

MANAGERS REPORT
10 Jan. 02 Council Only

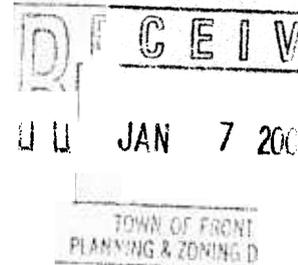


**WALSH COLUCCI
LUBELEY EMRICH
& TERPAK PC**

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December 26, 2002

Ms. Brevetta Jordan
Planning Director
Town of Front Royal
P. O. Box 1560
16 North Royal Avenue
Front Royal, Virginia 22630



Re: Response to Issues Raised at the Planning Commission's Public Hearing on the Wal-Mart Application

Dear Ms. Jordan:

As you know, a number of issues were raised at the public hearing held before your Planning Commission on December 18th. The applicant was attentive to the positions expressed, and the issues raised, and believes that it is appropriate to put several of its responses in writing, so that they may be fully considered by the Commission and the Council.

1. The advent of Wal-Mart will directly benefit the residents of Front Royal by improving convenience and diversity of opportunity.

Wal-Mart has been a successful company for many reasons, perhaps most significantly because it has brought convenience and value to millions of Americans. As we have reported, Wal-Mart selected this site as the only suitable location for its new store primarily because the location is part of a Town to which Wal-Mart wishes to belong as a good and useful neighbor: Wal-Mart's customer base for this store will be primarily residents of Front Royal, and its immediate environs, for whom the store will be the most convenient and accessible at this location. In fact, market surveys and analyses show that well over 50% of the store's shoppers, about 70% of the total, will come from communities south, east and west of the proposed site. It will provide a diversity of shopping opportunity that does not presently exist in the Town or the County. Wal-Mart estimates that as much as 40% of the consumer spending in the Front Royal area "leaks" to other jurisdictions, such as Winchester, and points east, and the construction of a store where proposed will be truly convenient for the Town and its citizens, keeping local dollars local.

Wal-Mart will increase the number of locally-available jobs. As Mr. Xhajanka has reported to the Commission, there will be 450 new opportunities created by the opening of this store, without regard to other development that may occur on site over time.

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Wal-Mart will also dedicate a 70-acre public recreation area within the Town's boundaries that will not only provide recreational opportunities for local residents but, for the first time, will provide the Town a direct public access to the Shenandoah River. Consistently with this dedication, Wal-Mart has an excellent reputation of support for local schools and other community groups, and will bring that reputation squarely to Front Royal.

Wal-Mart understands that there is a revenue sharing agreement in place between the Town and Warren County. But it cannot be ignored that Wal-Mart's construction of its Supercenter in the Town will have direct economic benefits to the Town's revenues. Without regard to any increased land value, that will result in increased real estate tax, sales tax revenue alone will generate an annual payment to the Town of approximately \$60,000. The company will also provide a \$120,000 monetary contribution to improve electric service in the Riverton area, an amount arrived at in conjunction with the Town's electrical consultant. These improvements will provide ample capacity for the Wal-Mart such that approximately half of the expanded capacity will be available for other users in the Riverton area.

2. Traffic will be successfully managed.

The majority of critics at the Commission's hearing expressed the view that traffic at the Strasburg Road/340 intersection is unfixable, and that there is a far superior site located at the Interstate 66 interchange with Route 340/522. Wal-Mart believes that this position is demonstrably incorrect, and that both the Town's staff, and the Virginia Department of Transportation, recognize that under commonly accepted practices the improvements to which Wal-Mart will be legally committed will not only not degrade the function of that intersection, they will indeed improve it. The optimal improvement, of course, will be reconstruction of the North Fork Bridge, which VDOT has scheduled for 2005, but until that time the improvements Wal-Mart will make will cause the roads to function successfully. Construction of the new bridge, which is indeed planned to occur, will only improve conditions

We do not need to repeat all of the information in the traffic analyses that have been presented and refined in consultation with the Town and VDOT, and our folks will be prepared to answer more detailed questions regarding traffic at the upcoming work session with the Commission. It must be observed, however, that while the road improvements required for the site must be done in connection with initial development, the traffic generation upon which these road improvements are predicated simply will not occur for some unknowable time yet to come, since, among other reasons, increased traffic includes development on those outparcels retained by the Richards Trust.¹ While it is reasonable to assume that those parcels will ultimately

¹ Wal-Mart has expressed its view that the estimated trip generation from the site at full development are extremely conservative in the sense that it does not expect traffic generation to be as high as used for modeling purposes. Notwithstanding this, it has acceded to VDOT's direction in every instance. It must also be noted that the manner in which "background" trip generation and growth rates have been estimated, without regard to Wal-Mart, includes a factor for the seasonal spike in traffic occasioned by tourist traffic.

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develop, there are no plans for their use at present. Yet this does not change Wal-Mart's obligation to improve the intersection.

Some speakers decried the proposition that VDOT is analyzing the impact of development with a view to maintaining a Level of Service "C" upon full development. I believe you know, however, that Level of Service analysis relates only to the function of an intersection during the peak traffic hours, and that at all other times the intersection will function at an even higher Level of Service.

Moreover, it is also true that throughout Virginia, VDOT and the several localities generally design roadways to function at a Level of Service "D" at peak hours. VDOT has insisted here that Wal-Mart's improvements must meet the higher LOS "C" standard. Wal-Mart has committed to improvements that will accomplish this result. In no case does VDOT, or any Virginia locality of which we are aware, design improvements to achieve a Level of Service B.

Finally, we note that **if Wal-Mart were relocated to the Interstate, at least 40%, and most likely more than 50%, of the traffic going to that site would pass through the crucial Route 55 intersection anyway, causing it to fail without the prospect of any roadway improvements.** The largest part of Wal-Mart's customer base in the Front Royal area lives in and near the Town to the south and east, and will access either site on the same roads. If Wal-Mart is approved, however, then the Town can anticipate an improved intersection in the near future.

It is our experience that even informed citizens without background in the traffic modeling that is done today often disbelieve the results of such analysis, based on an intuitive sense that they know better, and a shared awareness that there are traffic problems throughout the region. But we know that the Town recognizes that the methods used here are commonly accepted by Virginia and its local governments, and that they have in fact worked in case after case. Pleas to ignore the means of addressing traffic impact are pleas to ignore traffic analysis itself in favor of a supposedly static situation – one that is not and will never be static. With relatively rare exception, most of the significant improvements to the road structure, and improvements to the function of critically affected intersections, have been accomplished by the private sector through the processes of development, and there is no reason to believe that will not be the case here.

3. The Warren County School Board advises that the A. S. Rhodes School will cease to be an elementary school by 2005.

Wal-Mart has recognized from the outset that the Town would be properly concerned for the store's possible impact on the adjacent A. S. Rhodes Elementary School. However, in December the Warren County School Board approved a Capital Improvements Plan that includes the construction of a new A. S. Rhodes Elementary on the north side of the County, and the conversion of the existing A.S. Rhodes School into an alternative education facility that will serve older students. Although the School Board must seek approval from the County Board of

Supervisors, news accounts indicate that the new elementary school is slated for construction in 2004, to open in September 2005. The alternative school would open in September 2007. Wal-Mart will not open at the earliest before 2004. The School Board's plan, if approved by the Board of Supervisors, essentially lessens any impact, perceived or otherwise, upon the elementary school.

But even if the School is not relocated, the traffic improvements planned for the access entrance will enhance the safety of the school, whether it remains an elementary school or becomes an alternative school. The signalization at the access drive will be seen from the school, and will provide drivers opportunities for safe entries and exits to and from the school, which will greatly improve the existing situation. Moreover, the proposed bike path, sidewalk and crosswalk signals will be even more effective to slow traffic and aid those older students who may desire to bike or walk from the school to the dedicated recreation area. As you can see from the attached letter, Wal-Mart has successfully constructed Supercenters directly across from schools – which is not the case here – and the associated traffic improvements greatly benefited the school. There is no reason to believe that the A.S. Rhodes School will not similarly benefit.

4. The impact on the scenic vistas of the Town will not be of the scale or quality that opponents assert.

We recognize that for some, the only acceptable use of the selected site is its preservation as open space, and that there are no facts or arguments that can be presented that will alter this opinion. Preservation of the property is, however, an improbable result. I have been involved in numerous similar preservation efforts, and have found that in virtually none was the locality or private groups successful in raising the funds necessary to pay the fair market value of the land sought to be preserved. In none was it done without the intervention of Congress or national preservation organizations, and most frequently with respect to actual Civil War battlegrounds, none of which are present on this site. We are aware of no historical events, or burials, of any kind that occurred on the site. If historically significant artifacts are discovered during development, other statutes and regulatory processes would be triggered that would require an analysis of any such finds. There is no basis upon which to believe that this will occur.

The Commission and the Council must therefore consider whether the development of a Wal-Mart on this location will in fact have the dire effect on the entire region that has been predicted, and which purportedly underlies much of the opposition. However, both must also weigh the benefits of enjoying direct public access to the Shenandoah River, a claim that we understand the "Canoe Capital" of Virginia has not been able to make heretofore, against hyperbolic claims.

Wal-Mart does not believe that it will have the adverse effect that has been claimed. It believes, too, that the Town was aware of the implications of development on that site when it adopted its current Comprehensive Plan for the property and took steps to protect surrounding scenic vistas through its Ordinances and its Comprehensive Plan. When Wal-Mart acquired its option on its selected site, it was fully aware that the Plan contemplated the commercial

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development of the property. Contrary to representations made to the Planning Commission, that Plan makes no reference to light commercial uses, nor does it define those uses. On the contrary, the Town Council made a decision, as it appears in the Plan, that the Strasburg Road intersection was both suitable and reasonable for the kind of neighborhood and community-serving commercial use that is at the heart of Wal-Mart's success.

The development plans that have been submitted to the Town faithfully reflect each of the planning action strategies that the Council adopted for the development of the site. For example, the Plan contemplates that development along the entrance corridors shall pay particular attention to landscaping of the development. Wal-Mart has done this, by providing landscaping significantly beyond that which is required by Ordinance, and by taking into consideration the comments that have been provided to assure suitable buffering from adjacent residential uses.

Moreover, it simply cannot be ignored that if the land were developed at its current R-1 zoning, you have calculated that 140 single-family dwellings may be constructed by right (which may be compared to the 129 total lots that have already been approved in Riverview).

Most importantly, Wal-Mart has provided the Town with drawings of the proposed store, to which it would be legally obligated to conform. The exhibits submitted demonstrate that the impact of the store will be minimized dramatically, and that an architectural scheme will be used that is consistent with the location and its surroundings.

In short, Wal-Mart believes that a dispassionate analysis of its actual impact on the area and its attractions reveals that hyperbolic claims it would destroy the natural beauty of either the site or the area generally, far overstate the reality

5. Stormwater management for the site will protect the River.

Many comments suggested that the development would adversely affect the water quality in the Shenandoah River. The Town is properly concerned with the preservation of that water quality, but the requirements for stormwater management on the site will accomplish the required level of control and protection. Wal-Mart has agreed to the Town's request for specific methods of stormwater management control, and the use of Best Management Practices, not required by law in Front Royal, has been proved consistently over the past twenty-five years to function satisfactorily in controlling both the quantity, and the quality, of runoff from any site. The product of years of study and engineering, BMPs are state-of-the-art means of protecting water sources, and will be employed here. Moreover, as one person observed at the public hearing, the supposed alternate site for Wal-Mart drains into the Shenandoah as does this site, and BMPs that would work there, work here. Residential development would not likely include such extensive stormwater measures, which would expose the River to risk.

For these reasons, and others that can be advanced in response to specific questions, Wal-Mart believes that the grounds of opposition to it that have been articulated are not well taken,

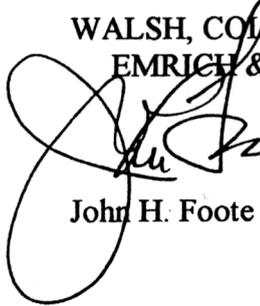
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and that the facts, rather than the opinions, that will govern this case all indicate that development may occur compatibly with the surrounding area, and bring to Front Royal benefits that it does not today possess.

Wal-Mart will be pleased to address any questions that the Town continues to have, and we look forward to the Work Session upcoming.

Sincerely yours,

WALSH, COLUCCI, LUBELEY,
EMRICH & TERPAK, P.C.



John H. Foote

JHF/jhf

cc: Richard Anzolut, Town Manager
Paul Khajanka, Real Estate Manager, Wal-Mart
Alice Haase, Esq.
John Meyer
Charles Garcia
Larry Moritz
Joseph Caloggero
Ed Ogletree

Halifax County Public Schools

Mr. Dennis G. Witt, Superintendent of Schools

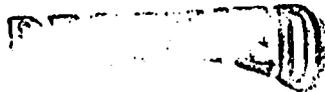
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AUG 07 2002

DND - DANVILLE

August 5, 2002

Mr. Brian K. Bradner, P.E.
Project Manager
Dewberry & Davis, Inc.
551 Piney Forest Road
Danville, Virginia 24540

Dear Mr. Bradner:

Re: Wal-Mart Store #1345 & Halifax County High
School, Halifax County, Virginia

As a follow up to our recent conversation, Wal-Mart completed construction on a Supercenter located directly across from the Halifax County High School in 1998. As part of that project, a new traffic signal was funded and installed by Wal-Mart at the intersection of the Wal-Mart entrance and the entrance to the High School on Old Halifax Road. Since this traffic signal has been installed, traffic circulation in and around the school has greatly improved. Prior to the signal's installation, vehicles entering and exiting the high school were forced to wait for a period of time before they could safely enter or exit the school. This traffic signal has been very beneficial to both Wal-Mart and the High School.

Sincerely,

A handwritten signature in cursive script that reads "Larry D. Roller".

Larry D. Roller
Director of Operations and Maintenance

LDR/nn