning Site Plan and Architectural Review of a Proposed Wal-Mart Supercenter at the Proposed Lodi Shopping Center Located at 2640 West Kettleman Lane (Collectively "the Project"); and Further Consider Approval of the Project and Consider Adopting Findings and Statements of Overriding Considerations Pursuant to the California Environmental Quality Act (CEQA)

NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

Randi Johl
City Clerk

****NOTICE:** Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.**



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Conduct Public Hearing to consider appeals filed by Wal-Mart Stores, Inc., Browman Development Company, Lodi First, and PAQ, Inc. regarding the decision of the Planning Commission to deny Use Permit (U-02-12) concerning a Use Permit for the construction of a commercial center in a C-S, Commercial Shopping District, and the sale of alcoholic beverages at the proposed Wal-Mart Supercenter; Vesting Tentative Parcel Map (03-P-001) concerning the creation of 12 parcels for the project; and Site Plan and Architectural Review (08-SP-08) concerning site plan and architectural review of a proposed Wal-Mart Supercenter at the proposed Lodi Shopping Center located at 2640 West Kettleman Lane (collectively "the Project"); and further consider approval of the Project and consider adopting findings and statements of overriding considerations pursuant to the California Environmental Quality Act.

MEETING DATE: May 13, 2009

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Conduct Public Hearing to consider appeals filed by Wal-Mart Stores, Inc., Browman Development Company, Lodi First, and PAQ, Inc. regarding the decision of the Planning Commission to deny Use Permit (U-02-12) for the construction of a commercial center in a C-S, Commercial Shopping District, and the sale of alcoholic beverages at the proposed Wal-Mart Supercenter; Vesting Tentative Parcel Map (03-P-001) concerning the creation of 12 parcels for the project; and Site Plan and Architectural Review (08-SP-08) concerning site plan and architectural review of a proposed Wal-Mart Supercenter at the proposed Lodi Shopping Center located at 2640 West Kettleman Lane (collectively "the Project"); and further consider approval of the Project and consider adopting findings and statements of overriding considerations pursuant to the California Environmental Quality Act.

BACKGROUND INFORMATION: On April 8, 2009, the Planning Commission held a Public Hearing to consider the applications that have been filed regarding the Lodi Shopping Center project. The specific applications would enable the project to move forward. The Use Permit requests are required by the Commercial Shopping (C-S) zoning designation. An additional Use Permit is required in order for Wal-Mart to sell alcoholic beverages within its store. The Vesting Tentative Map allows for the subdivision of the property consistent with the number of buildings planned for the site and the site plan and architectural review is required for any building constructed on the property. In this case, just the Wal-Mart store is being reviewed at this time. Finally, the Planning Commission considered the required findings and statements of overriding considerations which link the project approvals to the certified Final Revised Environmental Impact Report.

APPROVED: _____
Blair King, City Manager

The Planning Commission took testimony from 13 people including the project applicants and opponents. As with the previous meetings on this project, the focus of the comment was on the advantage or disadvantage of having a Wal-Mart Supercenter, not necessarily the details of the specific requests. The main issue raised by the attorneys representing Lodi First and Citizens for Open Government was on the findings and statements of overriding considerations which relate back to the action taken by the City Council to certify the environmental document. After consideration of the testimony, the Planning Commission voted a 3-3 tie. As the City Council is aware, an action approving a project requires an affirmative vote of the majority of the Planning Commission, so the end result of the Commission's tie vote was denial of the requests. The City has received four appeals as noted in the title of this action. Two appeals have been filed on behalf of the applicants and two requests were filed by the opposition to the project.

PROJECT DESCRIPTION:

Use Permit and Tentative Map Analysis:

Approximately 18 years ago, the City's General Plan designated the southwest corner of West Kettleman Lane/State Route 12 and Lower Sacramento Road for the construction of large-scale retail development. Since that time, the centers on the other three corners have built out as envisioned. Major national retailers such as Wal-Mart, JCPenney, Target, and Lowe's have occupied these corners. The Lodi Shopping Center is proposed on the remaining fourth corner to be anchored by a Wal-Mart Supercenter. This type and scale of development is consistent with the activity that has occurred at the other three corners.

The City's Zoning Code requires that all plot plans for projects within the C-S, Commercial Shopping District receive Planning Commission approval. Over time, this review has been done through the Use Permit process. The Zoning Code also requires Use Permit approval for the sale of alcoholic beverages. The applicant is requesting a Use Permit and a Vesting Tentative Map in order to divide the property into 12 lots that will correspond to the number of buildings anticipated for the project.

The proposed project includes the construction of approximately 339,966 square feet of commercial retail uses, representing a variety of retail sales and services, to be contained in 12 buildings of varying sizes. The primary use will be a Wal-Mart Supercenter that will occupy approximately 226,868 square feet of floor area, including approximately 70,000 square feet for grocery sales, 19,889 square feet for a garden center (including outdoor fenced area), and 6,437 square feet for an auto service shop. The Wal-Mart Supercenter will not include the use of outdoor metal storage containers, and will not include a seasonal sales area in the parking lot.

A moderate sized retailer will occupy approximately 35,000 square feet on pad 12 in the southeast corner of the site. The remaining 11 buildings will range in size from 3,200 square feet to 14,788 square feet. Three of the 11 buildings will be occupied by fast food franchises, with another two buildings consisting of sit-down restaurants, and the remaining buildings occupied by such retail uses such as financial services/bank, professional/business services, and other retail sales and services.

The uses, layout and design of the shopping center have remained the same as that presented to and approved by the Planning Commission in December 2004. The Wal-Mart building is located at the southwestern corner of the site, with 11 freestanding buildings located along Kettleman Lane and Lower Sacramento Road to the north and east. In the center of the shopping center is the main parking lot. The proposed vesting tentative map includes the Wal-Mart store and all corresponding parking in the largest lot (lot 12, 18.3 acres), with each of the remaining 11 buildings on their own lot with associated parking. These other lots are generally one+/- acre, ranging from 0.53 acres (lot 8) to 2.6 acres (lot 11). Internal travel lanes, parking medians and planters are located throughout the interior. Access to the Center is mainly from Westgate Drive and Lower Sacramento Road, with right turn in and out only from Kettleman Lane. As shown on the site plan, significant public improvements are required in order to build this project, as detailed in the draft

conditions in the accompanying resolution of approval. The applicant will be responsible for the construction of Westgate Drive from Kettleman Lane to the southerly project boundary as well as the frontage improvements on Kettleman Lane and Lower Sacramento Road. The applicant is also responsible for the approximately four-acre site across Westgate Drive to be used for storm water detention, all associated project right-of-way dedications, utility easements, engineering reports and studies, and fees. An encroachment permit from CalTrans for Kettleman Lane/State Route 12 will be needed.

Conditions in the draft Resolution cover fire safety, outdoor storage or display of merchandise, shopping cart storage, security and exterior lighting. Consistent with the prior approval by the City Council, conditions relative to re-use of the existing Wal-Mart building are also included. Further, even though a CEQA environmental impact as to urban decay or physical deterioration from the Lodi Shopping Center cannot be made, the City Council can make a decision that the economic effects of the Center on the Downtown should be addressed. To this end, staff is proposing a condition to require the Lodi Shopping Center to invest in the Downtown area. The aggregate value of the capital improvement must exceed \$700,000. Finally, a condition is included to incorporate all mitigation measures as specified in the certified FREIR.

The Use Permit will allow the Wal-Mart Supercenter to sell alcoholic beverages. No Use Permit for alcohol for any of the freestanding buildings has been applied for or is under consideration. The tenants of these freestanding buildings are not known to staff and have not been included in this request. Any such request in the future would require a Planning Commission hearing at that time when the specific details of the requesting business are known. The City Council has previously found that the sale of alcoholic beverages is incidental to a grocery store operation and that is what is being requested by the Wal-Mart Supercenter. As such, staff is recommending that the City Council approve the request to sell alcohol.

The second Use Permit request emanates from the C-S zoning designation which specifically states that a "detailed plot plan of the proposed construction" be submitted to the Planning Commission. The design standards identified in the code are as follows:

- A. The site shall be designed and used as a unit, regardless of ownership of the land and buildings.
- B. All streets bordering the site shall be fully dedicated and improved by the developer.
- C. The design of the development shall include the landscaping of buildings and parking areas, the screening of nearby residential areas, and the enclosure or shielding of trash and disposal areas. Lights and signs shall be located to avoid disturbance to residential areas.
- D. Driveways, parking areas and loading areas shall be located so as to minimize traffic interference.

Section 17.58 of the Municipal Code adds additional design requirements to the project. These standards were adopted in 2004 specifically to deal with the design of large-scale retail establishments like Wal-Mart. The applicant has met or exceeded each of these standards as presented and conditioned, and staff recommends approval of the request.

As previously discussed in the analysis, a vesting tentative map approval is requested to divide the site into 12 lots. The applicant has met the requirements of the City's subdivision ordinance and the State Subdivision Map Act, and staff recommends approval of the map.

SPARC Review:

Along with the plot plan and tentative map for the Lodi Shopping Center, preliminary elevations and colors for the Wal-Mart Supercenter have been submitted. No elevations or colors, landscaping plan, signage plan, materials, or other final plans for the rest of the Center or buildings have been submitted. As mentioned, this shopping center is subject to the City's Design Standards for Large

Retail Establishments. The overall site layout, building footprints, parking areas, and access driveways provide the overall direction of the Center and were used by staff and the Planning Commission in the December 8, 2004 review to determine that this project complies with the Design Standards for Large Retail Establishments. As such, no further design, layout, or changes have been proposed.

The proposed project includes the construction of a new Wal-Mart Supercenter store with a building size of approximately 226,868 square feet. The Wal-Mart building would be located on the southwestern portion of the project site, and the building entrance would face east toward Lower Sacramento Road. The Wal-Mart Supercenter building is a single story structure. The architectural theme of the building is a contemporary style and uses construction materials commonly used in commercial shopping center construction. Architectural materials such as concrete masonry block, metal awnings, and exterior plaster finish will be utilized on the exterior of the building. The major materials used for architectural treatment include fawn (brown) colored stucco, fawn (brown) cultured stone veneer, split face (light brown) block, sea-green colored smooth finish metal panels, charcoal roofing material, hallow (gunmetal gray) metal doors and cornices, and black fencing. The body of the building will be in shades of brown. The ground level will have fawn (brown) colored stucco walls with fawn colored stone veneer accent walls near key entrances and along the lower eight feet of the exterior wall. The architectural treatment features are mostly used on the north and east elevation. Also on the main entrance, a canopy type architectural feature is proposed. The proposed main entry canopy will be clad with a brown cultured stone finish.

The west and south elevations do not feature the same detailed architectural treatment. The west (rear) elevation is a continuous wall with little architectural treatment to breakup the elevation of the building. The entire west elevation will have fawn (brown) colored stucco walls with metal doors painted to match the stucco. Cornices and accent trims are provided to break up the wall elevation. The ground level will also have cultured veneer stone elements. The midsection of the western elevation should receive further architectural treatment to add architectural interest to the wall. It is important to note that this elevation will be visible from across Westgate Drive.

The southern elevation will feature nearly identical architectural treatment as the west elevation. However, the proposed southern elevation is less of an issue. First, there will be an 8-foot tall masonry wall on the southern property line to block any view of this elevation from the project to the south. Second, unlike the western elevation, the southern elevation is not a continuous large mass elevation. Because the main axis of the building faces west (the longest elevation), the south elevation is the side of the building and is relatively small in size in comparison. A condition of approval is included in the SPARC Resolution regarding additional architectural treatment for the west elevation.

Circulation and Parking

The site plan indicates six access points to three public streets. There will be three entrances/exits from Lower Sacramento Road, one from Kettleman Lane (Highway 12), and two from Westgate Drive. All three streets will have a raised center median that will restrict turning movements in some degree. The main entrance to the project parking lot is from Lower Sacramento Road and will be located near the middle of the project site. This entrance will have a traffic signal to control traffic flow and will allow both entering and exiting traffic to turn in both directions. The other access points from Lower Sacramento Road will be restricted to right turn-in and right turn-out movements. The direct driveway entrance from Kettleman Lane (Highway 12) will only permit a right turn-in and right turn-out traffic movement. Traffic can also access the shopping center from Kettleman Lane by way of Westgate Drive. This intersection is controlled by an existing traffic signal that will allow both right- and left-turning movements. The main (northern) access point from Westgate Drive will allow both right- and left-hand turning movements. The southern access point will only allow right-in, right-out movements. Circulation to and from the site is very similar to the Vintners Square Center (Lowe's) to the north.

The main parking lot is located on the east side of the Wal-Mart building. There will be smaller parking areas to serve the free-standing commercial pads. For the Wal-Mart building, a total of 965 parking spaces are proposed (4.45 per 1,000 square feet of building). A total of 434 parking spaces are required, per City code (General Retail 1 per 500). The proposed number of parking stalls exceeds the minimum parking requirements.

There are 12 cart corrals proposed to be distributed throughout the parking lot. These cart corrals will be screened in brown Concrete Masonry Unit (CMU) wall with wooden frames to provide additional ornamentation.

Landscaping and Signage

The proposed landscape plan calls for various large shade trees, smaller trees, shrubs and ground covers. A total of 478 larger shade trees will be provided within the parking lot interior, along the southern and western edges the property line, and throughout the site. This total number of trees exceeds what the City code requires.

The approval of project signage is not a part of the current review and would be subject to City of Lodi codes and requirements to ensure they complement the building architecture and landscaping of the building. Signage applications and approvals would be done separately, should the project be approved.

CONCLUSION: Staff believes that the discretion the City Council has is fairly limited as it relates to the project requests. The Use Permit, Tentative Map and Site Plan and Architectural review are all consistent with City Ordinances, Policy and past practice. The area of broader discretion is with the CEQA findings and statements of overriding considerations, and staff recommends approval of the Project.

FISCAL IMPACT: None

FUNDING AVAILABLE: None

Konrad Bartlam
Community Development Director

Attachments: Draft Resolution
Sheppard Mullin Richter & Hampton/ Remy Thomas Moose & Manley Appeal dated April 10, 2009
Herum Crabtree Appeal dated April 15, 2009
PAQ, Inc. Appeal dated April 17, 2009
Planning Commission Resolution from April 8, 2009
Draft Planning Commission Minutes from April 8, 2009
Planning Commission Staff Report from April 8, 2009