LAND USE CONTROL BOARD PUBLIC HEARING SUMMARY & ACTION
CASE #: PD 06-314CC
(Proposed Wal-Mart Supercenter)

At its regular meeting on July 10th, 2008, the Memphis and Shelby County Land Use Control Board held a public hearing on the following application requesting site plan approval on the property described as follows:

LOCATION: Northwest corner of Houston Levee and Macon Road

OWNER OF RECORD/APPLICANT: George G. Lee, James R. Lee, Shelby R. Lee, III/Wal-Mart Stores

REPRESENTATIVE: Carlson Consulting Engineers

REQUEST: Site Plan Approval for a Wal-Mart Supercenter consisting of 151,908 square feet of floor area

AREA: 26.87 Acres

EXISTING ZONING: Currently governed by PD 06-314 CC

Office of Planning and Development Presentation: Chip Saliba, Land Use Controls Manager, spoke on behalf of the Office of Planning and Development (OPD) and outlined their position on why they were not in support of the application. Mr. Saliba explained that the site is known as Area F of the Lee Line Farms Outline Plan and has been approved for commercial development that included a conceptual plan as well. Of the total 34 acres encompassing Area F, the Wal-Mart Supercenter would include approximately 26 acres. Wal-Mart would purchase the entirety of Area F (34 acres) in order to control any remaining outparcel development on Houston Levee and Macon Roads.

Mr. Saliba explained that Wal-Mart's previous application requesting site plan approval for a larger supercenter building was dropped in favor of the current application. In comparison of the former application to the current, Mr. Saliba explained that the current application included more perimeter and interior landscaping, greater building setbacks, a smaller building, full road improvements to Macon Road and Houston a minimum distance of 400 feet from their intersection in all directions, and new building and sign appearances.

Two comparative analyses were prepared by OPD to not only compare the proposed Wal-Mart Supercenter to existing area Wal-Mart facilities, but to also compare the proposed development's scale and pattern with those of adjoining developments at the Houston Levee Road/Macon Road intersection. For instance, in comparing the proposed facility size to existing facilities, Mr. Saliba noted the existing Wal-Mart Supercenter on

Germantown Parkway contained 223,023 square feet of floor area versus the proposed supercenter at 151,908 square feet, or nearly two-thirds its size. Mr. Saliba acknowledged the previously-recorded conceptual site plan on the subject property would permit up to 315,000 square feet of floor area and the Wal-Mart site plan coupled with the development of the outparcels would yield approximately 171,000 square feet of floor area.

Mr. Saliba mentioned the proposed site plan in comparison with the Gray's Creek Plan recommendations. While the Gray's Creek Plan recommends a community commercial center for the subject property, a definitive size is not given in the study for a community commercial center. The OPD Staff felt that the proposed supercenter qualified more as a regional-serving use that would be better located in a regional commercial center location such as the one identified in the Gray's Creek Plan at Highway 64 and Highway 385. Mr. Saliba further stated that the staff would anticipate the supercenter drawing a customer base from up to 5 to 10 miles away and because of this the existing regional road system (comprised mainly of two-lane facilities) was inadequate to handle the Wal-Mart Supercenter operation at this time. Mr. Saliba reminded the Land Use Control Board members that they and the staff were charged with reviewing site plans within the Lee Line Farms Planned development based on several criteria including infrastructure adequacy.

Mr. Saliba closed his presentation by mentioning that he had received a petition of support on behalf of Wal-Mart with over 2,000 signatures and a number of letters and e-mails in opposition to the supercenter. He also noted that a proposed set of recommended conditions were in the staff report should the Land Use Control Board wish to approve the application that included a condition requiring full road improvements to Houston Levee Road and Macon Road a minimum of 800 feet in all directions as recommended by the County Engineer.

Presentation of the Applicant: Mike Williams, local attorney, spoke on behalf of Wal-Mart. He began his presentation by pointing out that the County Commission and City Council had already previously determined that the site could be developed for commercial use in approving the Lee Line Farms Planned Development. He stated that the proposed supercenter was two-thirds the size of the existing facility on Germantown Parkway and that this was purposefully done to lessen the impact a supercenter would have at the proposed location. He further noted that the proposed site plan elements included nearly 40% more landscaping than called for by the Outline Plan conditions,

lighting standards that did not exceed 30 feet in height, and an uplighted building which he illustrated in a graphic.

Mr. Williams stated that he and Wal-Mart representatives had met with members of the Gray's Creek Association and were complemented by the association of the site plan and building design, but that the association felt the development was in the wrong location and would be better suited on Highway 64 due primarily to its traffic impact.

Mr. Williams stated that he and Wal-Mart representatives had meet with area neighborhood associations that included Cumberland Farms, Cordova Ridge, the Gray's Creek Association, and Woodland Hills. He presented a petition in support of the Wal-Mart Supercenter with over 2,000 signatures and that at least 18 of these signatures were from residents along Siskin Drive immediately abutting the site to the west.

Concerning traffic congestion concerns, Mr. Williams acknowledged the existing lack of road improvements with area roads, but that Wal-Mart's commitment to do full roadway improvements to both Houston Levee Road and Macon Road a minimum of 400 feet in all directions would substantially improve the situation and the improvement would be immediate rather than having to rely on taxpayer-funded improvements that might not occur until 15 years from now. Mr. Williams stated that Wal-Mart would actually be prepared to provide full road improvements up to 1,000 feet in all directions from the Houston Levee Road/Macon Road intersection, if needed. The proposed road improvements would improve the capability of this intersection to then function at a Level of Service C which would be an upgrade from its current Level of Service D.

In response to concerns about the Wal-Mart Supercenter being characterized as a "regional impact" development, Mr. Williams provided documentation from CB Richard Ellis that classified a "commercial community center" as a center containing from 100,000 to 300,000 square feet of floor area of which the proposed supercenter easily met.

Presentations of the Opposition: David Sanders, representing the Gray's Creek Association, stated the proposed supercenter was in violation of the Gray's Creek Plan because it creates a regional center, not a commercial community center, due to the size of the supercenter. He further stated the proposed development was contrary to the principles of Mayor Wharton's Sustainable Shelby Initiative and that the development will lead to a decrease in property values.

Gene Bryan, representing the Cordova Leadership Council, spoke in full support of the OPD staff report. He stated the proposed location was not a place for a regional commercial use. Concerning the traffic study submitted by the applicant, Mr. Bryan said it was flawed because the traffic counts used in it were taken when Macon Hall Elementary School was not in session which is a significant traffic generator in the immediate area.

Tracy Boord raised concerns about the safety of children and increase in crime. She specifically made issue with the proposed facility being within two blocks of Macon Hall Elementary School with many children walking to school.

Henry Booth, resident at 9707 Woodland Hills Drive and upcoming president of the Macon Hall Elementary School PTA, stated the proposed supercenter would create a traffic nightmare and be even worse when the outparcels on the Wal-Mart site were developed with other commercial uses.

Don Ware, resident at 11514 Macon Road, said that there are already too many Wal-Marts in the surrounding area. He questioned the residency of the over 2,000 people who signed a petition in support of the supercenter.

Linda Ware, whose property is located directly east of the proposed supercenter, stated that no one had contracted her concerning the development except Wal-Mart representatives. She stated that she one of the most impacted stakeholders in the area by virtue of owning and living on 70 acres adjacent to the proposed supercenter. She further stated that it was her understanding that Wal-Mart had committed to providing full road improvements up to 1,000 feet in length in all directions from the intersection of Houston Levee Road and Macon Road and she could not imagine why it anyone would not want these road improvements paid for by a private interest rather than Shelby County.

Land Use Control Board Members Discussion/Action: Board members asked the Office of Planning and Development Staff how could the proposed site plan be rejected when commercial development has previously been approved on the site and the size of the proposed supercenter building is smaller than what could be permitted to be built there in terms of floor area. Mary Baker, Deputy Administrator, responded that the staff had a long-standing practice of requiring concept plans to give some idea of how a site

could develop. The problem is with the timing of such development. This is the reason for the site plan review and approval process by the Land Use Control Board and the reason why the staff and Land Use control Board are charged with determining infrastructure adequacy. Further, conceptual plans lack other important details that can help determine compatibility such as a grading plan. Such details were provided as part of the site plan submittal and therefore the staff had more information available to assess the impact of the supercenter.

Board member discussion also included more clarity on what was meant by a "regional-scale use" and a "neighborhood-scale use" and what the vision was for the neighborhood. Most Board members felt that Wal-Mart had complied with the Outline Plan Conditions and concept plan intent and made several modifications to address concerns of the staff and neighbors.

A motion was made and seconded to recommend approval of the application with the conditions recommended by the OPD Staff should the Board choose to support the site plan including requiring the full road improvements of Houston Levee Road and Macon Road up to 1,000 feet in all directions of the intersection of these roads.

The motion passed by a vote 8 to 1.

The Board rejected the conclusions of the staff as contained in the staff report.

Respectfully submitted,

Norman R. Saliba, Jr.
Land Use Controls Manager
Office of Planning and Development

Conditions Of Approval
Lee Line Farms Planned Development, Area F
"Wal-Mart Supercenter" Site Plan
PD 06-314 CC
Land Use Control Board Meeting – 07/10/08

1. A minimum building setback of 270 feet shall be provided along the west property line with the exception that the drive-through canopy for the pharmacy shall be permitted a minimum setback of 245 feet.

2. A minimum building setback of 250 feet shall be provided from the north property line.

3. No outparcel shall have a curb cut to either Macon Road or Houston Levee Road. Each outparcel shall gain access through the internal drive system serving the Wal-Mart Supercenter.

4. All landscaping illustrated on the proposed landscaping plan including those planting areas around each outparcel shall be installed prior to the issuing of a Use and Occupancy Permit for the Wal-Mart Supercenter.

5. The north property line of Outparcel 5 shall be landscaped with the same landscaping pattern proposed along the north property line of the Wal-Mart Supercenter as part of the landscaping plan to be installed prior to the issuing of a Use and Occupancy Permit for the Wal-Mart Supercenter (30 feet wide/Modified Plate B4).

6. A landscaping screen subject to the approval of the Office of Planning and Development shall be installed along the west property line of Outparcel 1 as part of the landscaping plan to be installed prior to the issuing of a Use and Occupancy Permit for the Wal-Mart Supercenter (to be 80 feet in width except where approved for reduction by OPD due to existing utility installation) .

7. Berming shall be used as part of the landscaping screen between the west property line and the Wal-Mart Supercenter Building and parking lot as illustrated by the landscaping plan subject to the approval of the Office of Planning and Development.

8. A detailed landscaping plan including the number, location, species type, and size at planting shall be included as part of the final plat.

9. The attached and detached signs illustrated in the site plan submittal plan set shall be permitted and shall be illustrated on the final plat including their size, color and building material construction.

10. The building elevations illustrated in the site plan submittal plan set shall be permitted and shall be illustrated on the final plat including colors, building materials, and certification of a minimum composition of 50% brick façade coverage.

11. Exterior pole lighting shall not exceed 30 feet in height and shall be a shoe-box design with full cut-off luminaries on all lights with house side shielding on lights adjacent to residential properties.

12. The finished floor elevation of the Wal-Mart Supercenter shall not exceed 331 feet.

13. The Outdoor Garden Center Sales Area as illustrated on the site plan submittal plan set shall be permitted.

14. All traffic signal modifications, including, but not limited to, signalization, fiber optic interconnections, the relocation of poles, cabinets, etc., shall be at the sole expense of the developer and shall be subject to the review and approval of the City and County Engineer.

15. Dedicate and improve Houston Levee Road 54 feet from the centerline along the entire frontage of the site including the outparcels and existing Trustmark National Bank frontage to Macon Road.

16. Dedicate and improve Macon Road 42 feet from the centerline along the entire frontage of the site including the outparcels and existing Trustmark National Bank frontage to Houston Levee Road.

17. Full off-site road improvements to a five-lane cross section shall be provided to all four legs of the Houston Levee Road/Macon Road intersection up to a distance of 1,000 feet subject to the approval of the County Engineer.

18. The drainage pipe outfall at the southwest corner of Houston Levee Road and Macon Road shall be modified to handle stormwater discharge at the developer's expense.

19. No outside container storage is permitted.

20. All other Outline Plan Conditions remain applicable unless modified by Conditions 1-19 above.