


City of Lompoc Community Development Department – Planning Division	
NOTICE OF APPEAL Of Planning Commission Action	

Site address of decision 701 West Central AV Lompoc, CA
 (Street Number) (Direction) (Street)

Case/Reference Number: DR 08-09 [Walmart Expansion Plan]



TO: City Council
City of Lompoc
100 Civic Center Plaza, PO Box 8001
Lompoc, CA 93438-8001

In accordance with the provisions of law, I hereby appeal the decision of the Planning Commission on, which was given on FEB 22 2011

The decision was as follows: Approval of DR 08-09 Walmart Expansion

The grounds of appeal are: See "ATTACHMENT, DEVELOPMENT PLAN" (4pages)

I request the City Council take the following action: Review specific issues in the ATTACHMENT DEVELOPMENT PLAN, and deny DR 08-09.

Name of Appellant: Robert Cuthbert [Citizens Against Walmart Expansion]

Address: 222 North D ST, Lompoc CA 93436

Telephone Number _____ **Fax** _____ **E-mail** _____

Was appellant an applicant for, or the subject of, the Commission's decision? If not, state basis for filing appeal as an aggrieved person:

The subject of the Commission's decision, and otherwise an aggrieved person to be impacted with the citizens of the community.

Fee: See Fee Schedule
 Account No. 40010-46242 City Treasury Stamp here

Robert Cuthbert
 Signature of Appellant

FEB 22 2011
 Date

NOTE: This form must be completed by the appellant in triplicate and filed with the City Clerk of the City of Lompoc not later than 10 calendar days after the date of decision by the Planning Commission.

This appeal will be heard on the date as scheduled, unless it is in the public interest for such matter to be continued to a later date. Testimony will be taken; and failure of the appellant or his representative to present testimony may be cause for denial.

ATTACHMENT

DEVELOPMENT PLAN – DR 08-09 "Walmart Expansion Project"

To: City Council of the City of Lompoc

From: Robert Cuthbert, For Citizens Against Walmart Expansion *RC*

Re: Appeal of Planning Commission Action approving the Walmart Expansion Development Plan, 2/9/11

Date: 2/22/11

Dear Mayor Linn and Honorable Councilmembers,

Few projects in the recent history of the community will have greater and more sustained environmental, economic, and social impacts as the proposed Walmart Expansion. Across the nation communities of our size have accepted large "big box" retail "mega-stores" only to regret it as the community declines. We feel this particular development plan and architecture review have serious flaws, some small and others significant. The sum of impacts gives reason to deny the project.

The basis of this appeal is as follows, and we will submit a supplemental letter expanding on the points identified herein:

1. The Commission failed to both consider the evidence presented by the public, and give due deliberation to the matters presented by the public.
 - a. Public Safety was not discussed.
 - b. Public Health, Safety, and general welfare were not discussed.
 - c. Noise levels in the general area were not discussed.
 - d. Adverse effects upon abutting properties were not discussed.
2. On the date of the Commission hearing, at approximately 12 PM, the City made public a significantly amended resolution not allowing the public time to respond (Resolution NO. 683).
 - a. The amended resolution for the first time identified the evidentiary basis for required approval findings, depriving the public of the ability to review and comment.
 - b. The late noticing to commission members (2/8/11) of the amended resolution is inconsistent with the City's common, standard, and accepted practices.
 - i. According to the City Commission Handbook, "Each [commission member] has an obligation to prepare, discuss, evaluate, review, and select the best possible alternatives." The late notice did not allow for proper preparation.

- ii. The City's Handbook for commissions sets a policy of 72 hours prior notification of all agenda items (1990). The revised City Council Handbook (2010) states, "Agenda packets include staff reports, correspondence, maps, and other information to supplement the agenda descriptions. Each item on the agenda is numbered consecutively for cross reference to supporting data in the agenda packet. A copy of the complete agenda packet is available for public review at least seventy-two (72) hours before the meeting." The late release of changes to the resolution and supplemental information did not allow the public to meaningfully review these materials.
3. The expansion eliminates significant parking directly in front of the store, and the Parking area Walmart is using in its calculation is up to 100 feet east of the main parking area.
 - a. This creates a safety hazard as customers would need to cross two lanes, and return with purchases.
 - b. There are several businesses in the east parking area using the existing parking. Their customers would be adversely impacted.
 - c. The expansion will cause an overflow into the east parking area during peak periods.
 - d. At the Planning Commission hearing on 2/9/11 City staff and Walmart representatives were unable to give definitive answers on several pertinent questions asked by commissioners – specifically the location of actual parking areas and number of spaces in the respective parking areas remains unknown. (The main entrance divides the parking lots with a two lane road and landscaping on both sides.)
4. The required finding that the proposed use will have no adverse effect upon abutting property cannot be made because the Project will have an adverse effect on Foods Co. (located on the abutting property in the same strip-mall.)
 - a. Walmart's predatory pricing practices will have a detrimental effect upon Foods Co. and could cause it to close.
 - b. The EIR and Urban Decay Supplement do not analyze the impact on Foods Co. caused by adding the Walmart grocery store to the same strip-mall, and the FEIR even admits that "[t]he development of the proposed project could potentially cause one of the existing supermarkets in Lompoc to close." (p. 2.0-20). Since the EIR did not evaluate the Foods Co. impact, there is no other evidence in the record to support the Planning Commission's finding of no adverse effect on the abutting property.
5. The required finding that the site is adequate to carry traffic generated by the proposed use cannot be made because the H-Street/Central Ave. intersection will operate below an acceptable level of service (LOS D) under cumulative conditions, and will further worsen under cumulative + Project conditions.
 - a. Contributing its fair share to improving the intersection may be adequate from a CEQA perspective, but is itself insufficient to fund the required improvement, leaving the intersection at an unacceptable LOS.

- b. The traffic generated by the Project is underestimated in the EIR, particularly traffic from Buellton and south Santa Barbara County. This additional traffic would further degrade the H-Street/Central Ave. intersection.
6. The conditions proposed for the Project are inadequate to safeguard the public health, safety and general welfare.
 - a. It is common knowledge that the Lompoc Police and Fire Departments are understaffed. Adding greater traffic, shrinking the parking available, and opening 24 hours a day will increase demands on public safety agencies while these agencies do not have the capacity to increase levels of service. An impact that the EIR improperly finds is insignificant (see DEIR p. 8.0-21).
 - i. In the Police Services Study (Organizational Effectiveness Consulting 12/20/2006) under "Major Findings" it is stated, "Based upon a detailed workload analysis, the Police Department is currently understaffed. For all intents and purposes, staffing is at the absolute minimum acceptable level." The study finds a "mismatch between workload and staffing" that is "most apparent in the sworn ranks." The study also states, "As the City grows at a projected slow rate, additional personnel will be required to effectively handle the associated increase in workload."
 - ii. The City has not sufficiently expanded law enforcement and public safety forces despite population and economic growth.
 - iii. In the Fire Protection Services for the City of Lompoc report (Olson Associates 1/15/07) found that that the Department needs "additional resources to address the impacts of community growth and increasing service demands." The report found that "facilities are inadequate" and that "staffing levels should be increased as soon as possible because of the current workload and to meet the expected increases in service demands."
 - iv. In August 2005 the Ad Hoc Public Safety Committee Report, repeatedly used the word "inadequate" referring to all aspects of police and fire services and staffing. This citizens group made a report to the City Council, and the 2006 Police Services Study, and the 2007 Fire Protection Services reports essentially verified its findings.
 - v. Proposed mitigations by Walmart are wholly inadequate. Walmart "security personnel" are typically tasked to a number of functions and rarely dedicated to security services only. Private security forces cannot fulfill the same functions as law enforcement, thus cannot, even if not compromised by other functions, fully offset the increased law enforcement demands created by the Project. Private security forces cannot provide medial care provided by fire personnel. As such this mitigation is inadequate to compensate for the City's currently inadequate law enforcement and public safety resources.
 - b. Allowing 24-hour operations will cause unacceptable noise levels in the adjacent residential neighborhood that were not adequately analyzed or mitigated in the EIR.
7. The Findings of Fact in the 2/9/11 Resolution are inadequate.

- a. The Resolution merely recites the findings of approval for the Preliminary Development Plan, and provides conclusory statements regarding how Project conforms to the standards in those Findings.
 - i. The findings fail to reveal the analytic route from evidence to conclusions, as the law requires.
 - ii. The findings lack substantial evidence.
8. The expansion will likely cause blight with economic impacts at the shopping center and elsewhere in Lompoc.
 - a. The EIR and Urban Decay Study Update ignored blight as a precursor to Urban Decay, and failed to address local community standards.
 - b. There is existing empty retail space in Lompoc, and the Walmart expansion will likely cause more businesses to close.
 - c. Foods Co. will be directly impacted and may close, creating an open space only suited to grocery retail that would likely remain vacant given competition from the adjacent Walmart grocery.
9. The proposed façade is a significant departure from the style and color scheme of the existing relatively new shopping center, creating a conflict with the Architectural Review Guidelines including section III.A.23.

For the foregoing reasons, we urge you to uphold this appeal and deny the Walmart Expansion Development Plan.

Respectfully submitted,

Robert Cuthbert
For Citizens Against Walmart Expansion

CC: Lucille Breese, Planning Manager and Keith Neubert, Principal Planner
Community Development Department – Planning Division