DOCKET #: W2757

PROPOSED ZONING:
MRB-S (Retail, Gas Station, Grocery)

EXISTING ZONING:
RS9

PETITIONER:
Wal-Mart Real Estate Business Trust for property owned by Others

SCALE: 1" represents 400'

STAFF: Roberts
GMA: 3
ACRE(S): 26.70
MAP(S): 624830
April 20, 2005

Wal-Mart Real Estate Business Trust  
SWDC, 2001 SE 10th Street  
Bentonville, AR 72716

RE: ZONING MAP AMENDMENT W-2757

Dear Sir:

The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary’s Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, AICP  
Director of Planning

pc: City Secretary’s Office, P.O. Box 2511, Winston-Salem, NC 27102  
Thomas Terrell, Smith Moore, LLP, 300 N. Greene Street, Suite 1400, Greensboro, NC 27401  
Craig and Margie Rothrock, 3360 Sides Road, Winston-Salem, NC 27127  
Grady A. Rothrock, 2444 Pine Meadow Drive, Kernersville, NC 27284  
Lynn Stewart, 2496 Pine Meadow Drive, Kernersville, NC 27284  
Jon Dorman, 4601 Charlotte Park Drive, Ste. 300, Charlotte, NC 29217  
Ray Barber, 1641 Kesteven Road, Winston-Salem, NC 27127  
Tyler and Louise Morgan, 1618 Kesteven Road, Winston-Salem, NC 27127  
George Dukes, 3066 Canterbury Park Dr. Winston-Salem, NC 27127  
Doris & William E. Moffitt, 1614 Kesteven Road, Winston-Salem, NC 27127  
Juanita Howard, 1629 Kesteven Road, Winston-Salem, NC 27127  
Victoria Bailey, 3605 Cedar Haven Court, Winston-Salem, NC 27127  
Dennis Felder, 1601 Kesteven Road, Winston-Salem, NC 27127  
Marvette Pratt Aldred, 1617 Kesteven Road, Winston-Salem, NC 27127  
Melissa Neil, 1613 Kesteven Road, Winston-Salem, NC 27127
**ACTION REQUEST FORM**

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<th>DATE:</th>
<th>April 20, 2005</th>
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<tr>
<td>TO:</td>
<td>The Honorable Mayor and City Council</td>
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<td>FROM:</td>
<td>A. Paul Norby, AICP, Director of Planning</td>
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**COUNCIL ACTION REQUEST:**


**SUMMARY OF INFORMATION:**

Zoning map amendment of Wal-Mart Real Estate Business Trust for property owned by Grady Rothrock Trustee, Phillip C. Fishel, Jr., Brenda P. Fishel, Grady L. Estep, et al, Joseph A. Harrison, Craig A. Rothrock, Margie W. Rothrock, and Marilyn L. Fishel, from RS-9 to MRB-S (Shopping Center): property is located on the south side of the proposed West Clemmonsville Road Extension and on the west side of Peter’s Creek Parkway (Zoning Docket W-2757).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL

**FOR:** CLARK, FOLAN, KING, MULLICAN, NORWOOD

**AGAINST:** GLENN

**SITE PLAN ACTION:** CONFORMS
CITY ORDINANCE - SPECIAL USE


AN ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM, N.C.

BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The Winston-Salem City Zoning Ordinance and the Official Zoning Map of the City of Winston-Salem, N.C. are hereby amended by changing from RS-9 to MRB-S (Shopping Center) the zoning classification of the following described property:


Section 2. This Ordinance is adopted after approval of the site plan entitled Wal-Mart Real Estate Business Trust for property owned by others and identified as Attachment "A" of the Special Use District Permit issued by the City Council the ______ day of ________________ , 20__ to Wal-Mart Real Estate Business Trust for property owned by Grady Rothrock Trustee, Phillip C. Fishel, Jr., Brenda P. Fishel, Grady L. Estep, et al, Joseph A. Harrison, Craig A. Rothrock, Margie W. Rothrock, and Marilyn L. Fishel.

Section 3. The City Council hereby directs the issuance of a Special Use District Permit pursuant to the Zoning Ordinance of the Unified Development Ordinances for a development to be known as Wal-Mart Real Estate Business Trust for property owned by others. Said Special Use District Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.
CITY - SPECIAL USE DISTRICT PERMIT

SPECIAL USE DISTRICT PERMIT

Issued by the City Council

of the City of Winston-Salem

The City Council of the City of Winston-Salem issues a Special Use District Permit for the site shown on the site plan map included in this zoning petition of Wal-Mart Real Estate Business Trust for property owned by Grady Rothrock Trustee, Phillip C. Fishel, Jr., Brenda P. Fishel, Grady L. Estep, et al, Joseph A. Harrison, Craig A. Rothrock, Margie W. Rothrock, and Marilyn L. Fishel, (Zoning Docket W-2757). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use District Permit for MRB-S (Shopping Center), approved by the Winston-Salem City Council the ______ day of _____________________, 20____" and signed, provided the property is developed in accordance with requirements of the MRB-S zoning district of the Zoning Ordinance of the Unified Development Ordinances, the Erosion Control Ordinance, and other applicable laws, and the following additional conditions be met:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
  a. Developer shall obtain a demolition permit from the Inspections Division prior to the removal of the existing structures on the site.
  b. Developer shall obtain driveway permits from WSDOT and NCDOT; additional improvement may be required prior to issuance of the permits.
  c. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
  d. Developer shall construct the improvements along West Clemmonsville Road per the approved TIS and per the recommendations of the City of Winston-Salem Department of Public Works.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  a. Any retaining wall shall be earth tone in color or shall match the color of the primary building as approved by Planning staff.
  b. All proposed buildings (exclusive of the building on the outparcel located at the corner of Peters Creek Parkway and West Clemmonsville Road Extension) shall be consistent with the building elevations as shown in Exhibits A, B, C and D as approved by Planning staff.
c. A private access and cross parcel access easement agreement from West Clemmonsville Road to the driveway connection to the western property line shall be recorded.

d. Developer shall contact the Winston-Salem Transit Authority (WSTA) to inquire about possible extensions of Route 13 to the proposed shopping center. If the route can be extended, the developer shall coordinate with WSTA for a covered bus stop with sidewalk access to the Wal-Mart. Any required transit stop or shelter recommended by WSTA in the shopping center, along Peters Creek Parkway, or along West Clemmonsville Road Extension shall be installed or completed by the developer.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS
  a. Developer shall install all the improvements recommended in the Traffic Impact Study (TIS) and by the requirements specified in the driveway permits to the specifications of the Public Works Department of the City of Winston-Salem and the North Carolina Department of Transportation.
  b. All required fire hydrants shall be installed in accordance with the City Fire Department.
  c. Site will be developed in accordance with the approved site plan.

• OTHER REQUIREMENTS
  a. Development shall be permitted one (1) freestanding, fifteen (15) foot high monument sign with a fifty-four (54) square foot sign area at the main entrance to the development along West Clemmonsville Road Extension. Each other outparcel within the site shall be permitted one (1) freestanding, six (6) foot high monument sign with a thirty-six (36) square foot sign area.
  b. Landscaping materials shall be consistent with that shown on sheet C-16, Planting Plan, of the approved site plan.
  c. On-site lighting shall be consistent with that shown on sheet C-15, Lighting Plan, of the approved site plan.
  d. Developer shall stabilize slopes within 15 days of achieving final grade.
  e. The subject property and developer are subject to all of the requirements specified in Article B, Chapter III, Section 3-12, design requirements for Large Scale Retail Developments of the UDO.
  f. Developer shall agree to restrict the future development of the outparcel lot located at the corner of Peters Creek Parkway and West Clemmonsville Road Extension to a multi-storied building with ground floor retail and offices and/or residential units on the upper floor(s) with flexibility allowed for the front/side street setbacks, parking, etc., per the MRB-S District standards. Specifically:
    (1) The outparcel building will include two functional stories;
    (2) The design of the outparcel building will incorporate materials, colors, and architectural features that match or complement the Wal-Mart building;
    (3) The outparcel building will be sited so that it will be placed towards the northeast corner of the outparcel, with little or no parking between the building and the street;
(4) The front yard setback may be reduced as stipulated on the MRB-S zoning ordinance; and,

(5) The required parking on the outparcel may be reduced per MRB-S zoning ordinance.
ZONING STAFF REPORT

DOCKET #   W-2757
STAFF:     Chris Murphy

Petitioner(s): Wal-Mart Real Estate Business Trust
Ownership: Grady Rothrock Trustee, Phillip C. Fishel, Jr., Brenda P. Fishel, Grady L. Estep, et al, Joseph A. Harrison, Craig A. Rothrock, Margie W. Rothrock, and Marilyn L. Fishel

REQUEST

From: RS-9 Residential Single Family District; 9,000 sf minimum lot size
To: MRB-S Major Retail Business District - The MRB-S Zoning District is required as per Section 2-1.3(L) for retail developments of this size.

Acreage: 29.72

LOCATION:

Street: West side of Peters Creek Parkway between the future West Clemmonsville Road Extension and Kesteven Road.
Jurisdiction: City of Winston-Salem.
Ward: South.

SITE PLAN

Proposed Use: Shopping Center.
Square Footage: 223,128± sf (203,128 sf for General Merchandise plus 20,000 sf of seasonal outdoor display area - excluding outparcel square footage)
Building Height: 35’±
Parking: 992 spaces required and provided
Bufferyard: 40’ Type IV required and provided (the effective buffer is actually 80’ to the south and 60’ to the west - the adjacent RS-9 zoned properties)

PROPERTY SITE/IMMEDIATE AREA

Existing Structures: Multiple single family residential buildings and associated accessory structures.
Adjacent Uses:
   East - Community scale church zoned IP-S.
   Southeast - Single family across Peters Creek Parkway zoned RS-9.
   South - Single family homes zoned RS-9.
   West - Undeveloped property zoned RS-9.
GENERAL AREA

Character/Maintenance: The general area is comprised of well-maintained single family residences and large institutional uses along a multi-lane, median divided major thoroughfare.
Development Pace: Moderate.

HISTORY

Relevant Zoning Cases:

1. W-1181/W-2688; R-5 to R-2-S (Multifamily) converted to RM-12-S in the UDO with a Site Plan Amendment (W-2688) to bring up to current UDO standards; W-1181 approved August 6, 1984, and W-2688 approved May 3, 2004; southwest corner of Peters Creek Parkway and Bridgton Road; 21.45 acres; Planning Board and staff recommended approval of both cases.

2. F-1343; RS-9 to NSB-S (Shopping Center); approved August 13, 2001; west side of Peters Creek Parkway south of Oliver’s Crossing Drive; 14.99 acres; Planning Board made no recommendation due to a tie vote; staff recommended approval.

3. W-2160; RS-9 and IP to IP-S (Community Scale Church); approved August 18, 1997; east side of Peters Creek Parkway between Ocala Drive and Sina Avenue; 9.49 acres; Planning Board and staff recommended approval.

4. W-1875; R-5 to B-3-S (Stores or shops, retail) converted to HB-S in the UDO; approved April 4, 1994; southeast corner of Clemmonsville Road and Peters Creek Parkway; 5.06 acres; Planning Board and staff recommended denial.

5. W-1729; R-5 to R-1-S (Funeral Home); withdrawn September 16, 1991; southeast corner of Peters Creek Parkway and Ocala Drive; 2.96 acres; Planning Board and staff recommended approval.

6. W-1096; R-5 to B-3-S (Multiple Business Uses - TWO PHASE) converted to HB-S in UDO; approved March 19, 1984; northeast quadrant of Peters Creek Parkway and Clemmonsville Road; 21.7 acres; Planning Board and staff recommended approval.

7. W-1095; R-5 to B-3-S (Multiple Business Uses - TWO PHASE) converted to HB-S in UDO; approved March 19, 1984; northwest quadrant of Peters Creek Parkway and Clemmonsville Road; 9.5 acres; Planning Board and staff recommended denial.
PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: The proposed site plan indicates that almost all the existing vegetation on the property will be removed. The site will have balanced cut and fill, with substantial cuts to existing grade in the east and northeast portions of the site and substantial fill added to existing grade in the west and southwest portions of the site.

Topography: The property slopes from an elevation of 833’ in the northeast corner of the site down to an elevation of 770’ in the southwest corner. The existing site generally falls from east to west. The proposed building and parking pad shows an elevation of 815’ in the northeast corner and an elevation of 805’ in the southwest corner. The elevation at the bottom of the fill slope below the proposed retaining wall in the southwest corner is 772’, 33’ below the parking area.

Streams: A tributary to the South Fork of Muddy Creek is located on the site near the northwest corner, flowing south-southwest near the western property line. The petitioner is responsible for complying with all Federal and State stream protection regulations.

Vegetation/habitat: There is limited existing vegetation in the center and northwest corner of the site.

Floodplains: There are no FEMA regulated floodplains on the site.

Wetlands: There are no wetlands - Winston-Salem-West USGS Quad sheet.

Water Supply Watershed: The subject property is not located within a water supply watershed.

TRANSPORTATION

Direct Access to Site: Peters Creek Parkway and the proposed West Clemmonsville Road Extension.

Street Classification:
Peters Creek Parkway - Major Thoroughfare; West Clemmonsville Road Extension - Major Thoroughfare (proposed)

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
Peters Creek Parkway - 19,100/48,000
West Clemmonsville Road Extension - 0/30,000 (unopened)

Trip Generation/Existing Zoning: General Use RS-9 zoning; however, the site would yield 144 single family units. The trip rate would be 1,378 trips (based on 144 units x 9.57 trips per unit).

Trip Generation/Proposed Zoning: 15,167 trips per day (based on 223,000 sq. ft. “Freestanding Discount Superstore [ITE Use 813], 16 fueling positions [ITE Use 944], and a 4,000 sq. ft. restaurant with drive-thru service outparcel [ITE Use 934]).

Planned Road Improvements: Peters Creek Parkway was recently widened to a four lane divided facility with a median. Sidewalks are recommended along both sides of Peters Creek Parkway. West Clemmonsville Road Extension is currently unbuilt. Wal-Mart shall construct a four lane median divided facility with appropriate turn lanes and sidewalks across their frontage. Wal-Mart has the option of bonding the improvements on their portion of the project west of their westernmost entrance along West Clemmonsville Road Extension. Wal-Mart shall also be responsible for installing a traffic signal at the Peters Creek Parkway/West Clemmonsville Road Extension intersection and, if warranted or desired in the future, a traffic signal at the intersection of West Clemmonsville Road Extension and the main Wal-Mart entrance.

Sight Distance: Good.
Interior Streets: Private, with one (1) private access easement to the western property line. 

Traffic Impact Study: The applicant has provided a TIS. The TIS was calculated for a 204,000 square foot Wal-Mart while the as-submitted site plan shows 223,300 square feet. Using our trip generation rates, a 223,300 square foot building generates less trips than the 204,000 square foot building the applicant included in the TIS [i.e., the applicant over-calculated]. WSDOT and NCDOT have evaluated the TIS and the recommended improvements and are satisfied with the recommendations with adjustments made to the improvements.

Street Connectivity: There are no proposed external public street connections. The applicant has provided a cross parcel access connection to the property to the west.

Sidewalks: None existing. The proposed plan includes five foot (5’) sidewalks along the entire frontage of Peters Creek Parkway and across the “to-be-constructed” portion of West Clemmons Road Extension. Sidewalks for the remaining frontage along West Clemmons Road Extension will be bonded, along with the other road improvements. Additionally, the applicant has included lateral sidewalks linking the public walks along both fronting streets to the front of the store as per the design requirements of major retail developments.

Transit: None existing currently, although Route 13 could be extended south down Peters Creek Parkway. The applicant has agreed to plan for a future transit stop along Peters Creek Parkway.

Bicycle Route: None existing.

CONFORMITY TO PLANS

Growth Management Plan Area (Legacy): GMA 3, Suburban Neighborhoods; also located within the City South Metro Activity Center (MAC) [Legacy, Map 3.1, page 29]

Relevant Legacy Recommendation(s): Legacy calls for existing neighborhoods to be protected from inappropriate commercial encroachment. Legacy promotes economic development which is compatible with existing residential neighborhoods and other business developments. Legacy identifies the subject property as being located within the City South MAC (Map 3.1, page 29). A MAC is a focal point for community-wide activities, including working, shopping, and living. MACs should be accessed by a balanced system of major thoroughfares, surface streets and public transportation, should emphasize pedestrian access for internal movement, and should have urban design features and mixed-use development as key elements.

Legacy also includes a chapter called “Community Character”. The stated goal of that chapter is “A distinctive image that makes the communities within Forsyth County unique and special places.” That goal is a reaction to the homogenizing effect of franchise architecture and site planning that has helped turn many communities into “Anywhere, USA”. The chapter goes on to note that national chains can be encouraged and, if necessary, required to make their buildings distinctive in order to enhance the attractive features that make our community special. The chapter also notes the
correlation between a community’s physical design and appearance, and its economic vitality. The appearance of commercial areas, as well as downtowns and neighborhoods, is an important part of the Community’s image and that image plays into decisions about relocation of new businesses and/or residents to our community. One of the action items in Legacy is to develop design guidelines for large scale retail development to ensure that they contribute to the unique character of the local area. This action item was addressed with the adoption of UDO-118 which established the MRB-S District.

Area Plan/Development Guide: No area plan has been completed for the area.

HISTORIC RESOURCES REVIEW

Known Historic Resources: None - for context, however, please note that the site is located immediately adjacent to northern boundary of Friedberg, one of the three country congregations founded by the Moravians. Friedberg was initially settled in the 1770s. Of the three (3) country congregations founded by the Moravians (Friedland, Friedberg, and Hope), Friedberg is the least intact (most developed).

ANALYSIS

In 2004, the City Council adopted UDO-118 which established various design standards for larger retail developments based upon square footage thresholds of 75,000 and 125,000 square feet. UDO-118 also enables the City Council to better address the impacts of such developments on the surrounding area by requiring a rezoning to the new Major Retail Business, Special Use (MRB-S) District for any retail developments with a single store of 125,000 square feet or more.

The subject request is to rezone 29.72 acres from RS-9 to MRB-S (Shopping Center). The property is located on the west side of Peters Creek Parkway between Kesteven Road and the proposed West Clemmonsville Road Extension. Both Peters Creek Parkway and the proposed West Clemmonsville Road Extension are major thoroughfares. Peters Creek Parkway is a 4-lane, median divided facility with controlled access. West Clemmonsville Road Extension is planned as a multi-lane facility. Wal-Mart must construct a multi-lane, median divided facility across their West Clemmonsville Road frontage with sidewalks and necessary turn lanes as part of this project.

The site plan illustrates a 223,128± sf Wal-Mart (heated square footage + outdoor seasonal display area), one (1) outparcel to be used as a fuel/convenience store area (16 fueling stations) and one (1) outparcel to be used for commercial purposes (an undisclosed use, although for the purposes of the Transportation Impact Study (TIS), the most intense use, a restaurant with drive-thru service, was used). The site plan shows one (1) entrance from Peters Creek Parkway directly onto the site. There are two (2) entrances to the site along West Clemmonsville Road Extension. The applicant has submitted a TIS for the proposed project. The TIS recommends signalization of the West Clemmonsville Road Extension/Peters Creek Parkway intersection along with additional turn lanes along Peters Creek Parkway. The City Transportation Department, as well as NCDOT, believes that these improvements will adequately handle the
additional traffic generated on Peters Creek Parkway, the proposed West Clemmonsville Road Extension, and the surrounding surface streets by the proposed development, with some minor modifications. Additional turn lanes are needed along West Clemmonsville Road Extension and a future signal may be needed at the main entrance into the site along West Clemmonsville Road. The petitioner will be responsible for their portion of these improvements.

The proposed site plan shows a cross-parcel access easement to the property to the west but no construction. This cross-parcel access easement drive should be constructed to the western property line as part of the site construction process and a private access easement agreement should be recorded from this access to the main entrance along West Clemmonsville Road Extension. No other vehicular connections are shown.

Staff commends the petitioner for complying with the site specific design standards for major retail developments. The plan provides good pedestrian connectivity, both on-site and along/from the adjacent public streets. Sidewalks collect shoppers in the parking areas and bring them to the front door where a wide sidewalk adjoins the building, providing a safe area for patrons to circulate without walking in the traffic aisle in front on the store. Sidewalks extend from both Peters Creek Parkway and West Clemmonsville Road Extension to the sidewalk in front of the store. The developer has agreed to provide a pedestrian plaza area along Peters Creek Parkway and has agreed to work with WSTA for a future bus stop. Large variety trees (such as Willow Oaks and Red Maples) have been used throughout the site to shade the parking areas, pedestrian areas, and the surrounding streets. Other site plan design requirements address lighting, public art, signage, building architecture, etc. Staff certifies the subject request complies with the design requirements of the UDO for the MRB-S District.

With certification that the design considerations for the major retail development have been met, staff can turn to the evaluation of the proposal relative to the MRB-S District purpose statement. This purpose statement refers to determining the project’s “…compatibility with the surrounding community” and its “…individual and cumulative impact upon the community”, as well as determining how the project will impact “… the community’s natural, physical, economic and fiscal resources…”

Although adjacent to an existing single family residential neighborhood to the south, the proposed project does not protrude into the neighborhood. Rather, a substantial buffer, including two (2) rows of large variety deciduous trees, four (4) rows or evergreen shrubs, and a brick screen/noise wall have been provided to buffer and shield this neighborhood from the proposed use. The residentially zoned property to the west is undeveloped and to the east, across Peters Creek Parkway, there are two (2) large churches (one community-scale and one neighborhood-scale), both zoned IP. The subject property is located adjacent to a four-lane, median divided facility and along the proposed West Clemmonsville Road Extension. The proposed project is oriented towards the new roadway facility, a facility that will provide access to a large amount of undeveloped and underdeveloped property to the north and west. The proposed project is located in an area designated in Legacy as a Metro Activity Center (MAC) (see Map 3.1, page 29). MACs are located in a number of strategic locations throughout the county to help achieve the goal of a more balanced development pattern in Winston-Salem and Forsyth County and to
serve as “regional” focus for that particular part of the county. Although the exact extent of the MAC has not been set (shown floating over the Peters Creek Parkway and West Clemmonsville Road Extension intersection), staff has completed some preliminary work designating the area west of Peters Creek Parkway along West Clemmonsville Road Extension as the area most suitable for a MAC. Given these factors, planning staff sees the subject request location as being potentially compatible with the surrounding community.

Both individual and cumulative impacts for the proposed project must be examined per the MRB-S District purpose statement. Individually, it is staff’s position that the proposal is planned so that it can be compatible with its surroundings. Additionally, the design standards for major retail development provide a higher level of protection for the surrounding property owners and the community as a whole than do standard commercial zoning districts. Chapter B, Article III, Section 3-12.1(B)(7) of the UDO requires that single-tenant buildings over 75,000 square feet agree and adhere to more stringent standards regarding maintenance of the building(s) in the future should they become vacant. Regarding the cumulative impacts of approving the MRB-S request, the purpose statement specifically states that, “… the establishment of a MRB-S District does not establish justification for future large-scale retail zoning in the area.” Therefore, one approval does not necessarily guarantee future approvals. It is reasonable to assume, however, that given the designated MAC, additional commercial development pressure can be anticipated along West Clemmonsville Road Extension. This facility will be constructed to handle the additional anticipated traffic volumes. West Clemmonsville Road Extension is designed to carry 30,000 vehicles per day and currently carries none (not constructed). Peters Creek Parkway has a capacity of over 48,000 vehicles and currently carries 19,000. The MAC also lends itself to additional street interconnectivity, thus dispersing and diffusing traffic among existing and future surface streets. Staff is requesting a private access easement from the main entrance along West Clemmonsville Road Extension to the stub constructed to the western property line to provide more interconnectivity. Planning staff believes that the individual and cumulative impacts of the proposed rezoning are adequately addressed through the existing and upgraded facilities, and through the review of subsequent rezoning requests.

In evaluating the proposed project, staff finds that the proposed project does not adversely impact the community’s natural, physical, economic or fiscal resources. There are no unique natural or physical attributes on the site that causes staff any abnormal concern. There is some stream disturbance associated with the construction of West Clemmonsville Road Extension but this road was approved through a public bond referendum with the same connection/stream crossing shown several years ago. The developer will be required to either obtain all necessary permits or pay its proportional share for the permits that the City will secure to build the full extent of the road. From an economic and fiscal standpoint, the applicant is required to either construct or pay for the construction of approximately 1/6 of West Clemmonsville Road Extension, thus saving the City debt payment on the bonds. There is adequate capacity on the surrounding roadway facilities and the applicant will be required to pay for or construct the necessary upgrades to the existing facilities, as recommend by the TIS and/or WSDOT and NCDOT. Thus there are no fiscal impacts.
In conclusion, staff finds that the design requirements for major retail developments, as well as the purpose statement associated with the MRB-S District, have been met for the subject request. Staff would like to note that there are two (2) items that need additional attention in the review of the proposed project:

1. It is absolutely critical that additional buffering be provided along the southern property line. Per Section 2-1.3(L)(3)(e), the applicant is required to install a 40’ Type IV buffer consisting of three (3) deciduous trees and eighteen (18) evergreen shrubs per 100 linear feet of property abutting RS-9 zoned property. This section goes on to state that the elected body may require a larger bufferyard and/or a bufferyard with more plantings, berms and fences, in order to provide a more effective transitional buffer between users. Staff believes that the buffer should be increased to the full 80’ width between the parking lot and the property line to the south and that a brick wall (matching the brick used on the building) should be constructed. This would provide an attractive view from the adjacent neighborhood and would serve as an effective visual and noise screen between uses; and

2. Given the subject property’s location within a MAC (see Legacy, Map 3.1, page 29) and, given the vast amount of undeveloped property west of Peters Creek Parkway along West Clemmonsville Road Extension lending itself to MAC development, staff believes that the subject request should provide a more “urban” front by providing a multi-story building on the outparcel that addresses both adjoining street frontages. The building elevations for the Wal-Mart show/create a “faux” 2-story appearance from West Clemmonsville Road Extension. Multiple-storied buildings are important components of the MAC concept. The MAC Design Guidelines discuss encouraging buildings up to four (4) stories in height to prevent sprawling development and to create an improved mixed-use, pedestrian-oriented presence on the street. Additionally, locating parking to the side or the rear of the building is also specified to improve a project’s street presence.

While the applicant has attempted to address these design guidelines by providing a “faux” 2-story building and locating some of the parking to the side and rear, a significant amount of parking still remains in front of the building. Staff still has some concerns that the proposed Wal-Mart is “too suburban” as submitted. However, staff has an even larger concern with the “unknown entity” slated for the outparcel on the prominent corner of Peters Creek Parkway and West Clemmonsville Road Extension. Staff has suggested to the petitioner that they come back with a PB-S rezoning petition for this outparcel to help address some of the design considerations encouraged for MACs. The PB-S zoning district would allow for 0’ front setbacks and on-site parking reductions, providing a better street presence for the project by locating the building near the intersection with parking to the rear. Staff would suggest a 2-to3-story building with retail on
the ground floor and offices on the upper floors. This would provide a more urban feel to an otherwise suburban-model shopping center and will help in promoting other development in the MAC be designed in a mixed-use, pedestrian friendly manner. Staff therefore recommends this revision by the petitioner as part of its basis for approval.

FINDINGS

1. The subject request complies with the site specific design criteria of Chapter B, Article III, Section 3-12.1, for large scale retail developments with single tenants greater than 75,000 square feet.

2. The subject request complies with the purpose statement for the MRB-S District and is found to be compatible with the surrounding community.

3. The proposed site plan provides an enhanced buffer from the single-family residential neighborhood to the south.

4. The subject property is located within an area identified as a Metro Activity Center (MAC) in Legacy. Retail superstores, such as the subject request, are allowed and encouraged within a MAC. However, the overall site should provide an urban feel and character so that mixed-use development can be encouraged. With additional conditions for the outparcel, this urban feel and character can be met.

STAFF RECOMMENDATION

Zoning: APPROVAL, contingent upon the applicant agreeing to restrict the future development of the outparcel lot located at the corner of Peters Creek Parkway and West Clemonsville Road Extension to a multi-storied building with ground floor retail and offices and/or residential units on the upper floor(s) with flexibility allowed for the front/side street setbacks per the MRB-S District standards. If the applicant does not agree to such a measure to arrange a more mixed-use environment in conformance with the MAC Design Guidelines, staff would recommend denial of the request.

Please note that based on conversations that we have had with the applicant this week (April 4-8, 2005) concerning their desire to shift the building forward on the site, the need expressed by staff for an urban-scaled building on the corner, and needed revisions identified by the Interdepartmental review that we have not seen as of this writing, a request for continuance may be appropriate.

Site Plan: Staff certifies that the site plan meets all code requirements, and recommends the following conditions:

• PRIOR TO THE ISSUANCE OF GRADING PERMITS
  a. Developer shall obtain a demolition permit from the Inspections Division prior to the removal of the existing structures on the site.
  b. Developer shall obtain driveway permits from WSDOT and NCDOT; additional improvement may be required prior to issuance of the permits.
c. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
d. Developer shall construct the improvements along West Clemmonsville Road per the approved TIS and per the recommendations of the City of Winston-Salem Department of Public Works.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Any retaining wall shall be earth tone in color or shall match the color of the primary building as approved by Planning staff.
  b. All proposed buildings (exclusive of the building on the outparcel located at the corner of Peters Creek Parkway and West Clemmons Ferry Road Extension) shall be consistent with the building elevations as shown in Exhibits A, B, C and D as approved by Planning staff.
  c. A private access and cross parcel access easement agreement from West Clemmons Ferry Road to the driveway connection to the western property line shall be recorded.
  d. Developer shall contact the Winston-Salem Transit Authority (WSTA) to inquire about possible extensions of Route 13 to the proposed shopping center. If the route can be extended, the developer shall coordinate with WSTA for a covered bus stop with sidewalk access to the Wal-Mart. Any required transit stop or shelter recommended by WSTA in the shopping center, along Peters Creek Parkway, or along West Clemmons Ferry Road Extension shall be installed or completed by the developer.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS
  a. Developer shall install all the improvements recommended in the Traffic Impact Study (TIS) and by the requirements specified in the driveway permits to the specifications of the Public Works Department of the City of Winston-Salem and the North Carolina Department of Transportation.
  b. All required fire hydrants shall be installed in accordance with the City Fire Department.
  c. Site will be developed in accordance with the approved site plan.

• OTHER REQUIREMENTS
  a. Development shall be permitted one (1) freestanding, fifteen (15) foot high monument sign with a fifty-four (54) square foot sign area at the main entrance to the development along West Clemmons Ferry Road Extension. Each other outparcel within the site shall be permitted one (1) freestanding, six (6) foot high monument sign with a thirty-six (36) square foot sign area.
  b. Landscaping materials shall be consistent with that shown on sheet C-16, Planting Plan, of the approved site plan.
  c. On-site lighting shall be consistent with that shown on sheet C-15, Lighting Plan, of the approved site plan.
  d. Developer shall stabilize slopes within 15 days of achieving final grade.
e. The subject property and developer are subject to all of the requirements specified in Article B, Chapter III, Section 3-12, design requirements for Large Scale Retail Developments of the UDO.

f. Developer shall agree to restrict the future development of the outparcel lot located at the corner of Peters Creek Parkway and West Clemmons-ville Road Extension to a multi-storied building with ground floor retail and offices and/or residential units on the upper floor(s) with flexibility allowed for the front/side street setbacks, parking, etc., per the MRB-S District standards.

Chris Murphy presented the staff report.

PUBLIC HEARING

FOR:

Tom Terrell,
- Introduced others present who could answer questions regarding this case.
- *Legacy* establishes several types of growth models which we're also looking for in Winston-Salem and Forsyth County.
- Discussed the goals and objectives of Metro Activity Centers (MACs) as described by *Legacy*.
- This project meets those guidelines as well as the MRB-S requirements.
- Apparently there are storm water issues for the homes on Kesteven. This development will help those problems by changing the post-development topography by shifting the storm water to be draining away from those properties.
- Traffic was probably the most frequent concern we heard expressed. The point of a MAC is to increase traffic, to increase density. It's Wal-Mart's job to hire a Traffic Firm to do a Traffic Impact Study to show all it can do to mitigate that traffic. That has been done and both WSDOT and NCDOT have approved the mitigations and proposed roadway modifications.

Jon Dorman, Kimley-Horn & Associates, 4601 Charlotte Park Drive, Charlotte, NC
- Discussed the buffer along the southern property line.

AGAINST:

Ray Barber, 1641 Kesteven Road, Winston-Salem, NC 27127
- My property is literally within a few feet of the loading docks and trash compactors of the proposed Wal-Mart.
- A 25' rising berm topped off with a ten foot tall wall offers me little consolation. It doesn't alter the facts that the tractor trailer rigs will have engines running at this 24-hour operation. There's the trash compacting and with that the attraction of rodents and animals inherent with the disposal of food and other products, not forgetting the light and noise pollution, the increase in traffic, and with it the influx of crime, shop-lifters, and the like that have to be policed.
• It should also be noted that my home has been on the market. The only home for sale along Kesteven Road in the affected area. The sale of my home at its current market value is key to me insuring my success and I'm convinced that the erection of a wall to hide a super Wal-Mart on the other side is incredibly detrimental to my property value and to the success of selling my home at its fair value. I feel as if I'm being harmed due to this unwelcome intrusion and the apparent disregard for the quality of life for the neighboring home-owners. From my driveway to the current Wal-Mart on Hanes Mall Boulevard takes literally twelve minutes. That's hardly an inconvenience. There's not a one of us in this room who could say they would enjoy having a super Wal-Mart in their back yards. Please reject this request.

Marvette Pratt Aldred, 1617 Kasteven Road, Winston-Salem, NC  27127
• Please look at the quality of life of the residents in this area.
• I will be concerned about going outside to empty my trash at night. I now will have to worry about who is on the other side of that wall.
• We do have a drainage problem and I'm concerned about that.
• I'm concerned about property values. This will lower our property values.
• There is no place in North Carolina where you can go look at a Wal-Mart in a residential area. This may set a precedent.
• Security is a major issue.
• My house is so high that I will hear all the noise from the Wal-Mart and look down upon it.

George Dukes, 3066 Canterbury Park Dr. Winston-Salem, NC  27127
• My major concern with this Wal-Mart is traffic on Peters Creek. This is a rapidly growing area with residential development.
• I don't think this is a good plan or a good fit for our community. There is a better way to develop this Metro Activity Center that will better reflect the existing residential neighborhood.

Victoria Bailey, 3605 Cedar Haven Court, Winston-Salem, NC  27127
• I just heard about this about a week ago. I'm disappointed and upset that it's coming this close to being in a residential area. I have two small children who have been here with me since about 1:30 so I could speak about this.
• It really concerns me that the Board would let it get this far. I don't know anybody who would like to live behind a Wal-Mart and that's practically what we will be doing.
• Who wants to live behind a Wal-Mart that's open 24-7?
• I hope you'll consider the other businesses in this area which will be driven out by Wal-Mart.
• If they can take down Toys R Us, they can take down the other little stores that are around there.
• Please consider that before you approve something like this.

Dennis Felder, 1601 Kesteven Road, Winston-Salem, NC  27127
• I talked to the cats and the dogs and the rabbits and the squirrels and they informed me that they do not want this Wal-Mart here.
• I support Wal-Mart 100% but I object to the site they have chosen.
• I know you've done a feasibility study and when you do a feasibility study, you can interpret it any way you like.
• Honey attracts anything and everything. So will Wal-Mart, no matter where it is.
• I disagree with the process.
• Traffic will increase.
• I keep my back door unlocked. I never have to worry about security. Now I will have to worry.

Melissa Neil, 1613 Kesteven Road, Winston-Salem, NC 27127
• They had six months to do their plans. We found out about this at the end of March.
• This is literally in our back yard.

WORK SESSION

During discussion by the Planning Board, the following points were made:

1. The reason for requesting a multistory building for an outparcel is to set the template both horizontally and vertically for the MAC as this will be the first new building in the MAC.
2. The wall behind Wal-Mart will be a brick wall with plantings at the bottom of the slope directly adjacent to the neighborhood and at the top of the slope directly at the wall. There will be plantings at the base of the wall and at the foot of the slope. This area will be maintained by the petitioner.
3. Arnold King: It's kinda ironic that we want residential at the front door and are doubling the buffer and putting up brick walls at the back door.
4. In response to a question from the Planning Board, Tim Allen, 97 Clarewood Drive, Fuquay Varina, NC 27526, Wal-Mart's real estate appraiser, stated that he has looked at market values of residential when immediately adjacent to a big box retail and found there is no loss in value for residents that abut commercial uses.
5. Mr. Dorman discussed elevations which were submitted as examples of the proposed design.
6. Mr. Dorman also discussed storm water management.
7. In response to a question, Wal-Mart's architect stated that normally Wal-Mart would not have a parking lot behind the building.
8. Lavastian Glenn: I'm really torn because I understand what the residents are saying. But you are in the middle of what's been designated as a Metro Activity Center so whatever is coming will be intense and it's going to be more intense than what is already there. You're right on Peters Creek Parkway so it just creates a bad situation for where you are. On the same hand, I think that Wal-Mart has done a lot to address the issues like the sound proofing of the walls, dealing with the drainage, and the traffic will be improved with the light. Your development was put on a major thoroughfare which will encourage more commercial development right next door to you.
9. Dara Folan: We spent a lot of time on design criteria for the MRB-S District. I feel like Wal-Mart's done a good job meeting what we hoped to see. Unlike the Reynolda situation which I couldn't support because I felt they were shoe-horning a Wal-Mart into that area, here you have a MAC, plenty of space, they've tried to work with the south with the enhanced buffer and the wall.

10. Jimmy Norwood: The one thing that bothers me about this is that the houses were there. But at the same time, that land is there and it's going to be something and it's going to be something intense. If we didn't go to Wal-Mart, we wouldn't have Wal-Mart.

MOTION: Paul Mullican moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions with the volunteered conditions submitted in the letter:

1. The outparcel building will include two functional stories;
2. The design of the outparcel building will incorporate materials, colors, and architectural features that match or complement the Wal-Mart building;
3. The outparcel building will be sited so that it will be placed towards the northeast corner of the outparcel, with little or no parking between the building and the street;
4. The front yard setback may be reduced as stipulated on the MRB-S zoning ordinance; and,
5. The required parking on the outparcel may be reduced per MRB-S zoning ordinance.

SECOND: Dara Folan

VOTE:

FOR: Jerry Clark, Dara Folan, Arnold King, Paul Mullican, Jimmy Norwood
AGAINST: Lavastian Glenn
EXCUSED: None

Written Comments by Planning Board members:

Dara Folan: I voted for this proposal because it will be located within a MAC, meets the design criteria of Chapter B, Article III for large scale retail developments, complies with the purpose statement for the MRB-S District, and provides an enhanced buffer for the residential area to the south. I believe the process and the design criteria worked in this instance.

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A. Paul Norby, AICP
Director of Planning