

APPROVED AS CORRECTED ON FEBRUARY 20, 2007

Legend: ■ Inserted Language
— Deleted Language

MINUTES OF PROCEEDINGS

LITTLETON CITY COUNCIL

January 30, 2007

The Littleton City Council met in special session on Tuesday, January 30, 2007, in the Council Chambers of the Littleton Center, 2255 West Berry Avenue. The special meeting convened at 7:00 p.m.

THOSE PRESENT:

JAMES A. TAYLOR
Mayor
REBECCA KAST
Mayor Pro Tem
DOUG CLARK
Council Member
AMY S. CONKLIN
Council Member
PAT CRONENBERGER
Council Member
TOM MULVEY
Council Member
JOHN OSTERMILLER
Council Member

THOSE ABSENT: None

ALSO PRESENT:

Jim Woods
City Manager
Larry Berkowitz
City Attorney
Julie K. Bower
City Clerk

1. **ROLL CALL**

Upon a call of the roll, seven members were present. The following business was transacted.

2. **PLEDGE OF ALLEGIANCE**

3. **AGENDA**

ACTION: APPROVED

4. **(a) SECOND AND FINAL READING ON ORDINANCES AND PUBLIC HEARINGS**

– ORDINANCE ON SECOND READING TO APPROVE REZONING OF THE PROPERTY LOCATED AT 6775, 6855, 6885 SOUTH SANTA FE DRIVE

ACTION: ORDINANCE NO. 5, SERIES OF 2007

Mr. Berkowitz said a petition was received by City Clerk Julie Bower, requiring a 2/3 majority vote of Council to approve the ordinance. He said, while there was a statute, it did not apply to home rule municipalities such as Littleton. The Charter required a majority of the membership of the entire Council. He suggested that the petition be marked as Opponent's Exhibit 18 and included in the record.

Mayor Taylor said Council had received four notebooks, three of which included letters and emails received for and against the ordinance.

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER MULVEY TO ALLOW PEOPLE TO CEDE SPEAKING TIME, IF THE PERSON CEDING TIME HAD NOT ALREADY SPOKEN.

Mayor Taylor said that would be changing horses in the middle of the stream. Council made it very clear a week ago that it would not allow that and to change the rules in the middle of the argument was not fair to the people who spoke last week.

Council Member Ostermiller said last November, Council approved the revised rules which included a detailed listing of how public hearings would be conducted. It stated clearly that individuals would not speak more than 3 minutes.

The vote on the motion was:

Ayes: Council Members Mulvey, Kast and Clark.

Nays: Council Members Conklin, Taylor, Cronenberger and Ostermiller.

MOTION FAILED: 3 to 4

Council Member Clark was contacted by someone who had to leave early and asked to be moved to the front of the queue.

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER MULVEY TO ALLOW SOME PEOPLE TO MOVE TO THE FRONT OF THE LIST.

Ayes: Council Members Mulvey, Conklin, Taylor, Ostermiller and Clark.

Nays: Council Members Kast and Cronenberger.

MOTION CARRIED: 5 to 2

JAMIE EISELE
7109 S. CLAY ST.

Ms. Eisele said when walking south on the trail from Oxford, you pass Waste Management facilities, dumpsters, parking lots, the noise of commercial vehicles. Once south of the Belleview bridge, a change was noticeable. You could enjoy the sounds of nature instead of traffic. The reason was because of planning to prevent businesses from destroying the habitat. She asked Council to continue to protect the park and deny Wal-Mart's rezoning request.

MIKA FARER
6685 S. CROCKER WAY

Ms. Farer was opposed to the ordinance. She was opposed to any retail big box along Santa Fe and asked for a moratorium until a block of land could be selected to be zoned as recreational. The area would become irreversible degraded if the rezone was approved. The recreational opportunities should be developed.

ABBY ANDERSON
1550 W. RIDGE RD.

Ms. Anderson was opposed to the ordinance. She wanted the city to pursue funding such as GOCO grants to help preserve the open space.

PAVLOS STAVROPOULOS
5655 S. CROCKER ST.

Mr. Stavropoulos said the park contained the only un-channelized section of the South Platte River. Different challenges were faced today and the citizens were saying we could do something better than a big box.

MIMZY TACKNEY-MOEN
1405 E. FREMONT CIR. SO
CENTENNIAL, CO

Ms. Tackney-Moen recited a poem. She urged Council to say no to Wal-Mart.

GEORGE COLLINS
1305 W. DAVIES PL.

Mr. Collins was opposed to a Wal-Mart at the proposed location. Traffic on Santa Fe would be increased, property values would decline and living quality would be affected. The drainage should be totally managed on the Wal-Mart property. The revenue would exceed the TABOR cap. Council had an obligation to deny or table the proposal until the COMPLAN update was completed.

M. THERESA REYNOLDS
2305 W. DAVIES AVE.

Ms. Reynolds opposed the ordinance and had collected 205 signatures against the proposal. She encouraged Council to think outside the big box and into the heart and soul of the community. The 205 signatures were entered into the record as Opponent's Exhibit 19.

CHRISTY BOUGIE
7543 S. OVERLOOK WAY

Ms. Bougie was opposed to the ordinance. She said the city had always respected its cultural heritage. She did not want Council to make exceptions to the existing Code. She asked Council to deny the rezone application.

JOHN LAWSON
2988 W. ROWLAND AVE.

Mr. Lawson was opposed to the ordinance. He said when he purchased his property, nothing suggested a 24/7 behemoth would be built next door. He did not want the city to subsidize Wal-Mart by allowing it to discharge pollutants on city land. He entered Opponent's Exhibit 20, environmental information, into the record.

DEBRA GUERRIE
2987 W. ROWLAND AVE.

Ms. Guerre entered Opponent's Exhibit 21, a report on crime at the Englewood Wal-Mart store, into the record. Crime would become a community problem because it required police resources. 80% of crime occurred in the parking lot. There would be noise and lights from the police vehicles. It was a basic quality of life issue and living in the area would become intolerable. She asked Council to say no to Wal-Mart.

KAL MURIB
6323 S. SANTA FE DR.

Mr. Murib favored the ordinance. He said with each change, the city and residents had benefited from tax revenue. The location proposed for Wal-Mart looked appealing and why not keep tax dollars in Littleton. As a business owner, he welcomed the challenge of competition.

BILL SNYDER
1952 W. RIDGE RD.

Mr. Snyder was opposed to the ordinance. It was clear the application did not meet the COMPLAN. The city's noise ordinance prohibited unloading and loading between the hours of 10:00 p.m. and 7:00 a.m. It did not comply with the changing conditions exception. The rezoning must be rejected.

LINDA KNAFINKE

7089 S. CLAY ST.

Ms. Knafinke represented "Littleton Against Wal-Mart." The application was not consistent with the goals and policies of the COMPLAN. The communitywide goals did not support the rezoning of the property. The city was obligated to deny the proposal. It did not promote the general welfare of the community. It would bring nothing but problems and would diminish the general welfare of the community. There were no changing conditions. Opponent's Exhibit 22, a copy of the PowerPoint presentation, was entered into the record.

TAMMY WHITNEY

590 FRONT RANGE RD.

Ms. Whitney was opposed to the ordinance. She had collected 385 names of people who asked that Wal-Mart not be allowed. She asked Council to respect the COMPLAN and Zoning Code and reject the proposed Wal-Mart. Opponent's Exhibit 23, 385 cards, was entered into the record.

JENA DICKEY

2432 W. SUNSET DR.

Ms. Dickey was opposed to the ordinance. The park was unique and precious and should be protected. More sales tax would not make any difference.

CINDY MASSEY

5781 S. SPOTSWOOD

Ms. Massey was opposed to the ordinance. She said there were so many concerned citizens that cared about the welfare of the town.

LAUREN PARK

5654 S. PRINCE ST.

Ms. Park was opposed to the ordinance. She would like to keep things the way they were. South Platte Park was home to 479 different species and it was a diverse and remarkable place and it should be protected. She asked Council to consider future generations. She entered Opponent's Exhibit 24, newspaper article.

STEVE BOCKENSTEDT

7049 S. CLAY ST.

Mr. Bockenstedt was opposed to the ordinance. He was concerned about the water quality retention pond that would be receiving pollutants from the parking lot. He was concerned about noise. He was also concerned about there being only one entrance/exit onto Santa Fe which was very dangerous. He asked that there be no pedestrian access to Wolhurst Landing.

LARRY BORGER
6188 S. ELATI CT.

Mr. Borger was opposed to the ordinance. He said a lot of community time was put into the creation of South Platte Park and it had become part of the community's soul. There would be an impact on the park. He wondered what would happen to the home values of adjacent property. Zoning was supposed to be a protection and there were other sites available.

DAVID MINSHALL
CENTENNIAL

Mr. Minshall asked that the petition requiring a 2/3 majority vote be entered into the record.

Mayor Taylor said it had been entered into the record.

SALLY PARSONS
6777 SOUTHBRIDGE LANE

Ms. Parsons was opposed to the ordinance and asked Council to vote against it. Santa Fe was still narrow and the Briarwood exit might not be able to handle the traffic safely. She asked if the ordinance regarding unloading and loading applied or not?

JOHN RYMERS
1607 W. CANAL CT.

Mr. Rymers was opposed to the ordinance. The project did not fit the location because of the effect of a 24/7 operation on the wildlife and people nearby. The right project would come along and he urged Council to vote no on the rezoning proposal.

ANTHONY MARQUEZ
6927 S. HILL ST.

Mr. Marquez was opposed to the ordinance. Council should consider existing residences that would lose property value. He asked Council to leave the zoning as it was.

LEBRUN HUTCHISON
6730 S. DELAWARE ST.

Mr. Hutchison was concerned about the run-off from the parking lot. He did not think it was the proper site for Wal-Mart and another site should be found. He did not think Wal-Mart was in competition with the downtown merchants.

DOROTHY KRATZER
6864 S. PRINCE WAY

Ms. Kratzer said the trail was an asset to the community but Wal-Mart could also be an asset to the community. Wal-Mart did support various community areas with donations. She had worked for Wal-Mart for five years and the wages were not that bad. Many people in the community worked for Wal-Mart and had to travel outside the city to other stores to work.

MELANIE RAMSEY
1535 S. HAZEL CT.
DENVER

Ms. Ramsey asked Council to make sure Wal-Mart provided better security regarding identity fraud. She was a victim and was still dealing with it.

DOUGLAS BUCK
6705 S. SANTA FE DR.

Mr. Buck favored the ordinance. His family owned the Meadowood property adjacent to the Wal-Mart property. He said everyone would like to see the bucolic nature of the country preserved but as South Santa Fe had developed, it was not a very natural area. There would be no signalized access point without a big user and without an access point, there would only be marginal development.

PATRICIA CALHOUN
5114 S. OSCEOLA

Ms. Calhoun asked that Council protect the wildlife and the residents of Wolhurst Landing. She asked Council to deny the rezoning.

RANDALL LIVINGSTON
2921-A W. LONG DR.

Mr. Livingston was opposed to the ordinance and said the city did not need big box stores. He believed Council was trying to raise revenue for a new justice center and was appalled at the treatment by Council.

CATHY HOPPING
5773 SHASTA CIR.

Ms. Hopping asked what the point was of spending money on a COMPLAN if the city was not going to follow it. The impact of the decision tonight would far outlast any temporary budget problems. The site was not the right place for a Wal-Mart or any other 24/7 big box.

DICK DVORCHAK
8 LINDENWOOD DR.

Mr. Dvorchak was opposed to the ordinance. There was not one instance of Wal-Mart having a positive impact on small businesses. Council would be shifting the tax revenue from small businesses to Wal-Mart.

CASSANDRA MEDRANO
5655 S. CROCKER ST.

Ms. Madrono said if Council passed the proposal, it would be voiding the election of 2000. She said citizens bought the Central Construction property with TABOR funds. In addition, TABOR was still in effect and Littleton would be limited on the revenue it could keep. She was opposed to the project.

LINDA BISSET
7054 S. COSTILLA ST.

Ms. Bisset was opposed to the ordinance but not to Wal-Mart. She entered Opponent's Exhibit 25, aerial views of Wal-Mart, into the record.

JAY DICKMAN
4450 SUMAC LANE

Mr. Dickman said it was a special area. He said shoppers at Wal-Mart would not be shopping in downtown Littleton. He asked Council to consider it very thoroughly.

KIM DVORCHAK
7771-E S. CURTICE DR.

Ms. Dvorchak urged Council to vote against the rezone. Littleton had a unique history and abundant parks and recreation and development should be sensitive to the neighborhood. She said the residents could not be shielded from the light and noise pollution.

WILLIAM RODGERS
2414 W. COSTILLA AVE.

Mr. Rodgers favored the ordinance. He had published a letter of support in the Independent and had received several calls from people who supported his position but were afraid of the opposition. On Friday, he received an anonymous call warning him not to show up for the meeting. He said Council should vote for Wal-Mart or Wal-Mart would just move further south and the city would be stuck with the problems without the revenue.

ANTHONY PERTUSI
7616 S. CEDEAR CIR.

Mr. Pertusi said there was not a product or service that Wal-Mart had to offer that could not be found in and around the Littleton area. Revenue from the store would be false income because whatever was netted as additional revenue would be lost from the small stores

already in Littleton. He hoped that there was not a reason that Council would vote for Wal-Mart.

TONY GALLAGHER

8196 S. LOGAN CT.

Mr. Gallagher was neither for or against Wal-Mart but was for free enterprise and a healthier city budget. Wal-Mart had bent over backwards to accommodate the neighborhood concerns. He said many local businesses did not pay as much as Wal-Mart or provide benefits. He said the city needed more options for groceries and Wal-Mart would not compete with local businesses. Mr. Gallagher asked Council to do what was best for the city.

BETTY CARR

6473 S. PRINCE ST.

Ms. Carr submitted Opponent's Exhibit 26, 407 postcards signed in opposition, into the record. She said Wal-Mart had very little support in the community.

CHRISTINE BERG

2592 W. DRY CREEK CT.

Ms. Berg was opposed to the ordinance. She said it was very important to keep the land as it was and there needed to be a buffer. The proposal placed a 10-foot wall on the south boundary and an 8-foot wall on the north side. The paved street was clearly an improvement not unobstructed open space. The plan fell short of the Code and should be rejected on those grounds.

BOB TAYLOR

675 W. PEAKVIEW

Mr. Taylor was in favor of the ordinance. If people did not like Wal-Mart there, then people did not have to go there. He did not understand what the problem was with the 10-foot wall. He said with the additional revenue, the city might be able to afford a couple more officers that could patrol downtown on foot.

JULIE UNGER

5920 W. ROWLAND AVE.

Ms. Unger was opposed to the rezoning. She wanted to keep Littleton beautiful and asked Council to vote no on the request. She entered Opponent's Exhibit 27, a map of Littleton, into the record.

HOLLY YOUNG

2971 W. DAVIES

Ms. Young was opposed to the ordinance. She entered Opponent's Exhibit 28, 919 signatures in opposition, into the record. She asked Council not to put a Wal-Mart there.

KATHY MILLARD

2350 W. MAIN ST.

Ms. Millard was opposed to the ordinance. She submitted Opponent's Exhibit 29, 160 cards in opposition, into the record. She asked Council to vote no on the ordinance.

JOHN PERRY

5540 S. WINDERMERE ST.

Mr. Perry was opposed to the ordinance. He wondered about the effectiveness of the proposed water treatment pond. He urged Council to vote against the ordinance.

DARRYL SHULTE

101 W. MINERAL AVE.

BIAAC CHAIR

Mr. Shulte said BIAAC had discussed the rezoning proposal and had decided to recommend support of the proposal. The recommendation addressed only the zoning issues of large format retail on the site. Littleton retailers were already competing with large format retailers whether located in the city or not. The sites on Santa Fe had fewer residential neighbors. The store would generate counts for signalized access onto Santa Fe. BIAAC recommended that lighting be limited and that trucks be unloaded in an enclosed dock. The walls would screen activity and contain trash. The property was on the extreme north end of the park and did not touch the park directly. BIAAC recommended that the city work with South Suburban to relocate the trail further west. He said the Committee believed the positives of the project outweighed the negatives and recommended that Council approve the rezoning request.

RICH ACRES

4401 TULE LAKE DR.

Mr. Acres said putting a large building on the site was inappropriate considering it was wedged in between two residential communities. Wal-Mart had a reputation for destroying small town businesses and having Wal-Mart in close proximity to downtown might have negative impacts to it and to Aspen Grove. He said if the ordinance passed, Council should consider an economic relief fund for small businesses impacted negatively.

APRIL LOVE

6907 S. BRYANT ST.

Ms. Love said placing the Wal-Mart in the proposed location would ruin the neighborhood. She asked Council to imagine how they would feel if Wal-Mart wanted to build a 24-hour super store next to their neighborhood.

NICOLE NEWHEY
6851 S. SPOTSWOOD

Ms. Newey read a letter from her neighbor in opposition to the ordinance.

LINDA REDDING
4571 W. GEDDES AVE.

Ms. Redding was opposed to the ordinance. Wal-Mart was not good for the community or the community's quality of life. She asked why there had not been any impartial studies done on the impact of Wal-Mart. The issues needed to be addressed before zoning was changed. It would put the park at risk forever. She said until a study was completed, there should be no vote.

BILL HOPPING
5773 SHASTA CIR.

Mr. Hopping said the best use of that land was not retail and big box and the rezoning request should be denied. He said pockets of development and power centers were now state-of-the-art. He asked Council to vote no. He entered Opponent's Exhibits 30, 31 and 32, into the record.

ALANA DICOLA
4571 W. GEDDES AVE.

Ms. Dicola submitted Opponent's Exhibit 33, 250 postcards and 94 letters in opposition, into the record. She did not want Wal-Mart on that land.

BOB CHIPMAN
2931 W. LONG DR.

Mr. Chipman said thousands of people were using the park. He was a member of the Citizens Advisory Committee that was revising the COMPLAN and trying to look ahead and see what the future held for Littleton. Aspects of that were rather frightening and if more people were involved they would understand the economics of the situation. He said the quiet majority in the city was not against Wal-Mart.

RITA BENTLEY
2882-H W. LONG CIR.

Ms. Bentley was opposed to the ordinance. She asked Council to say no to the proposal because it was a terrible fit for the city.

BRUCE KRAMLICH

6483 S. SYCAMORE ST.

Mr. Kramlich was opposed to the ordinance because of the impact on the wildlife in the park. The light and noise would disrupt the wildlife.

ADRIAN TOOFER
6475 S. CROCKER ST.

Ms. Toofer was opposed to the ordinance.

AMY ACRES
4400 TULE LAKE DR.

Ms. Acres was very concerned with the environmental issues of the proposal. She was opposed to the ordinance. There would be increased crime. There would be a tax shift and a lot of places would be closing. There were better locations for the Wal-Mart. She entered Opponent's Exhibit 34, the flyer sent out by Wal-Mart.

NIKITAS MEDRANO
5655 S.CROCKER ST.

Mr. Medrano was opposed to the ordinance because of the park. It would increase crime. He asked Council to vote no on Wal-Mart.

TERESA TUCKER
18 BRADBURY LN.

Ms. Tucker was opposed to the ordinance. Sales tax would not be what was projected. She asked what the EPA would do if it decided the water retention area was a hazardous waste site. Who would be responsible?

LISA TEETS
2906 W. BRYANT PL.

Ms. Teets moved here because there was no Wal-Mart. Wal-Mart was not the only solution and the city could think of other options.

DAVE SHOOB
7059 S. CURTICE ST.

Mr. Shoob was opposed to the ordinance. He said the walls were a canvass for graffiti and he was not sure Wal-Mart would be in a hurry to clean it up.

DORIS HULSE
6903 S. PRINCE CIR.

Ms. Hulse would not shop at Wal-Mart. The development would impact more than just two residential areas; it would impact the areas east and west of the development also.

The following people favored the ordinance but did not wish to speak:

LAURIE REED
2984 W. LONG DR.

JEFF SEWELL
6888 S. HILL ST.

JERRY HILL
5444 S. PRINCE ST

JOYCE HENDRICKS
6644 S. LAKEVIEW

JERRY OSBORN
5414 S. CIMARRON RD.

TOM BROWNING
1394 W. DAVIES PL.

BEV OSBORN
5414 S. CIMARRON WAY

KATHY WILLIAMS
7776 S. HILL DR.

CANDACE REED
2677 W. LONG PL.

RAY BALDWIN
1801 W. BRIARWOOD

MICHAEL LUTTON
7780 S. HILL DR.

BILL WIEDER
5 VILLAGE DR.

TOM WILNAU
6705 S. SANTA FE

GAYLE O'TREMBA
NO ADDRESS GIVEN

MICHAEL & ROSEMARIE NOWACKI
5927 S. DATURA

LEO ROSE
6705 S. SANTA FE

The following people did not favor the ordinance but did not wish to speak:

JILL BRUENINGSSEN
7897 S. DOVER

PATRICIA KAZMIER
2719 W. GREENS CT.

CATHY D'AMATO
4581 W. GEDDES DR.

MARY & DAVID SHAHAN
7313 S. COSTILLA ST.

JUNE BRINK
2894 RIVERWALK CIR. #30

ROCHELLE WINGRAD
12927 W. ROWLAND

D. MILLER
9911 S. DEER CREEK CT

KELLY MILLIMAN
2282 W. BRIARWOOD AVE.

KIM IMAMURA
7059 S. CLAY ST.

ELIZABETH SHELDON
6523 S. SYCAMORE

ELLEN SMREK
NO ADDRESS GIVEN

VIRGINIA CAMP
NO ADDRESS GIVEN

NANCY WHITE
715 FRONT RANGE RD.

MARK & HEATHER HUNLEY
8010 W. CHESTNUT

D. JESENOVEC
6865 S. ADAMS

JOAN REICHART
5829 S. DATURA

ANN SAWICKI
6605 S. ARAPAHOE WAY

MITCH PARKER
5654 S. PRINCE ST.

RUSS & CONNIE STRANDBERG
6596 S. ARAPAHOE WAY

JOHN DAVIS
2951 W. DAVIES AVE.

MARY SAVAGE
7291 HIGHLAND

LOLA TODD
7771-B S. CURTICE DR.

MICHELLE DAVIS
2951 W. DAVIES AVE.

DAN GRONERT
7286 S. HIGHLAND DR.

DAVID KATES
6905 S. SYCAMORE ST.

LESLIE STREET
2466 W. DAVIES

KEN DEMPSTER
FREDDIE DEMPSTER
6676 S. CROCKER WAY

JIM MASCOLO
1642 W. CANAL CT.

PENNY NELSON
5512 S. NEVADA

DON HARM
8457 S. HOYT WAY

JOAN ALBRECHT
2182 W. BRIARWOOD

MARY RICKETTS
3086 W. PRENTICE AVE.

FLORENCE STEPHENS
NO ADDRESS GIVEN

BRUCE ELLINGBOE
10 MEADOWBROOK RD.

ROBERT BUCHER
2942 W. ROWLAND AVE.

SANDY SNYDER
1952 W. RIDGE RD.

MARK BONKOWSKI
2922 W. ROWLAND AVE.

ERIC ELLINGBOE
10 MEADOWBROOK RD.

PAUL RITZDORF
NO ADDRESS GIVEN

LAURA SWEENEY
2946 W. BRYANT PL.

KIM CLARK
5193 TULE LAKE DR.

JOYCE MURATSUCHI
6066 S. SYCAMORE ST.

MIKE SERAFIN
7368 S. COSTILLA ST.

MARILYN KOBLITZ
NO ADDRESS GIVEN

BRIAN WYNNE
2844 W. BRYANT CIR.

CINDY ELLINGBOE
NO ADDRESS GIVEN

KAREN THURMAN
7765-C S. CURTICE DR.

JUDY NICHOLLS
2332 W. BRIARWOOD AVE.

LYNN RERUCHA
784 W. ELATI CIR.

BETTY BINGHAM
236 W. DELAWARE CIR.

TIMOTHY RAUP
2902-C W. LONG CIR.

BILL WOLFE
705 RANGEVIEW RD.

JANIS LIEVENS
7705-A S. CURTICE WAY

DOUG SNYDER
7705-A S. CURTICE WAY

BOB HOBAN
NO ADDRESS GIVEN

GARY JAS
5601 S. DELAWARE

MICHAEL DOWNS
7627 S. CROCKER ST.

KEITH ROOK
6023 S. STERNE PKWY.

WARREN EISELE
7109 S. CLAY ST.

PHYLLIS VANDEHAAR
390 W. FAIR AVE.

LOIS WRIGHT
7743 S. NEVADA

DENNIS OSENTOSKI
6998 S. BRYANT

ANNE OSENTOSKI
4995 S. GRANT

JANET CLEMENTSON
2852-C W. CENTENNIAL DR.

BOB PARSONS
6777 SOUTHBRIDGE LN.

CURTIS BOUGIE
7543 S. OVERLOOK WAY

DIANE & RAY BRISCOE
7421 S. KIT CARSON ST.

JULIA SCOTT
2914 S. GRANT

CHRISTINA MANWELLER

PATRICK HAMBLIN

5625 S. CROCKER

5625 S. CROCKER

SUSAN BURGSTINER
6120 S. STERNE PKWY

ANDREA & MARK HARRY
7580 S. GALLUP

DAVID MOORE
6601 S. SANTA FE

MARYANN RAPRECHT
6983 W. NICHOLS PL.

MATTHEW & KRISTEN HALL
110 BURGUNDY DR.

JAMES TURNER
NO ADDRESS GIVEN

CECILY MUI
2100 W. BERRY AVE.

MARY GRAVELY
6281 S. SPOTSWOOD

ASHLEY MOORE
NO ADDRESS LISTED

CHAD BRESTER
6821 W. BRYANT PL.

PAM STEINER
7112 S. BRYANT ST.

JULIE FRYBERGER
6662 S. HILL WAY

BRENDA FITZSIMONS
7363 S. COSTILLA CT.

KEVIN ALCOX
7001 S. COSTILLA ST.

CAROLYNNE WHITE
APPLICANT'S ATTORNEY

Ms. White said in response to a few points that were raised - no incentives were provided for the postcards and all postcards were given to the city whether for or against the proposal. Opponent's Exhibit 35, a postcard in opposition, was entered into the record. She also submitted Applicant's Exhibit B for the record - additional postcards in favor and a list of people who self-identified as supporters of the proposal. There were 218 in District I, 318 in District II, 275 in District III and 370 in District IV. These were not duplicates of names already presented. Ms. White said the tremendous amount of support received for the project was significant and it should be taken into account.

Ms. White said the question before Council was not should it be a Wal-Mart, but should it be a large format retailer. The land use criteria being used was what was or was not the appropriate use of the property regardless of what name was on the building. Council answered that in its 2005 strategy document when it identified the site as one of three catalyst parcels critical to the future Littleton's economy. Changed or changing conditions were a key here and there could not be any dispute that the conditions had changed since the property was zoned RS, which was at least 50 or 60 years ago. It was possible that Council anticipated those changes when the COMPLAN was amended in 2000 at which time there was a widespread belief that the corridor could not support retail. It was clear that the corridor could support retail and did support retail.

Ms. White said people commented about preserving the South Platte Park and the river and that if the property developed, it would harm the river and the park and devastate the wildlife. There was nothing that identified this parcel for preservation. The question was whether to develop it as RS, business park or PD-C for retail. Development of the parcel was part of the reason why the Superchi property was purchased to provide a buffer between the park and the property when it was developed. The property was not adjacent to the South Platte Park and there were plans in the works to turn the northern area of the Superchi property into parking.

Ms. White said Wal-Mart was willing and able to accommodate a water quality pond on its property. If the city did not want the artificial wetland then Wal-Mart would construct the water retention pond on its property. The opportunity arose to create something that was much more than just a facility to accommodate Wal-Mart's need for water quality and to accommodate additional water from other properties from the CDOT right-of-way and turn it into an amenity that would benefit and enhance the South Platte Park.

Ms. White said a noise study was conducted to make sure Wal-Mart could meet the noise requirements. The noise limits were 50 decibels at night and 55 decibels during the day. Assumptions included identifying all noise sources and that all sources would be operating at once. The reading would be 48 decibels. The study did not measure the existing noise emanating from Santa Fe Drive. She said CDOT's noise limits adjacent to residential areas was 66 decibels. The noise from Wal-Mart would be imperceptible in comparison to the noise of Santa Fe. The proposal was to buffer the noise through landscaping and screening in response to the concerns that were raised. She said trucks backed up to the dock, were enclosed by the building and unloading took place inside the building. She entered Applicant's Exhibit C, a letter regarding the noise study, into the record.

Ms. White said there was discussion regarding the traffic counts and what was taken into account. She entered Applicant's Exhibit D, a letter from the traffic engineer, into the record. The studies did not include the outside garden center.

Ms. White said there was information regarding wages and benefits in the binder provided to Council.

Ms. White said Wal-Mart wanted to be a responsible part of the community and that was why so much time had been spent addressing the concerns of the community. On the whole, Wal-Mart had clearly met the criteria for a rezone.

Kevin Wrede, Senior Planner, introduced emails and letters received since January 23rd as City Exhibit K. He had received 137 responses, 63 in favor and 74 against the rezoning. He also entered City Exhibit L, 18 postcards against the rezoning.

Mr. Wrede said the 50-foot buffer was required and had been interpreted to include the right-of-way. He said the additional open space requirements were included with the minimum open space requirement and the buffers helped meet the open space requirement. After

research, he had not found any site plans where buffers or landscaped areas were taken out and then recalculated to meet the requirements.

Mayor Pro Tem Kast asked if a wall would be considered an obstruction?

Mr. Wrede said there could be no structure erected, no storage, vehicular movement or parking in unobstructed open space. He said a wall would be considered a structure.

Council Member Conklin asked for clarification regarding the loading and unloading ordinance?

Mary Roberts, Community Development Director, said staff had always interpreted Section 7-3-5(E) of the Code to mean no loading or unloading could occur that caused a disturbance in excess of noise standard of 50 decibels. If the intent was that there be a prohibition against all loading and unloading between the hours of 10:00 p.m. and 7:00 a.m., staff had not been interpreting it correctly. The interpretation had been applied to all properties and there would be properties in the city that would be impacted by a strict prohibition.

Council Member Conklin asked if the city should be prohibiting the unloading and loading of trucks between the hours of 10:00 p.m. and 7:00 a.m.?

Mr. Berkowitz said Council had been concerned about trash pick-up and it was an example of unintended consequences. The effect of it was that if it was a total prohibition, then there were businesses in the city that would be directly affected. It had been enforced on a complaint basis.

Council Member Ostermiller asked if there was a prohibition?

Mr. Berkowitz said there was a prohibition.

Council Member Ostermiller asked for an explanation for requesting Wal-Mart to do a regional water treatment detention pond?

Charlie Blosten, Public Services Director, said it was a way of designing the pond to become an amenity to the property. It would treat water before it left the property and entered the waterways. The flows from Wal-Mart were primary. The flows generated from property upstream that would flow through the Wal-Mart property were also significant. The storm water detention pond on the west side of Santa Fe owned by CDOT was also a factor. The requirements were to have the water retained and treated before it left the site. Natural methods would be used to clean the water. The city's engineering department monitored the sites annually. Wal-Mart would pay for the treatment of their water, the pass-through water and the CDOT water. City staff and South Suburban staff supported the proposal and looked at it as an amenity and an asset to the redevelopment of the Superchi property. The artificial wetlands would provide a habitat that would attract small animals that fit into the South Platte River area. The decision did not have to be made tonight.

Council Member Ostermiller asked what was the annual maintenance cost?

Mr. Blosten did not know but it would be a part of the maintenance that South Suburban did on the Superchi property. South Suburban had conceptually agreed to maintain the pond.

Council Member Conklin asked the efficiency of ponds in removing pollutants?

Mr. Blosten said they worked and were part of the National Urban Run-off Program which was coordinated through the EPA, the Colorado Department of Public Health and Environment and the Water Quality Control Commission. The state and federal governments had endorsed it. It was a program to treat storm drainage in a natural way and if done correctly, it worked. It kept the water in the river as clean as possible with a natural process.

Mayor Pro Tem Kast said section 7-3-9(B) said if a site development plan was going to be approved the provisions of the chapter had to be met.

Mr. Berkowitz said no building permits would be issued unless it could be shown provisions of the chapter could be met. The application was not at that stage.

Council Member Clark said Council would be approving the zoning when it knew Wal-Mart could not comply with a 24 hour operation.

Mr. Berkowitz said the Code did not talk about this as being an issue at rezoning, but rather at the time the site development plan approval.

Council Member Ostermiller assumed Wal-Mart could not meet it if they could not accept deliveries between 10:00 p.m. and 7:00 a.m.

Council Member Cronenberger said it was not necessarily an issue of a 24/7 operation but regarding delivery times.

Mr. Woods said a code enforcement issue had been raised and for the past 11 years, staff had been interpreting it as a disturbance. If unloading and loading within 800 feet of residences was automatically prohibited, it had ramifications far beyond the Wal-Mart proposal.

Mr. Berkowitz said Council was focused on trash trucks in 1996 and not grocery deliveries.

Council Member Mulvey said it would affect the neighborhoods on both sides because the trucks were running all night.

Mayor Taylor asked if Wal-Mart had a policy regarding shutting off motors when unloading trucks?

Ms. White said the internal policy was a maximum of 20 minutes while unloading. If Council was going to continue to interpret it as a disturbance, Wal-Mart could meet it. If not

and there was an outright prohibition, Wal-Mart might need to rethink it. Wal-Mart wanted to be treated the same as every other business.

Council Member Ostermiller said Briarwood Avenue had been designated for a traffic signal by CDOT. He asked if warrants had to be met before a signal was installed?

Craig Faessler, Traffic Engineer, said warrants would have to be met. The most stringent requirement was for any 8 hours in a 24 hour period with a minimum volume of approximately 52 vehicles per hour had to be met.

Council Member Ostermiller asked if 8,000 vehicle trips per day would meet warrants?

Mr. Faessler said the study had determined that the intersection should easily meet an 8 hour warrant. He said a signal would go in on a temporary basis for three consecutive study periods to determine that it met the warrants. He was confident that it would meet warrants.

Mayor Taylor said currently Meadowood residents were prohibited from northbound turns.

Council Member Conklin asked what question was being answered by Applicant's Exhibit D?

CURTIS ROWE
APPLICANT'S TRAFFIC ENGINEER

Mr. Rowe said the letter addressed, in the last few paragraphs, including garden centers in the trip generation calculation. It was documentation to verify that the outside garden center should not have been included.

Council Member Clark said the letter indicated the studies done did include garden centers.

Mr. Rowe said it indicated that the sites did contain garden centers but those areas were not included in the trip generation calculation. Only the areas within the walls of the buildings were included. He said it was anticipated that warrants would be met for 14 different hours.

Mayor Taylor asked if staff had looked at any type of design other than the raised landscape medians in the parking lot? There were designs with sunken medians that allowed water to percolate into the soil.

Mr. Blosten said staff had not considered the design.

It was moved by COUNCIL MEMBER CRONENBERGER and seconded by COUNCIL MEMBER CONKLIN THAT THE PUBLIC HEARING BE CLOSED; THAT THE ORDINANCE APPROVING THE REZONING AND GENERAL PLANNED DEVELOPMENT PLAN FOR WAL-MART BE APPROVED; THAT THE WAL-MART REZONING AND GENERAL PLANNED DEVELOPMENT PLAN WAS JUSTIFIED IN THAT IT MET THE PERTINENT CRITERIA SPECIFIED IN SECTIONS 10-2-23(A)

AND (B) OF THE LITTLETON CITY CODE AND AS DESCRIBED IN THE PROPOSED ORDINANCE; THAT THE COUNCIL PRESIDENT BE AUTHORIZED TO SIGN THE ORDINANCE AND THE GENERAL PLANNED DEVELOPMENT PLAN; AND THAT THE ORDINANCE BE PUBLISHED BY TITLE ONLY.

It was moved by MAYOR PRO TEM KAST and seconded by COUNCIL MEMBER CLARK TO AMEND THE ARCHITECTURAL ELEMENT SECTION TO REQUIRE THE REAR (WEST) FACING FAÇADE TO INCLUDE ARCHITECTURAL PROJECTIONS IN THE FORM OF GABLE OR SHED ROOF ELEMENTS.

Mayor Pro Tem Kast said language should be added so that there would be architectural elements on the rear of the building.

Council Member Cronenberger said the important thing was that the roof-top units would not be visible from the east west because of the elevation of the trail.

Mayor Pro Tem Kast wanted to get away from the flat roof appearance of the building from the trail.

Mayor Taylor said the elements would be mainly for aesthetic purposes.

Mr. Berkowitz said the conditions would be added to Section 4 of the ordinance.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Ostermiller and Clark.

Nays: Council Members Taylor and Cronenberger.

MOTION CARRIED: 5 to 2

It was moved by MAYOR PRO TEM KAST and seconded by COUNCIL MEMBER CLARK THAT THE TOTAL NUMBER OF SIGNS SHOULD NOT EXCEED 6, 4 WALL SIGNS AND 2 GROUND SIGNS

Mayor Pro Tem Kast said the picture of the east façade with all of the signs on it was not very tasteful. It would look better if there was a limit of four wall signs.

Council Member Cronenberger said size was based on square footage, so was there a need for more specificity?

Ms. Roberts said the amendment limited the number of signs but would not limit the total square footage or location.

Council Member Clark said there was a maximum size for any one sign of 200 square feet.

Council Member Cronenberger would not support the amendment because the square footage was the key and not the number of signs.

The vote on the motion was:

Ayes: Council Members Kast, Ostermiller and Clark.

Nays: Council Members Mulvey, Conklin, Taylor and Cronenberger.

MOTION FAILED: 3 to 4

Mayor Pro Tem Kast wanted to improve what the residents of Wolhurst Landing had to look at and wanted to move the wall away from the property line. However, a structure was not allowed in the middle of the 50-foot buffer.

It was moved by MAYOR PRO TEM KAST and seconded by COUNCIL MEMBER CLARK TO REDUCE THE WALL HEIGHT FROM 10 FEET TO 8 FEET ON A 2-FOOT LANDSCAPING BERM CONSTRUCTED OF BRICK WITH INTERMITTENT COLUMNS AND LOCATED IN THE APPROXIMATE MIDDLE OF THE 50-FOOT BUFFER ZONE WITH LANDSCAPING ON BOTH SIDES OF THE WALL AND A THICK INSTALLATION OF EVERGREEN TREES SHALL BE INCLUDED IN THE LANDSCAPING OUTSIDE THE PERIMETER WALLS ON THE WEST AND SOUTH SIDES OF THE DEVELOPMENT.

Ms. White proposed a masonry wall similar to the building because a brick wall would not match. The wall should become part of the architecture. She was not sure if there was room for evergreen plantings on the west side of the wall depending on the location of the pond. Ms. White was also very concerned about maintenance issue of the landscaping on the outside of the wall. It was difficult to maintain something that could not be seen.

Council Member Cronenberger understood what Mayor Pro Tem Kast was trying to do but when the city had required brick, it had paid a cost. The brick costs so much more that the design then suffers. She supported leaving it as it was.

Council Member Ostermiller said a wall had not been required around Home Depot where it backed up against residential. He asked if a wall was just asking for more problems such as graffiti? The compressors were enclosed and trucks were inside enclosures. What was being gained by a wall rather than landscaped open space?

Ms. Roberts said the purpose was to screen the adjacent property from the development but the wall was not a requirement of the DRC.

Council Member Clark suggested the motion be changed from brick to masonry materials that were compatible with the building.

Mayor Pro Tem Kast preferred brick because it looked good.

Council Member Cronenberger suggested separating the motion.

Mayor Pro Tem Kast agreed to change the motion from brick to compatible masonry materials.

The vote on the motion was:

Ayes: Council Members Kast and Clark.

Nays: Council Members Mulvey, Conklin, Taylor, Cronenberger and Ostermiller.

MOTION FAILED: 2 to 5

It was moved by MAYOR PRO TEM KAST and seconded by MAYOR TAYLOR TO AMEND THE MOTION TO REQUIRE WAL-MART STORES, INC. TO WORK IN PARTNERSHIP WITH THE CITY OF LITTLETON AND SOUTH SUBURBAN PARKS AND RECREATION DISTRICT TO GRADE AND LANDSCAPE THE SUPERCHI SITE.

Mayor Taylor said that it should be an agreement worked out at a later time with South Suburban and not the PD Plan. It might not be for the city to dictate that as a requirement.

Council Member Ostermiller said the location of the wetlands needed to be considered.

The vote on the motion was:

Ayes: Council Members Mulvey, Kast and Cronenberger.

Nays: Council Members Conklin, Taylor, Ostermiller and Clark.

MOTION FAILED: 3 to 4

It was moved by COUNCIL MEMBER OSTERMILLER and seconded by MAYOR TAYLOR TO AMEND PAGES 2 AND 3 OF THE GENERAL PLAN TO CHANGE THE PD-C STANDARD MAXIMUM FAR TO .25.

Council Member Ostermiller said the proposed .50 FAR at 20+ acres would allow a 500,000 square foot building. If the property was sold with the zoning, someone could construct a 500,000 square foot building. The .25 FAR would bring it in line with the proposal being made by Wal-Mart and would still allow a 250,000 square foot building.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

It was moved by COUNCIL MEMBER OSTERMILLER and seconded by COUNCIL MEMBER CLARK THAT THE ACCESSORY USE CATEGORY WITHIN THE GENERAL PLANNED DEVELOPMENT PLAN BE AMENDED TO EXCLUDE ALCOHOL SALES, AUTOMOTIVE PARTS SALES, AUTOMOTIVE SERVICE, GASOLINE SALES AND OUTDOOR SPECIALTY EVENTS.

Ms. White had no objection to the proposed amendment but asked if alcohol sales were eliminated as an allowed use, would 3.2 beer sales as part of the grocery component also be prohibited also?

Council Member Ostermiller said it was not listed as a permitted use in the proposed PD plan and he wanted to match the PD zoning with the general plan.

Ms. Roberts said a grocery store use would be allowed to sell 3.2 beer.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

Council Member Clark said part of the problem was that there were inconsistencies between the zoning and the general plan.

Council Member Ostermiller said Council was approving the zoning and the general PD plan but was not approving the site development plan. The standards for the site development plan were being set by the PD plan.

Mr. Wrede said the second column listed the PD standards and the third column was a potential site development plan. The standards in the third column had to meet or exceed the standards in the second column.

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER MULVEY THAT THE SITE DEVELOPMENT PLAN COLUMN BE REMOVED.

Mayor Pro Tem Kast asked if it made more difficult for anyone? She asked what was the purpose of the motion?

Council Member Clark made the motion because the criteria in the columns were different. The general plan was supposed to define what the minimum criteria was when the property developed. The site development plan was supposed to conform to that at a minimum and could be more restrictive.

Mr. Woods said the site development plan was included to give Council a better idea of what would happen in reality.

Council Member Clark said he would change his motion to re-title the right column PD-C standards, remove the left column and to remove PD-C standards from page 2. It would make the SDP column the PD-C standards.

Mr. Wrede said minimum standards were set so that there was some flexibility allowed for site conditions.

Ms. White said the SDP column was listed for illustrative purposes only. The applicant had not yet done that level of technical design. The applicant knew it could meet the PD-C standards but if the SDP standards were made the PD-C standards, it might not be possible to meet them and it was not the application before Council.

Council Member Clark said the applicant was selling Council the proposed SDP but what the applicant was willing to commit to was different. He was trying to make the sales pitch match the commitment.

Ms. White said by reducing the FAR, and by limiting the uses, it was precisely what was being proposed.

Council Member Conklin called the question. The vote to stop debate was:

Ayes: Council Members Mulvey, Conklin, Kast, Cronenberger, Ostermiller and Clark.

Nays: Mayor Taylor.

MOTION CARRIED: 6 to 1

Council Member Clark restated his motion – on page 3, to remove the PD-C standards column and re-title right most column to PD-C standards and remove the PD-C standards column on page 2.

The vote on the motion was:

Ayes: Council Members Mulvey and Clark.

Nays: Council Members Conklin, Kast, Taylor, Cronenberger and Ostermiller.

MOTION FAILED: 2 to 5

Council Member Cronenberger said the Planning Commission had proposed limiting the access to Wolhurst Landing. The main motion did not limit access. Would access run from the RTD site all the way north?

Mr. Blosten said the intent was for a Meadowood resident to be able to walk across the site, through an opening in the wall, through the streets of Wolhurst Landing, across Aspen Grove and then to RTD. Without the pedestrian connection, Wolhurst Landing residents would have to drive their cars southbound to Aspen Grove to the light and then northbound onto Santa Fe back to the Wal-Mart.

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER OSTERMILLER TO REQUIRE ALL SCREEN WALLS PROPOSED FOR THE SITE BE REQUIRED TO PROVIDE ARTICULATION IN THE FORM OF REVEALS, PROJECTING RIBS OR OFFSETS IN THE WALL PLANE AND REQUIRE THAT THE MATERIALS AND COLORS RELATE TO THE SCALE AND STYLE OF THE ADJACENT BUILDINGS

Council Member Cronenberger asked what the Planning Commission meant by the amendment?

Mr. Wrede said the Planning Commission wanted language on the PD plan for specific character for the wall.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Ostermiller and Clark.

Nays: Council Member Cronenberger.

MOTION CARRIED: 6 to 1

It was moved by COUNCIL MEMBER CLARK THAT THE TEXT AND SITE PLAN ILLUSTRATION REQUIRING A PEDESTRIAN CONNECTION TO THE WOLHURST COMMUNITY BE DELETED FROM THE PLAN.

The motion died for lack of a second.

It was moved by MAYOR TAYLOR and seconded by MAYOR PRO TEM KAST THAT THE LANDSCAPING REQUIREMENTS BE AMENDED TO INCLUDE A REQUIREMENT TO PROVIDE LANDSCAPING WITH TREES ALONG THE PEDESTRIAN WALK ON THE FRONT (EAST FACING) SIDE OF ANY PROPOSED STRUCTURE.

Ayes: Council Members Conklin, Kast, Taylor and Ostermiller.

Nays: Council Members Mulvey, Cronenberger and Clark.

MOTION CARRIED: 4 to 3

It was moved by COUNCIL MEMBER CONKLIN and seconded by MAYOR TAYLOR THAT THE MAXIMUM HEIGHT REQUIREMENT SHALL BE 30 FEET WITHIN 150 FEET OF ANY RESIDENTIAL PROPERTY AND 41 FEET FOR ALL AREAS FURTHER THAN 150 FEET FROM ANY RESIDENTIAL PROPERTY.

Council Member Ostermiller asked by increasing the height to 41 feet, did it occur within 150 feet of residential?

Mr. Wrede said it did. There was a 30-foot height limit within 150 feet of residential and unlimited otherwise. The recommendation was to replace it with a 41-foot limit. The height requirement should be 30 feet within 150 feet of residential and a maximum of 41 feet outside of residential.

Council Member Ostermiller asked where a 41-foot limit was needed?

Mr. Wrede said 41 feet was needed over the food center opening.

Council Member Ostermiller asked if the 41-foot architectural element was outside the 150 foot residential limit?

Mr. Wrede said it was outside the 150 foot limit.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER MULVEY TO CHANGE THE PD-C STANDARDS PARKING RATIO OF 4.5 PER 1,000 SQUARE FEET TO 5 PER 1,000 SQUARE FEET.

Council Member Cronenberger would be happier if the 4.5 ration was lowered. There was more than enough parking and any time the city could go lower, it was a good thing. The city was overparked and she had no problem with the 4.5.

Mr. Wrede said the proposed PD-C standard required 4.5 and the City Code requirement was 4 per 1,000 square feet.

Mayor Pro Tem Kast asked how it helped to have a bigger parking lot?

Council Member Clark said at Christmas time, parking spaces were taken up with Christmas trees and cars would not fit in parking lot. It was the whole reason why the city had parking standards.

Mr. Wrede said the PD plan specified areas where outdoor display was allowed and it did not count toward the parking requirement of 4.5 spaces.

The vote on the motion was:

Ayes: Council Members Mulvey, Ostermiller and Clark.

Nays: Council Members Conklin, Kast, Taylor and Cronenberger.

MOTION FAILED: 3 to 4

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER MULVEY TO REMOVE LANGUAGE THAT SAID THE POND MAY BE LOCATED ON CITY PROPERTY.

Council Member Clark said both the drainage study and environmental study showed a 5 to 10 acre foot pond on city property. The property was purchased with TABOR funds. There were trees already located in the middle of where the pond would be located. It would have to be scraped off to remove the existing vegetation. It would not be an improvement to anything.

Mr. Blosten said if the pond was constructed on the north parcel, which was owned by South Suburban, no trees would have to be removed and significant vegetation removal would be avoided. If the pond was located in the south section, it would be designed to keep as much vegetation as possible.

Council Member Ostermiller asked what it did to South Suburban's plans for parking, the boat ramp and picnic shelter?

Mr. Blosten said South Suburban had suggested the pond be located on their property.

Mayor Taylor said South Suburban's proposed site development plan showed the pond.

Mayor Taylor asked if the water coming from the east side of Santa Fe was a regular flow?

Mr. Blosten said it was a constant flow of water that came down through the basin and across Santa Fe Drive.

Mayor Taylor said the pond would remove an eyesore created by CDOT.

Mr. Blosten said the CDOT structure would be eliminated with the proposal. If Council Member Clark's amendment passed, the CDOT pond would remain and the pass-through water would get to the river untreated. The city would be using Wal-Mart's money to solve a bigger problem for the environment and drainage.

Council Member Ostermiller asked if the city could commit something to property the city did not own, like saying the pond would be located on South Suburban property?

Mr. Berkowitz said no, the city could not require that.

Council Member Cronenberger said the city could encourage South Suburban to allow it on the north property.

The vote on the motion was:

Ayes: Council Members Mulvey and Clark.

Nays: Council Members Conklin, Kast, Taylor, Cronenberger and Ostermiller.

MOTION FAILED: 2 to 5

It was moved by COUNCIL MEMBER CRONENBERGER and seconded by COUNCIL MEMBER CONKLIN TO ENCOURAGE THE PLACEMENT OF THE REGIONAL WATER QUALITY POND ON THE PORTION OF THE SUPERCHI/CENTRAL CONSTRUCTION PROPERTY OWNED BY SOUTH SUBURBAN PARKS AND RECREATION DISTRICT.

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

It was moved by COUNCIL MEMBER CONKLIN and seconded by COUNCIL MEMBER CRONENBERGER WAL-MART SHALL IMPLEMENT "GREEN BUILDING" TECHNIQUES COMMONLY A PART OF THEIR EXISTING CONSTRUCTION STANDARDS FOR THEIR NEW BUILDINGS.

Ayes: Council Members Mulvey, Conklin, Kast, Taylor, Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

Mayor Taylor asked, with all of the DRC discussions, was there a discussion regarding the impacts the store would have on city services such as police and fire protection?

Mr. Woods said the DRC did not conduct a fiscal impact study. Police and fire would look at it but there was no service cost calculation. Such a study typically would not be done on a single store. The city had not done that with Aspen Grove. Police and fire did participate in the DRC review.

Council Member Cronenberger appreciated the history lessons received this evening and it was heartening to know so many citizens knew so much about the history of the city. She concurred with the applicant's proposal in that there were changing conditions along the South Santa Fe corridor. The Newton Trust rezone in the mid 90's was very upsetting because of the value of the park. At the time of that rezone, Council wanted to keep a balance between protecting the park and the city's economic viability. As a result of the rezone, an open space taskforce was formed that was chaired by Council Member Cronenberger. The taskforce operated knowing that South Santa Fe was going to develop and were there properties that should be used to buffer the park from the effects of development. The South Platte Park staff had identified in a study, what would be ideal parcels to buffer the park and the Superchi was not on that list. South Suburban asked that the Superchi parcel be added because of the visual impact of the Central Construction use and for access to the river. All but one of the pieces had been acquired and added to the park. The Kewit property, at 200 acres, had been annexed into the city and no one had ever thought that would be possible.

Council Member Cronenberger said it was important to understand how the city had approached South Santa Fe and South Platte Park. The economic viability of South Santa Fe had to be protected. After a rezone was turned down on the old Marathon property, staff asked Council where large format retail users could find property and Council identified this property as one of the sites. That was why the proposal was before Council this evening.

Council Member Conklin had been wrestling with the issue and she thanked everyone who participated in the process. It was a difficult decision but it was part of the job. Because of her nine years of experience with the Planning Commission, she came prepared with an open mind, listened carefully and made a decision based on the facts. Nothing was pre-determined. The question was not - was Wal-Mart a good company, the question was - was this a good site for a big box. It was a good site for big box. It was a land use decision and not a referendum on Wal-Mart.

Council Member Conklin said anything that went in on the site would cause noise and light impact. The water quality regional pond was a boon to the park. There was currently no treatment of the water that came off Santa Fe. She said Wal-Mart's contribution to the traffic on Santa Fe would be insignificant. The residents of Meadowood would benefit by getting a

traffic light. She had heard no complaints from the residents of Wolhurt Landing about the impacts of Aspen Grove which was 100,000 square feet larger.

Council Member Conklin said protecting the park was important and that was why the city spent \$2 million to acquire the buffer to protect the park from whatever went in on the property. She said the impact to the park criteria illustrated that the issue was about Wal-Mart. When Aspen Grove was rezoned in 2000, only seven people attended and none were concerned about the buffer to park. She said when the seminary was rezoned, not one person spoke at the public hearing. She said downtown business were already competing with Wal-Mart and were thriving. With regard to crime, the city already had big boxes and there had not been any large increase in crime.

Council Member Conklin said one assertion that she found particularly offensive, was that Council was blinded by greed. She said the TABOR cap was still in effect and it was possible the city might not be able to keep the excess revenue generated. There were other reasons for the proposal, such as providing residents with a variety of shopping opportunities. Another criteria that was obvious but absent in the discussion was property rights. No one was arguing about the right to develop the property. Council Member Conklin said many who spoke urged her to act like a representative and vote for what the majority of the citizens wanted and the letters were running 10 to 1 in favor of Wal-Mart. She concluded this was a good site for a big box store but smart people could review the same information and reach different conclusions.

Council Member Clark said that was not the question in front of Council. The question was whether the plan complied with the requirements specified in the zoning criteria. The answer was clearly no. Part of the problem was the proposal was trying to put 10 pounds of Wal-Mart on 5 pounds of property. It did not meet the Santa Fe Corridor Guidelines which called for a 70-foot buffer along Briarwood not including the right-of-way. The proposal could not meet the parking requirements. The meaning of 20% open space was altered. He said 10-2-23 specifically stated the buffer was in addition. It did not meet the Comprehensive Plan. The decision should be based on the conformance of the proposed plan with the stated intent of the plan development district. The process should provide a design that suited the development to the particular characteristics. The existing characteristics were residential on the north and south and a park on the west. Even BIAAC said Council needed to mitigate the surrounding neighborhood. The minimum requirements were not being met and it did not comply with the COMPLAN, which said the area was designed to be an economic development area to create jobs. It was to be developed as a high-quality, employment based development. When the city took part of the remaining vacant land that was designated to generate jobs and converted it to retail, the city had taken away the opportunity for creating jobs on the parcel. The city had more retail space than it could use. Council was ignoring its own zoning regulations. It was clear that this particular proposal on this site did not meet the city's requirements.

Council Member Ostermiller said it had really been a tough issue. Santa Fe was not in the original 1980 COMPLAN because most of Santa Fe was not in the city. The corridor ended at about where the Northwoods Inn was. In 1984, the city annexed additional land along

Santa Fe. Council Member Ostermiller was a member of the Planning Commission in 1980 when the original COMPLAN was approved and in 1984 when COMPLAN was amended to include the Santa Fe corridor. Santa Fe was nothing but an industrial corridor and the city wanted to change it when it got to Littleton. The original Santa Fe Corridor Plan had over 1,200 residential units between what was now Aspen Grove and Hudson Gardens, which included a parkway that followed the river from Mineral to Ridge Road. In 1989 after the park was formed, there was a lot of concern over the parkway and it was eliminated. In 1996, the open space taskforce was formed to look at buffering the park and South Suburban said the proposed residential units were not good to have up against the park.

Council Member Ostermiller said the Planning Commission revised the Santa Fe Corridor Plan between March 1999 and August 2000. Residential was out because of the impact on the park but industrial zoning as it existed on Santa Fe in Englewood was not wanted. The plan did not include retail at Aspen Grove because no one thought it would make it on Santa Fe after the Riverfront development failed. However, economic development was in the plan. One of the plan's goals was to improve the visual quality and expand its role to meet the economic demands of the future. It also stated that Santa Fe should function as a visually appealing transportation corridor. It had heavy auto traffic, freight train traffic and light rail traffic. Council Member Ostermiller said the open space taskforce developed a long range plan to buffer the park and Council had been following that plan. The city had acquired all of the recommended buffer properties except for one. He said all the way through, economics had been driving the plan. The property to the north was zoned B3, which was the highest commercial use in the city, with a 3 to 1 FAR and unlimited building height. The 2000 COMPLAN did not anticipate retail. The Aspen Grove development was questioned but had proved everyone wrong and Riverbend had developed further north. There was a \$90 million project in Sheridan that was all retail development. Those were definitely changing conditions that were not foreseen in 1999 and 2000 when the plan was developed.

Council Member Ostermiller said the applicant had met or exceeded the requirements from the referral agencies. It did comply with the COMPLAN and there were also changed and changing conditions. It was an important development for the city and he would support it.

Council Member Mulvey thanked citizens for their input. He said former Council members Sally Parsons and Vaughn Gardinier and former city manager Larry Borger said to vote no. People purchasing a home next to DIA expected noise and the house was priced lower. The people here were not getting that choice. He said the proposal was breaking the law by the truck loading operations and the Code should be followed. He would vote no.

Mayor Pro Tem Kast said the proposal was in her district and she felt a special responsibility. The people to the north in Meadowood were supportive of the proposal and it would benefit them. Residents in Wolhurst Landing would be negatively impacted. Because of the 24/7 operation, she could not support the proposal.

Mayor Taylor said it was a very difficult process and a lot of time had been spent on it. There were changing conditions on Santa Fe. It was not the same as it was in 1984 and a lot of things had occurred since that time. It had been alluded to several times that the city needed

the money. The city could not stop the increases to expenses and it needed to increase income to cover the additional expenses the city faced every year. The city had to pay for the services the citizens wanted. He would support the rezone.

Mr. Berkowitz noted, because of the amendments to the ordinance, the ordinance would be published in full, not by title only.

The vote on the main motion as amended was:

Ayes: Council Members Conklin, Taylor, Cronenberger and Ostermiller.

Nays: Council Members Mulvey, Kast and Clark.

MOTION CARRIED: 4 to 3

5. **ADJOURNMENT** - There being no further business, Mayor Taylor adjourned the meeting at 2:30 a.m. on Wednesday, January 31, 2007.

Julie K. Bower, City Clerk/Recording Secretary

Jan Burnham, Court Reporter