

RECORD OF DECISION ON APPLICATION
FOR SITE PLAN APPROVAL

Wal-Mart Stores, Inc. ("Wal-Mart"), c/o Lincoln Property Company CSE, Inc., 101 Arch Street, Boston, Massachusetts 02110, filed an application ("Application") dated November 1, 1993 with the Planning Board of the Town of Halifax (the "Board") for site plan approval in connection with the construction and utilization of a building to be utilized for retail purposes.

On November 22, 1993; November 23, 1993; November 29, 1993; December 6, 1993; December 29, 1993 and January 12, 1993, a public hearing was held before the Board on the Application.

The Board deliberated at public meetings on January 24, 1994; February 7, 1994 and February 17, 1994.

DECISION

On the basis of the documentary evidence and all testimony presented to the Board in connection with the Application, the Board makes certain findings, which are set forth below.

NAME OF APPLICANT

WAL-MART STORES, INC.

APPLICATION FOR:

Site Plan Approval to construct and utilize a retail building in a COMMERCIAL and BUSINESS DISTRICT of approximately 23 acres near the intersection of Routes 58 and 106, Halifax, Massachusetts ("Town"), being a portion of land owned by Trustees of Nessralla Halifax Realty Trust (Deed Reference: Plymouth Registry of Deeds at Book 9445, Page 11);

DATES OF HEARINGS AND MEETINGS:

Hearing: November 22, 1993, continued to November 23, 1993; November 29, 1993; December 6, 1993; December 29, 1993 and January 12, 1994. The Board deliberated at public meetings on January 24, 1994; February 7, 1994 and February 17, 1994.

BOARD CONDUCTING HEARING AND RENDERING DECISION:

John B. Thunberg (Chairman), Edward Whitney, Eli E. Perrault and Andrew V. Saba.

DECISION:

Gave approval to site plan entitled "Proposed Retail Route 106 and Route 58 Halifax, Massachusetts dated November 1, 1993, revised December 17, 1993, prepared by Sumner Schein Architects and Engineers, Inc., for Wal-Mart Stores, Inc.

REASONS FOR DECISION:

The criteria for Site Plan Review is set forth in Paragraph H of Section 167-28 of the Town's Zoning By-Laws. There were three critical issues which the Board addressed -- (1) protection of the neighboring residential areas from noise, light and visual harm, (2) the impact of the expected traffic on the neighborhood and the public in general and (3) the impact of expected storm water runoff on water quality in general.

With respect to impact on the neighboring residential areas, we have concluded that the conditions which are set forth below will give the neighboring properties reasonable protection. Protections for the neighboring properties include the placement of the building in a central location on the site, away from the residential areas; significant green space, including a dedicated area for non-development adjacent to the primary site driveway; reduced lighting in the rear of the building; a "New England" style building facade including dormers and a brick-like appearance; additional fencing; and prohibition against use of outdoor dumpsters.

The site is at the intersection of Plymouth Street (Route 106) and Monponsett Street (Route 58), the only signalized intersection in the Town of Halifax. The Applicant provided a traffic study by Robert D. Vanasse & Associates, Inc. which identified measures to mitigate the traffic impacts of the proposed development. The improvement plans were reviewed by Ralph S. Hayward, Jr., the Highway Supervisor for the Town of Halifax, who concluded that the proposed traffic improvements would improve the traffic and the aesthetics of the intersection of Routes 58 and 106. In addition, the Board retained the engineering firm of Robert C. Blumenthal Associates (at Applicant's expense) to review the Vanasse traffic study. The Board's traffic consultant concluded that the Applicant's proposed traffic improvements would assist in maintaining the level of service and mitigate the effects of the additional traffic. The Applicant will be required to implement the Conceptual Improvement Plan prepared by Vanasse which includes, among other improvements, the addition of a left-turn lane going eastbound on Route 106 at the proposed site driveway; the installation of underground traffic signal conduits where the primary site driveway intersects Route 106 and the Applicant's commitment to pay for the installation of the traffic signal when warranted by state guidelines; the installation of control mechanisms for the existing signal to coordinate timing and phasing of traffic signals and fire pre-emption for emergency vehicles; and construction of a

sidewalk extending from the primary site entrance driveway to Lydon Lane, within the existing Town right-of-way.

Under these circumstances, we think the proposed traffic improvements will properly mitigate traffic impacts to assure a reasonable use of the site.

At the Board's request, the Applicant's water quality engineering consultants, Fugro-McClelland (East), Inc. ("Fugro"), submitted to the Board a written report assessing the potential for impacts to receiving water sources from storm water discharge from the proposed development. Among the issues the Board considered were the adequacy of the proposed storm water treatment system, the discharge of storm water runoff to Monponsett Pond or to ground water areas serving public water supply wells; and salt impacts on down gradient cranberry operators. The Board retained SAIC Engineering, Inc., at Applicant's expense, to review the report prepared by Fugro. The Board has concluded that the proposed storm water treatment system is consistent with current state-of-the-art strategies for storm water quality renovation and that surface drainage paths suggest that surface runoff will be away from public water supplies. Finally, the Board concludes that water quality issues will be adequately addressed through the implementation of the conditions set forth below.

The Board has also considered the comments it received from Brewster W. Fuller & Associates, an engineering firm retained by the Board, at Applicant's expense, to advise the Board on the overall content of Applicant's Application.

In addition, the Board has considered the criteria set forth in Paragraph H of Section 167-28 of the Town's Zoning By-Laws and is satisfied that the Applicant's use is a reasonable use of the site and the Applicant's use will not be detrimental; the convenience and safety of vehicular and pedestrian traffic movement within the site and movement to and from the site has been adequately addressed; the proposed methods for controlling surface water are adequate; the Applicant has adequately provided for off-street loading and operation of vehicles incidental to the normal operation of the proposed development; the proposed development will be functionally and aesthetically compatible with uses on adjacent properties; the impact of site design and layout on residential privacy has been considered; and expansion possibilities have been considered.

Conditions. This site plan approval is subject to the following conditions:

1. Trash storage and removal using exterior dumpsters shall not be permitted.
2. Daily common carrier and Wal-Mart truck deliveries shall only be permitted between the hours of 8:00 A.M. and 5:00 P.M.

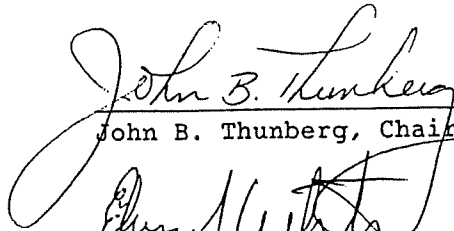
3. The retail operations shall not be open for business with the general public prior to 7:00 A.M. or later than 9:30 P.M., without the permission of the Police Chief.
4. Applicant shall, before the issuance of any building permit, deliver to the Planning Board a restrictive covenant running in favor of the Town prohibiting the development of buildings, parking or vehicular accessways within the areas identified on the site plan as "Additional Open Space" and "Wildlife Corridor", but reserving to the Applicant rights necessary for septic fields or future utility lines, for installation of a free-standing store identification sign, or as appropriate or incidental to non-commercial social or recreational use of the Additional Open Space and facilities incident thereto). Applicant shall submit to the Board for its review and approval a landscape design plan for the Additional Open Space.
5. Outside lighting shall be turned off within one hour after store closing, except in emergency situations or for maintenance and except for lights for safety or night watch purposes. The lights illuminating the storefront sign shall be turned off at the same time as store closing.
6. Any request of the Planning Board to limit or eliminate the use of salt on roads will be complied with with respect to parking areas and roads on the site.
7. Applicant shall submit a revised site plan showing a post and rail fence (or other type of fencing proposed by Applicant and acceptable to the Board) separating the unpaved parking areas behind the rear of the proposed building from the paved parking areas to the side and in front of the proposed building if permitted under applicable law. Also, Applicant shall submit a revised site plan showing a custom fence (or other type of fence proposed by Applicant and acceptable to the Board) separating the parking areas to the rear of the proposed building from the residences to the north of the site.
8. Lighting shall be shielded in such a manner so as to minimize glare and adverse impact to the residences in the area.
9. The Conceptual Improvement Plan for Routes 106 and 58 prepared by Vanasse & Associates, Inc. shall be implemented, including the widening of Route 106 within the existing Town right-of-way; the construction of sidewalks along the southern side of Route 106 from the primary site entrance driveway to the intersection of Routes 58 and 106, and on the western side of Route 58 south of the intersection of Routes 58 and 106 to Lydon Lane, all such sidewalk construction to be within the existing Town right-of-way, only.

10. The Applicant shall install underground traffic signal conduits at the intersection of Route 106 and the proposed primary site driveway for ease of installing traffic signal controls in the future should such control be deemed necessary based on traffic counts to be performed by Applicant's traffic engineer in May of 1994 and at the time of store opening. If a traffic signal is not warranted by the time of store opening, Applicant shall pay for the cost of traffic signal control at such time as such control is deemed necessary by the Town and approved by all applicable authorities.
11. No work shall commence on the site until the applicant has received a signed copy of the site plan.
12. Trash compactor operation shall only be permitted during store hours.
13. Applicant shall perform routine maintenance to the drainage system (including catch basins and storm water detention areas), shall keep the site free of litter and debris, shall routinely maintain the landscaping, shall keep all fences in a state of good repair and shall maintain the site in good order and repair in accordance with good shopping center industry standards.
14. Applicant shall maintain the parking areas in good order and repair in accordance with shopping center industry standards.
15. Upon the request of the Board, Applicant shall pay for the actual design and construction costs to relocate the curb cuts along Route 106 providing access to the retail property directly across Route 106 from the main site driveway (Assessor's Map 63, Lot 7) so that access to such property is aligned with the proposed primary site driveway for Applicant's development. The Town shall be responsible for obtaining all necessary property rights and other rights to effectuate such curb cut realignment.
16. So-called "flea market" operations shall not be permitted on the site.
17. No outdoor loudspeaker public address system shall be permitted.
18. Applicant shall revise the Site Plan to designate an area acceptable to the Board for snow storage.
19. The Halifax Board of Health shall approve Applicant's subsurface sewage disposal system.

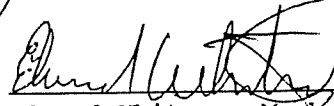
DATE OF ISSUANCE OF
DECISION:

BY ORDER OF THE BOARD

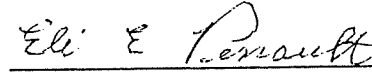
February 17, 1994



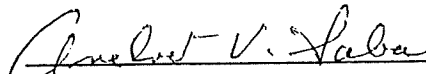
John B. Thunberg, Chairman



Edward Whitney, Member



Eli E. Perrault, Member



Andrew V. Saba, Member

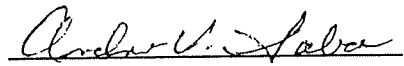
DATE OF FILING OF DECISION:

June 6, 1994

CERTIFICATION:

The Planning Board, by delivery of a copy of this decision to the Applicant, Wal-Mart Stores, Inc., does hereby certify that copies of this decision and all plans referred to in this decision have been filed with the Planning Board of the Town of Halifax and with the Town Clerk of the Town of Halifax.

PLANNING BOARD



, Clerk

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