MEETING RECORD

NAME OF GROUP:	CITY BOARD OF ZONING APPEALS
DATE, TIME AND PLACE OF MEETING:	Tuesday, November 27, 2012, 1:30 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Andrew Budell, Tim Francis, George Hancock, Scott Sandquist and Lynn Sunderman. Chris Connolly and Tim Sieh of City Attorney; Fred Hoke, Terry Kathe and Shawn Johnson of Building and Safety; Dennis Bartels of Public Works Engineering Dept.; Marvin Krout, Steve Henrichsen, Brian Will, Paul Barnes and Teresa McKinstry of the Planning Department; and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Board of Zoning Appeals meeting

Chair Hancock opened the meeting and acknowledged the posting of the open meetings act posted in the room. He then called for a motion approving the minutes of the regular meeting held August 10, 2012. Motion for approval made by Sunderman, seconded by Francis and carried 5-0: Budell, Francis, Hancock, Sandquist and Sunderman voting 'yes'.

APPEAL NO. 1205
REQUESTED BY STANTEC ARCHITECTURE FOR AN EXCEPTION SEEKING A REDUCTION TO THE PARKING REQUIREMENT, ON PROPERTY GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF N. 11TH STREET AND SAUNDERS AVENUE
PUBLIC HEARING: November 27, 2012

Members present: Budell, Francis, Hancock, Sandquist and Sunderman.

Hancock noted that a letter was received from the applicant requesting to continue public hearing until January 25, 2013.

Francis moved to defer, with continued public hearing and action scheduled for January 25, 2013, seconded by Budell and carried 5-0: Budell, Francis, Hancock, Sandquist and Sunderman voting 'yes'.

APPEAL NO. 1204
REQUESTED BY THOMAS ZIMMERMAN, AN APPEAL OF THE DECISION OF THE DIRECTOR OF BUILDING AND SAFETY APPROVING BUILDING PERMIT #1201678 ALLEGING THAT SAID BUILDING PERMIT WAS ISSUED IN ERROR, ON PROPERTY GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF GRAINGER PARKWAY AND SOUTH 27TH STREET
PUBLIC HEARING: **November 27, 2012**

Members present: Budell, Francis, Hancock, Sandquist and Sunderman.

Tim Sieh of the City Attorney's office stated that a letter was submitted from Mark Hunzeker.

Mark Hunzeker appeared on behalf of Walmart Real Estate Business Trust. They are the owner of the property and believe they have a strong and direct interest in the outcome of this appeal. The City has made the decision that the hearing today is limited to the Building and Safety Dept. and the applicant. He thinks they are an indispensable party to this and denial would be a destruction of the process.

Chris Connolly of the City Attorney's office appeared and stated that he has talked with Mr. Hunzeker about the issue he raised. The primary problem is they are not a named party in this appeal. The appeal goes to the issue if the City made the proper decision. The other issue is if Walmart is permitted to intervene. If we allow them in, then the question is if the board is allowed to hear anyone and everyone. We think that is not the case. We think that this should be limited to the parties listed in the appeal.

Sunderman questioned what parties are listed. Connolly replied the parties are the Stone Ridge Estates Homeowners Association, Michaela Maglalang and the City of Lincoln.

Tom Zimmerman appeared and stated that he is the attorney representing Michaela Maglalang and Stone Ridge Homeowners Association. With respect to requested intervention by Walmart, this appeal was directed to this board through the proper channels and specifically, it appeals the decision of the Director of Building and Safety. This is a matter solely between his clients and Building and Safety. Other issues were raised. He copied Mr. Hunzeker recognizing that they are affected by this decision, but does not believe they are proper parties to this hearing.

Sunderman questioned if someone from the homeowners association named in this appeal, will be testifying. Tim Sieh replied that could be one or multiple witnesses. As a party to this appeal, they have the opportunity to have parties appear that they deem appropriate. Sieh believes parties involved in the homeowner association could be involved, as called by Mr. Zimmerman.

Hancock called for a motion allowing the representation of Walmart. Sunderman moved denial, seconded by Budell.

Sunderman stated that it behooves the board to follow the advice of the City Attorney's office.

Hancock realizes the action only has two parties, but it is certainly not uncommon to hear from other interested parties. He doesn't have a problem with that. He hopes they are all to the point. He doesn't have a problem with having Walmart heard. He thinks the board can respond appropriately.

Motion for denial carried 4-1: Budell, Francis, Sandquist and Sunderman voting 'yes'; Hancock voting 'no'.

Connolly stated that the parties have agreed to certain formalities of this public hearing. There will be opening statements. During his opening statement, he will voice his jurisdictional objections and request for dismissal. Mr. Zimmerman will put forward his evidence. That was the agreed upon procedure. That will be much like what will happen in a court room. We anticipate that testimony and direct cross examination will be very informal. All parties felt that this structure would be most conducive to what each side wants to present.

Connolly thanked everyone for their time and being here today. These board positions are important to the City. They have already stated a little bit about the unusual procedure today. The first thing he will ask the Board is to dismiss this appeal. This will create a nice record if this goes on to the District Court. This will reduce the possibility that this may come back before this board for more action. With regard to the appeal itself, in looking at the letter from Mr. Zimmerman, he sees six things that talk about parts of the appeal. They are looked at as complaints. First, they say the action was contrary to Titles 20 and 27 of Lincoln Municipal Code. Title 20 is the building code. Title 27 is the zoning code. He thinks the evidence you will hear today, there is an avenue already in place to appeal Title 27. The applicant ran out of time. This is not the right board. Under Title 27 the issue will be a little more complex. Building and Safety is involved in some issues. The issues at question are not issues that Building and Safety made. The permit was issued by Building and Safety, but the underlying issues were not made by that department. With regard to the access from Grainger Parkway, that determination was made by Public Works. The applicant has stated that customer vehicles and trucks would be entering all hours day and night. There is nothing that regulates how this is a problem. There is nothing that Building and Safety can do about that. The applicant talks about the lack of sufficient trees. That is regulated by the Planning Dept. This is not an issue that Building and Safety deals with either. This is not within the jurisdiction of Board of Zoning Appeals. The applicant also talks about decreased property values, again this is not within the purvue of Building and Safety. These are not the kinds of things they deal with. Their last issue states

they believe this will create drainage issues. Public Works deals with drainage issues. The reading of the applicant's letter, it appears the access issues are the main concern. This is not something that is decided upon by Building and Safety. Building and Safety's role is that they are an enforcement agency for the code. An analogy would be the Police Dept. They don't create the rules, they simply enforce them. The enforcement doesn't take place prior to construction, it takes place afterward. There are areas that Building and Safety is responsible for. The role of this board is to review variances. To review errors by Building and Safety doesn't mean it is something in connection with a project, that has not been alleged. Nothing in this complaint alleges there was an error by Building and Safety or that it is anything Building and Safety can do something about. What this gets down to is failure to state a claim for which relief can be granted. This ought to be dismissed before we even get to the merits of the case. The parties have agreed they can make their record. He doesn't believe this hearing should be going forward and will be objecting to any of the evidence.

Zimmerman is appearing on behalf of Stone Ridge Homeowners Association. He thanked this body for undertaking a task which is a little out of the norm. This is the procedure they have chosen to follow. In response to Mr. Connolly's comments, the letter on appeal refers to Title 20. He submits they are principally relying on Title 27. The board is familiar with the timeline from when this property was originally zoned B-2. When his client finally received notification of who would be building, it was after March 9 of this year, after the amendment. With respect to Title 20, he would disagree. The purpose of that chapter is to deal with minimum standards as they apply to structures. They are here to complain about the impact this property will have. Other evidence submitted by the City will be various progress notes and various individuals who were responsible for those reviews. Of all the particular city employees, he can count seven who are listed on the Building and Safety telephone directory as being Building and Safety employees and others who must be city employees. Mr. Connolly refers to the curb cut permit. That is one of the steps that needs to be taken prior to the permit being approved. It is his position that as a culmination of the various duties, a building permit is approved by the Director of Building and Safety. He will not present an opening statement. He believes his letter of application speaks for itself. He called his first witness Michaela Maglalang.

Michaela Maglalang, 2227 Grainger Parkway, stated that in examining the B-2 administrative amendment in March of 2012 which allowed the rezoning of our impacted property, there is an obligation that such amendment is not contrary to the general purpose, Section 27.31. Although the administrative amendment follows the protocol, it failed to create a desirable environment. The amendment does not preserve the value of the property, specifically looking at creating a desirable environment and complementing the general land use. This is definitely not desirable to have a big box store situated in the middle of the neighborhood. The residents of The Ridge do not have to endure traffic from Shopko. Wilderness Ridge and Wilderness Hills residents do not have to deal with Kohls traffic. Additionally, they do not share an entrance

between customers and trucks. The zoning was described this summer as an experiment by Mr. Krout. Why is it that we have been largely ignored? You are asking us to share an entrance. We have been dealt our fair shared of poor planning decisions, including a Holiday Inn directly across from Adams Elementary, along with 180 government subsidized apartments. Life Point Fitness Center is also directly across from Adams Elementary. Sid Dillon Auto is directly in front of Life Point. We also have a multitude of apartments. The sum of all the commercial entities creates congestion. This also impacts the neighborhood. She asks Commissioners if they would be supportive of a big box retail inside their neighborhood. She asks that this poor planning experiment is reversed.

Jim Hansbrough, 2424 Scotch Pine Trail, is a resident of the neighborhood that surrounds the Walmart that is under construction. He will start his presentation with a map. First of all, the location of the Walmart is near the corner of Yankee Hill Rd. and 27th St., two arterials. Not directly in this intersection which is where you will find most shopping areas that are being built near a neighborhood. There are residences on three sides of this store. The entrance and exit is off Grainger Parkway and 25th St. The other is off of Jamie Lane. There is no light planned for Jamie Lane. The impact of traffic will have to enter the store off Grainger Parkway. They will not be able to enter off Jamie Lane because there is no light. Customers who are interested in going north will have to exit from Grainger. This is the crux of the problem, the additional congestion and traffic. This is a neighborhood street. He showed some pictures of the area.

Connolly presented Exhibit 1, the file from Building and Safety regarding this application and Exhibit 2, the letter from the State of Nebraska Accountability and Disclosure Commission regarding a request from Lynn Sunderman to rule on any possible conflict of interest with regard to this case.

Zimmerman presented Exhibit 3, copies of everything Mr. Hansbrough showed in his testimony.

Connolly stated his objection to Exhibit 3.

Hansbrough stated that when some of the residents in the area were in the process of purchasing their homes, they were not told of a big box retail store at this location. His pictures show the Walmart that is in the process of being constructed, is directly at the 25th Street location. Many residents purchased their property knowing that this area was there, but they were not told about a big box store. They were not told of an entrance on Grainger Parkway. The delivery trucks will be required to come in off Jamie Lane and go to the back of the store. They will be exiting off Grainger Parkway.

Connolly objected. He wants to be careful that Mr. Hansbrough is allowed to make his statement, but he does not know that these are the routes that trucks will take. Mr. Hansbrough is not a traffic expert.

Hansbrough continued that the traffic congestion alone is reason enough to not allow a Grainger access to this store. What we are proposing is that Jamie Lane be the sole entrance and exit to the store. Next, he will address what is their biggest concern is the increased traffic that will take place behind the store. This increased traffic will result from different short cuts that customers will take. There will be a lot of individuals from Tamarin Ridge Apartments that will cut through the neighborhood to get to the store. That is not the only short cut. Individuals that leave the store can take Vavrina Lane out to 14th Street. That is a much shorter route. You don't have to contend with lights at Grainger Parkway. Route C is Katrina Lane which gives customers a shortcut to Yankee Hill Lane. This is a shorter distance and travel time. With the increased traffic, we have very serious concerns for the children. There are many young children in this neighborhood. Customers that don't live in this neighbohod, their objective is to get out as quick as they can. Holiday traffic, you have all experienced what a Target or Walmart can be between Halloween and New Years. We ask you to imagine the traffic this neighbhood could be faced with. Any time of year, but during a heavy shopping time, a driver looks to the right and sees three or four cars backed up at Grainger. It is understandable that they will go the other way to take a shortcut. He showed an article that appeared in the Lincoln Journal Star dated July 16, 2012 about a boy that was killed running across a street in Hastings, NE. This is a reality. These points have been presented to the Mayor. The Mayor's Chief of Staff and City Planning Director were involved in the meeting as well. He also asked the Public Works Director to review this. He was involved in another separate meeting with the Public Works Director, Miki Esposito. The concern was visible on everyone's face. The decision came back that the building permit was approved. An email from Ms. Esposito to Stone Ridge Estates residents, dated August 28, 2012, explained that the City chose not to support our concern and stand on this issue of the Grainger access causing a problem. The neighborhood has spoken at two City Council meetings about this issue and presented facts. The City attorney voiced in essence that they should not consider stopping this permit issue to build there because the City could be held liable. This is not, in our opinion, a legal issue but a moral issue. We all know what can happen here. Walmart has been quoted as saying they need dual access for convenience and safety, Jamie Lane and Grainger Avenue. One is safety. We think having one access on Grainger makes it less safe. As far as convenience, you can rest comfortable that residents would much prefer to drive out to Grainger so the neighborhood is safer. Walmart has stores with a single entry. He presented a map of the location of a Walmart Super Center is Timnath, Colorado, built in 2009. There is a single entrance to and from the store. A precedent has been established. The neighborhood struck out with the City Council and struck out with the Mayor's office. They approached the Journal Star. They graciously met with us and agreed to do another editorial on the subject. October 1, 2012, at the end of article, they stated they hoped the neighbors and Walmart try to

find common ground. The neighborhood was very pleased to hear that, but believe the newspaper recommended a solution that falls short, in our opinion. He presented a schedule of five options that Public Works presented as to how this issue can be addressed. Options that will either eliminate the shortcut issue or reduce it. First is no access to Grainger. This makes the most sense. Next option is right turn only at Grainger. This option will eliminate the short cut safety issue, but does not deal at all with the congestion issue. Next option is closing Grainger at 25th Street. He was surprised at the amount of residents who were willing to do this. The problem with that option is it will cause additional traffic in the neighborhood. The other options were a right in/right out only at Grainger and the fifth is a left in/right in/right out only at Grainger. These do not eliminate the short cut issue. This last option number five is what the Journal Star had recommended as their solution. He called the editor after the article ran. The editor said he was feeling that by taking this position it would help and lead to a compromise. Should safety for children really be compromised? He honestly has a problem with that. He struggles to understand. This is a moral issue, not a legal one. This group is their last hope of being able to deal with this issue. He suggests a few different steps. Think through what is being presented and give it serious consideration. He asks that you take a side step and think a minute about who you admire most and typically, they are individuals that have stood for what they believe. They have stood up for what is right regardless of the adversity. Next, he suggests you think about your children or grandchildren and what would they want you to think about. What if there is an accident a year or two down the road, how are you going to feel if you haven't taken a stand. He thanked everyone for their time and attention to this matter.

Zimmerman presented Exhibit 4, the map of a Walmart in Timnath, CO that shows only one entrance/exit and Exhibit 5 which summarizes the five traffic options regarding Grainger access.

Connolly objected.

Hancock wants to hear every opinion. The City Attorney has raised the point if this is the opportunity for everyone to speak, or not. Hancock sees it as his job to see if the testimony is pertinent or not. We are treading close to the line at this point and reminded everyone to keep those things in mind.

Connolly stated the base of his objection is that Hansbrough is not a traffic engineer, nor has he conducted any studies. Hansbrough acknowledged he is not a traffic engineer, but has had discussions with City employees about these points.

Beth Zillig, 7865 S. 25th Street, lives at the corner of 25th and Grainger where they have their access. We looked for a really long time for a walk out lot. We specifically asked about the open lot and asked a lot of questions. We were told it was zoned more for a strip mall or businesses. At no time was it mentioned that a big box store was an

option. We were told that Ridge Development owned it and they were very careful about what would go in there. We went ahead and built our dream house. We were in our house less than sixteen months when we found out that Wamart was approved to build. This is a 24 hour supercenter. From our back deck, we have a perfect view of the loading docks and trash dumpsters. Our house will now permanently be lit from Walmart lights. It is obvious that this will cause huge problems. There will be noise generated by delivery trucks. Customers will be entering and exiting at all hours of the day and night. Our big concern is the traffic. No other Walmart in town has a primary or secondary entrance through a neighborhood. Our neighborhood is full of families with children, including toddlers and preschool children. She worries about the increased traffic. Adding to the challenge of safety is the issue of crime that tends to follow these businesses. They will be able to see our house and when deliveries are made. They will be able to see in our garage. Anyone will be able to see our children coming and going. When we first found out the possibility of a Walmart coming, we also found out that we were too late to do anything about it. This is setting a precedent that the almighty dollar is more important. The decision to let WalMart into our neighborhood was wrong. We put forth laws for our children preventing them from being bullied. We provide them with examples. We do not hold our adults to the same standards. We need your help now in order to protect our families.

Zimmerman asked Ms. Zillig to mark the location of her home on the site plan map and initial it.

Becky Collins, 2464 Nick Road, stated that she lives in the Stone Ridge Estates development and was present today to discuss the dangerous by design Walmart store. She is very concerned with using Grainger Parkway as an entrance and exit. The residents of Stone Ridge Estates are not asking for anything that any other residents have not asked for. Remember when children rode their bikes everywhere? The residents are concerned that once the construction of Walmart is complete, our neighborhood will no longer be resident friendly. There will be 20 semis per day delivering product to Walmart entering and exiting onto Grainger Parkway. A safe journey is what we want and pedestrian safety is an issue that affects all of us. We love to walk, run, bike and just be outside enjoying our community and neighbors. We are all pedestrians at some time of the day. Each year thousands of pedestrians are killed or injured. During the past decade more than 63,000 pedestrians were killed or injured. In retrospect, wouldn't it be to our advantage to limit the amount of trucks? Allowing the entrance and exit onto Grainger Parkway is a design that is convenient for cars and not for children and residents. Please show concern for the residents of Stone Ridge Estates.

Connolly stated that Ms. Collins indicated 20 trucks a day. He wanted to know what is the source of her information. Collins responded that information was from a previous hearing that we heard when we did a survey of Walmart stores within Lincoln. Connolly questioned if that was a previous hearing here. Collins responded no.

Becky Hansbrough, 2424 Scotch Pine Trail, stated that she is here today as a mother and grandmother having experienced the difference between a residence driver and someone who is just driving through the neighborhood. Her ten year old son was hit by a car. She heard the ambulance as she was approaching the area where he was hit. She is a nurse. She made sure he didn't move. Luckily, he was hit by a resident going less than 25 miles per hour. She was told the next day by the insurance carrier, it was the child's fault for going into the street and not looking. He learned the rules of the road at an early age. He was with a friend and went into the street. The driver stopped by the house and he called the next day. There is a difference between consumer traffic who has no engagement in the neighborhood and a neighbor. Her husband and herself took a walk through the neighborhood and there were all kinds of children playing outside. That will have to change.

Zimmerman submitted Exhibit 6, the site plan map initialed by Ms Zillig and Exhibit Exhibit 7, a directory of all employees of Building and Safety. He also submitted Exhibit 8, a copy of the application for building permit with attachments and comments

Connolly objected to Exhibit 6 and Exhibit 7. He has no objection to Exhibit 8.

Fred Hoke is the Director of Building and Safety and Manager of the Development Services Center. His job responsibilities are to provide supervision for all staff, review plans and monitor inspections.

Connolly questioned if his duties include issuance of building permits. Hoke replied yes.

Connolly questioned with regard to traffic issues, is this something that Building and Safety deals with? Hoke replied that is handled by Public Works.

Connolly questioned that is not an issue that Building and Safety handles at all? Hoke replied he was correct.

Connolly stated that when a permit comes in that involves traffic, this is farmed out. Hoke replied correct.

Connolly questioned the landscape review. Hoke replied that is under the jurisdiction of the Planning Dept.

Connolly questioned who handles drainage. Hoke replied Public Works.

Connolly questioned if Hoke believes everything was done correctly. Hoke replied yes.

Zimmerman questioned if Hoke was familiar with Exhibit 8, the building permit that was approved. Hoke replied yes. Zimmerman wanted to know if Hoke recognizes the plan review comments and notes. Hoke reviewed approving the building permit.

Zimmerman stated that in his reading, seven individuals were involved in the review. Hoke replied yes, and other departments.

Zimmerman wondered if Hoke would agree that building permits are approved pursuant to Title 27 of LMC. Relating that in summary fashion, the purpose of the title is to address safety concerns and value. Hoke would disagree. He believes the responsibility is to assure that buildings meet codes and the safety of the residents and the people who use the facilities. Building and Safety is responsible for the codes of the safety of the building.

Zimmerman questioned if the department considered Jamie Lane or single access should be something that is implemented. Hoke responded that other departments would make those recommendations, not Building and Safety. Zimmerman questioned if it would be fair to say that approval would not go forward without Hoke's final approval. Hoke replied he was correct.

Connolly stated that issues are being raised with protection of the neighborhood. Other departments are responsible for the safety of the community. Connolly does not believe Hoke is making decisions with regard to street access, etc. He is making decisions with regard to the building. Hoke replied correct.

Zimmerman questioned if traffic patterns are generally considered. Hoke stated that another department has done that. Zimmerman asked if the traffic pattern is looked at by Hoke. Hoke replied no.

Shawn Johnson from Building and Safety appeared.

Connolly distributed copies of Exhibit 8, application for building permit materials.

Connolly asked for Johnson's position with the City. Shawn Johnson replied he has been a Plans Examiner for nine years with the City of Lincoln Building and Safety Dept. He reviews residential plans, tracks commercial plans and works the front counter.

Connolly questioned if Johnson is familiar with Exhibit 8. Johnson replied yes. Connolly asked if what he was shown is a true and correct copy. Johnson replied yes. The first page is a building permit application. It indicates the address, legal description, use of the building, who is representing the building permit application. Connolly noted this was on behalf of Walmart. Johnson replied yes.

Connolly asked who is SWPP. Johnson replied this refers to the Storm Water Pollution Plan to be determined.

Connolly questioned who is Gordon McGill. Johnson replied he is also a plans examiner for the City. Connolly questioned if Johnson worked with McGill. Johnson replied correct.

Connolly stated the next page of the exhibit is the comments of the individual who did the review on this plan. There are numerous comments and names as they apply to each of the areas that need some kind of review. Under building zone and accessibility, reviewed by Richard Burton. Johnson stated Richard Burton is a commercial plan reviewer for Building and Safety. Connolly noted that initially this application was denied. Some things were done to bring this under compliance. Gary Spier is another name noted on the paperwork. Johnson stated he is also a commercial plan reviewer for Building and Safety. Connolly noted that next on the list is the curb cut reviewed by Barnie Blum. Johnson stated that Barnie Blum works for Public Works. Connolly questioned if Public Works makes the determination whether or not the curb cut should be approved. Johnson replied yes. Connolly pointed out Ed Bergstrasser. Johnson stated that Ed Bergstrasser is chief electric inspector for Building and Safety. Connolly noted the name of Fire Prevention, Bob Fiedler. Johnson replied that Bob Fiedler is a fire inspector for Building and Safety. Connolly wanted to know who Justin Daniel is. Johnson replied that Justin Daniel is with the Health Dept. Connolly pointed out impact fees reviewed by Michaela Dugan. Johnson replied she is with Public Works. Connolly questioned if Building and Safety receives the impact fees. Johnson replied no. Connolly pointed out the landscape screen plan review by Tom Cajka. Johnson stated that Tom Cajka works for the Planning Dept. Connolly stated that next on the document is a section for mechanical code review by ANY. Johnson stated that is reviewed and approved by Building and Safety. Connolly noted the next section of NDEQ and Richard Burton. Johnson replied that Richard Burton is a commercial reviewer who checks to make sure that the grading plan for this site has been reviewed and approved. Connolly wondered who deals with SWPP. Johnson replied Public Works. Connolly stated that NDEQ, Gary Spiers says approved. Johnson stated that the SWPP number must have been received. Connolly noted the next two boxes deal with the NRD. He understands this was initially denied. Once a SWPP number was supplied, Gary Spiers approved it. Connolly noted another name of T. Kathe. Johnson replied that Terry Kathe works for Building and Safety. Connolly stated that initially the section for parking lot lighting and lighting on the building was denied. Then it was approved by Terry Kathe on August 7, 2012. Then the next box is plumbing code by Bob Siemsen. Johnson stated that Siemsen is the Chief inspector with Building and Safety. Connolly stated the next box is Public Works Engineering and questioned who is Buff Baker. Johnson replied that Baker works for Public Works Engineering. In this case, Ben Higgins with Public Works Watershed Management looked at the application. Buff Baker also reviewed it for parking lot design standards. Connolly sees the name of Doug Leudtke. Johnson replied he is with the Public Works Water Dept. Connolly inquired about Harry Kroos. Johnson replied that Kroos works for Public Works. If there is a special permit or use permit on this property, it gets routed to Terry Kathe to determine if it complies. Connolly stated the next box shows approved. Does this

mean all the issues listed were resolved? Johnson yes. Connolly noted the structural plan review by King. Johnson stated that King does the structural review contracted by the city. Connolly believes the city does not have a structural engineer on staff, correct? Johnson said yes. Connolly stated the next box shows structural plan review by Gary Spier. The last box shows all the codes that were used. It appears not all of the work done in relation to putting this building permit together was done by employees of Building and Safety. Johnson replied he was correct.

Connolly submitted a series of copies City Ordinances that he would like to offer as Exhibits 9, 10, 11, 12 and 13.

Zimmerman stated that the purpose of Title 27 is to lessen congestion in the streets. Further in Title 27 speaks to the value of the property and encouraging the most appropriate use of the land. This board heard from five different residents of the neighborhood. Miss Zillig was the third witness, the woman whose family residence is directly catty corner next to the driveway that has currently been cut on Grainger. She believes how this project will impact the value of her home and the safety of the children. We are requesting that this board do something that has not been done before, including the various representatives of the department. With respect to principally the safety issue. Mr. Hansbrow testified that there are other Walmarts in other communities that have single points of ingress and egress. Mr. Hoke's job and this board's job on appeal, is to ensure the safety of the community is upheld and property values are maintained. There was clear testimony of presenting the case from the standpoint of the neighborhood, without an expert opinion. An obvious ramification that the utilization for the driveway on Grainger Parkway, that there will be a cut through the neighborhood. He would submit that there is also an alternative. The driveway on Grainger if allowed to be located on Grainger, be adjusted in a couple of respects. That it be moved further to the east. Moving that driveway to the east, we have effectively and initially solved the entrance of east bound traffic into the site. Allow only for right turn exit traffic. It would not be allowed to permit traffic to come in from the east or west and only exit to the east. Walmart has indicated through many of the documents that it intends to use as a means of directing delivery truck traffic that they use only Grainger Lane. That is Walmart's answer. By allowing only an exit from that site, he would submit that moving the driveway to the east and create an angular driveway, draw a driveway that goes angularly northeasterly direction, an alternative. Jurisdictionally, if this appeal doesn't lie with this body, then he doesn't know where it lies. At least seven of the individuals involved with this process are directly under the supervision of the Director of Building and Safety. This neighborhood has suffered under a lot of decisions that have come after the neighbors have already built their houses. We have explored this issue with the City. It is our position that this board has the power to correct a decision that goes back to at least 2003 when the change of zone and permit were approved. A bad zoning decision was made in 2003 and we are here to address the fallout from that.

Connolly thanked the Commissioners and expressed appreciation to the neighbors for their passion. The problem is this is a nation of laws. When people are doing things correctly as has been done here, they are entitled to the fruits of those decisions. Based on the permitting process, this was done correctly. That is the only thing this board is being asked to consider. He is renewing his motion to dismiss based on jurisdictional aspects that he voiced before. There is nothing that is being complained about now that Building and Safety has anything to do with. They have no authority to do anything with traffic. Decisions made on these issues were made a long time ago. To come to this board now and expect it to overturn a decision made a long time ago is not right. He would ask that you dismiss this for jurisdictional and on the aspects of the case itself. The board heard a lot about other issues, but didn't hear anything about how this application was faulty. Considerations or criteria that allow this board to make decisions are specifically list in Title 27.75 of Lincoln Municipal Code. There are a number of things that this board considers of all appeals. First is to determine the proposed change. He is not sure what the proposed change is in this case. The change is with regard to variances, not building permits that have been reviewed and reviewed and approved by many professionals and have taken many steps. That is not the role of this board. He asks this board to dismiss this on the basis of jurisdiction and the merits of the appeal.

ACTION:

Francis moved dismissal due to jurisdiction, motion died for lack of a second.

Hancock questioned the difference of dismissal and denial. Tim Sieh replied that dismissal would be based on the jurisdictional issue or denial based on the merits of the case. The final decision wouldn't be any different.

Francis has a lot of confidence in this board. He has more confidence in the expertise and experience of staff. He doesn't see any substantive arguments to support this request. Francis moved denial, seconded by Sunderman.

Hancock has some terribly strong feelings about this application. He can't imagine some of the things that the neighbors should have to put up with. Most of these issues should have been raised when this property was zoned. All of these concerns should have been questioned and answered long ago. He questions some of the decisions that some of the designers have made. He believes it is the duty of the Director of Building and Safety to exercise good judgement and he gets a lot of input from his staff. There are always arguments both ways. He cannot see any reason to undo what the official process has done in their official judgement. There will always be differences of opinions.

Sandquist heard one comment repeated that they were told that there would be no big box store at this location. He is curious who made that statement. He questioned if there is any written data by the City or realtor comment. This property was zoned for commercial before any houses were built. He personally sees the problem as essentially off-site traffic impacting the neighborhood, whereas a permit has nothing to do with that. There seems to be an awful lot of Public Works issues that he believes need to be addressed again. He can't comment on that.

Sunderman stated that in the information the Commissioners received, a conceptual big box use was shown in 2003. That was before most, if not all of these homes were built. As far as property values, it was going to happen first. As far as traffic, he is sure that Public Works looked at traffic. Without any direct data to contradict what Public Works did at that time, he doesn't see any way to change that. There was a lot of opinion in testimony. Public Works put their traffic plan in place back when this was approved. No data was shown to disprove what was already approved. Each department took care of their own area of expertise. To sum up, whether this is an ideal use for this location is not even a question. It was if the process was followed properly or not and he believes it was.

Budell echoed Sunderman. He does not have an issue with the jurisdictional issue, but when it comes to whether there was any error on the part of Building and Safety, we didn't hear any error in those steps.

Motion for denial carried 5-0: Budell, Francis, Hancock, Sandquist and Sunderman voting 'yes'.

There being no further business, the meeting was adjourned at 3:45 p.m.

List of Exhibits

Exhibit 1 ..... Building and Safety file

- Application Form, Appeal to Board of Zoning Appeals
- Letter from Thomas Zimmerman dated October 12, 2012
- Memo from Brian Will, Planning Dept. dated October 24, 2012
- City of Lincoln Plan Review Comments, printed October 17, 2012
- Commercial Building Permit, B1201678
- Application for Building Permit, stamped June 13, 2012 as received by Building and Safety
- Certificate from City Clerk dated November 15, 2012
- Application for Curb Cut, stamped June 13 2012 as received by Building and Safety
- Site Plan prepared by SMC Consulting Engineers dated 06/08/12

Exhibit 2 ..... Letter from State of Nebraska Accountability and Disclosure Commission addressing potential Conflict of Interest from Lynn Sunderman

Exhibit 3 ..... Presented by Jim Hansbrough - map, pictures, safety concerns, article in Journal Star dated July 16, 2012, email from Jim Hansbrough to Miki Esposito, map of Walmart Supercenter in Timnath, CO, table of five traffic options regarding Grainger access and copy of Lincoln Journal Star opinion dated October 1, 2012

Exhibit 4 ..... Google color map of Walmart in Timnath, CO

Exhibit 5 ..... Five traffic options regarding Grainger access

Exhibit 6 ..... Site Plan of proposed Walmart Supercenter at 27th Street and Grainger

Exhibit 7 ..... Building and Safety telephone directory

Exhibit 8 ..... Building and Safety file copies

- Application Form, Appeal to Board of Zoning Appeals
- Review Requested form from Building and Safety
- City of Lincoln Plan Review Comments, printed November 19, 2012

Exhibit 9 ..... Chapter 2.08 of Lincoln Municipal Code, Dept. of Building and Safety

Exhibit 10 ... Chapter 27.64 of Lincoln Municipal Code, Use Permits

Exhibit 11 ... Planning Department staff report on Appeal No. 1204, dated November 27, 2012

Exhibit 12 ... Chapter 2.35 of Lincoln Municipal Code, Public Works and Utilities Dept.

Exhibit 13 ... Chapter 2.30 of Lincoln Municipal Code, Planning Dept.

MICHAEL L. JEFFREY 1944-2009
JOHN C. HAHN
BARRY L. HEMMERLING
THOMAS E. ZIMMERMAN
TODD R. MULLINER
BRENT C. STEPHENSON

JEFFREY | HAHN
HEMMERLING & ZIMMERMAN, PC, LLO
ATTORNEYS AT LAW
5640 SO. 84TH STREET, SUITE 100 • LINCOLN, NEBRASKA 68516
TELEPHONE (402) 483-7711 • FACSIMILE (402) 483-6133

JOHN@JHHZ.NET
BARRY@JHHZ.NET
TOM@JHHZ.NET
TODDRM@JHHZ.NET
BSTEPHENSON@JHHZ.NET

RECEIVED
OCT 16 2012
BUILDING & SAFETY

October 12, 2012

Fred Hoke
Director of Building & Safety
555 South 10th Street, Suite 203
Lincoln, NE 68508

RE: NOTICE OF APPEAL
RE: BUILDING PERMIT NO. B1201678
RE: PROPERTY OWNER: WAL-MART REAL ESTATE BUSINESS TRUST
RE: AGGRIEVED PARTIES/APPELLANTS: STONE RIDGE ESTATES HOMEOWNERS ASSOCIATION AND MICHAELA MAGLALANG

Dear Mr. Hoke:

This firm represents the interests of Stone Ridge Estates Homeowners Association (hereinafter "Stone Ridge") and Michaela Maglalang (hereinafter collectively the "Appellants") with respect to the above-referenced matter. In this capacity, I am writing this correspondence to formally appeal the decision made by the Director of Building and Safety on August 20, 2012 approving the application of Wal-Mart Real Estate Business Trust for a building permit and the issuance of Building Permit No. B1201678 (hereinafter the "Building Permit") with respect to real property commonly known as 2501 Grainger Parkway, Lincoln, NE 68512 (hereinafter the "Property"). Enclosed with this correspondence, please find the Appellant's Appeal to County Board of Zoning Appeals.

This appeal is brought pursuant to Lincoln Municipal Code § 27.75.030. That section provides that:

> (a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any office, department or bureau of the City of Lincoln affected by any decision of the director of building and safety. The decision of the director of building and safety shall be made in writing and the appeal shall be taken within sixty days from such written decision by filing with the director of building and safety a notice of appeal specifying the grounds thereof. The Director of Building and Safety shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from is taken.

EXHIBIT 1

PLANNING DEPT. _____ DATE OF HEARING _____ BOARD OF APPEALS NO BZA 1204

Fee_____ Receipt No._____ Date _____, 20___.

APPEAL TO BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS, City of Lincoln, Nebraska

On the 13th day of June, 2012, Wal-Mart Real Estate Business Trust applied for a building permit to construct a Wal-Mart Supercenter

Located on Lot 1 Block n/a Addition to be platted as Stone Ridge Estates 6th Addition - currently platted as Stone Ridge Estates Commercial Center Addition

Address 2501 Grainger Parkway

TO BE FILLED IN BY BUILDING OFFICIAL: This permit was approved because _____

The above decision(s) of the Building Official is hereby appealed on the grounds that (check and complete all that apply):

☒ The Administrative Official erred by see accompanying letter

☐ A Variance to (height, area, parking, density, sign) is necessary because the property is peculiar, exceptional, and unusual in the following ways: _____

☐ An exception is necessary to:

1. Reconstruct a non-conforming building for a compelling public necessity because: _____
2. Correct a mapping error due to: _____
3. Reduce the parking requirements due to the use of the building is such as to make unnecessary the full provisions of the parking because: _____

RECEIVED
OCT 17 2012
CITY BUILDING AND SAFETY

Contact Person: Thomas E. Zimmerman Address: 5640 So. 84th Street, Suite 100, Lincoln, NE 68516

Phone #: 402-483-7711 E-mail (if applicable) tom@jhhz.net

Staff will post a notification sign in the yard of the property and other officials may visit the site prior to the hearing. Signing this form hereby grants permission to the staff to enter onto property for purposes related to this application.

Signed: _____ Attorney for Appellants | 5640 So. 84th Street, Suite 100, Lincoln, NE 68516 Appellant's Address | 402-483-7711 Phone #

Form 15-17 F:\FILES\SHARED\board of zoning appeals.wpd 5-13-03

(b) Upon receipt of the appeal by the board, the board shall fix a reasonable time for the hearing thereon within thirty days. Notice shall be given as provided in Chapter 27.81.

(c) If, due to the absence of one or more of the members of the board, any proposition put to a vote shall fail to receive three or more votes either for or against, said proposition shall be deemed to have received neither approval nor disapproval.

Stone Ridge and Michaela Maglalang, for the reasons and grounds set forth hereinbelow, constitute persons aggrieved by the Director of Building and Safety's approval and issuance of the Building Permit. This appeal is hereby submitted in writing and is made within sixty (60) days of the Director of Building and Safety's approval of the application for the Building Permit. Accordingly, please accept this letter as a formal request, pursuant to Lincoln Municipal Code § 27.75.030(a), that the Director of Building and Safety immediately transmit to the Board of Zoning Appeals all the papers constituting the record upon which the Director of Building and Safety relied when approving the application for the Building Permit.

It is the position of my clients that the approval and issuance of the Building Permit was contrary to the intent and purpose of Title 20 and Title 27 of the Lincoln Municipal Code. The intent of the Building Code is to "provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the city . . . ." *See* Lincoln Municipal Code § 20.08.030. The Purpose of Title 27 is to "lessen congestion in the streets; to secure safety from fire, flood, and other dangers, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements." *See* Lincoln Municipal Code § 27.01.010. Further, Title 27 is aimed at conserving the value of property and encouraging the most appropriate use of land throughout the City of Lincoln. *Id.*

The proposed Wal-Mart entrance/exit off of Grainger Parkway (hereinafter the "Grainger Entrance/Exit") is unsafe and presents a danger to life, limb, health, property and the public welfare generally. Grainger Parkway provides the main access to the Stone Ridge Estates neighborhood. More than that, parents and children from multiple subdivisions funnel through Grainger Parkway to access three (3) schools: Adams Elementary, Scott Middle School, and Southwest High School. Grainger Parkway has already seen an increase in traffic as the result of the newly constructed Holiday Inn, Dillon's Auto and Life Pointe. This increase will become even more substantial when the new apartments that are under construction in the area are completed. As hundreds of children populate the Stone Ridge Estates subdivision, any further increase in traffic congestion is a matter of the utmost concern. Not only will the proposed Grainger Entrance/Exit increase the volume of traffic as a result of the number of additional vehicles in the area but it will also increase the likelihood that drivers will cut through the

Stone Ridge Estates neighborhood on their way to and from this location. For these reasons, it is our position that the intent and purpose of Title 20 and Title 27 would be more fully served by utilizing Jamie Lane as the sole means of ingress and egress to the anticipated Wal-Mart Supercenter.

There are a myriad of additional reasons why the approval and issuance of the Building Permit was in error. The proposed Wal-Mart is bordered by residential development on three of four sides and will be open twenty-four (24) hours per day. This effectively means that customer vehicles and commercial trucks will be entering and exiting the Property at all hours of the day and night. Moreover, the plans for the prospective Wal-Mart do not provide sufficient trees to screen off Wal-Mart from the neighboring homes. Surely, Wal-Mart's disruptive presence will decrease the property value of the homes immediately surrounding the Property. Additionally, the construction of the proposed Wal-Mart is expected to result in drainage issues and increase the amount of runoff onto neighboring property as well as add to the overflow already experienced by the waterway on the west boundary of the Property. You may be aware of the fact that we have had extensive discussions with representatives of Wal-Mart; however, while they have offered some concessions toward the various issues posed by my clients, many of these concerns remain unabated.

It is therefore our firm position that the granting and issuance of the Building Permit was contrary to the intent and purpose of Title 20 and Title 27 of the Lincoln Municipal Code and in error. Therefore, Stone Ridge and Michaela Maglalang respectfully request that the Zoning Board of Appeals reverse the decision of the Building & Safety Department, finding that the application for the Building Permit submitted by Wal-Mart Real Estate Business Trust and SGA Design Group should be denied.

Sincerely,

JEFFREY, HAHN, HEMMERLING &
ZIMMERMAN, P.C., L.L.O.

By: _____
Thomas E. Zimmerman

TEZ/bcs
Enclosure
p.c. Stone Ridge Estates Homeowners Association
Mark A. Hunzeker, Counsel for Wal-Mart Real Estate Business Trust

MEMORANDUM

TO: Tim Sieh, City Attorney's Office
Terry Kathe, Building and Safety

FROM: Brian Will, Planning Department

SUBJECT: Administrative Amendment #11065 to Use Permit #149
Stone Ridge Estates Commercial Center

DATE: October 24, 2012

CC: Chris Connolly, City Attorney's Office

The applicable zoning documents which relate to BZA Appeal #1204 are contained in Administrative Amendment #11065 to Use Permit #149. Original copies of these documents are on file in the City Clerk's Office, and are available for viewing upon request. Those documents include the following:

1. The approval letter approving Administrative Amendment #11065 signed by Steve Henrichsen on behalf of the Planning Director, dated March 9, 2012.

2. The approved plan set (sheets 1-5) for Administrative Amendment #11065.

Lincoln City-Lancaster County Planning Department
555 S. 10th St., Rm. #213 • Lincoln NE 68508
Phone: (402) 441-7491 • Fax: (402) 441-6377

Date Printed: Wednesday, October 17, 2012

City of Lincoln, Nebraska

IMPORTANT

All revisions to plans must include Building Permit # and Job Address.

A seperate set of plans for review and and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Plan Review Comments

Permit # **B1201678**

Address: 2501 GRAINGER PKWY

Permit Description: WAL-MART SUPERCENTER

ZONING: B2

Construction Type IIB/Sprink

OCCUPANCY: M

TO RESPOND TO COMMENTS:

Return this report with at least two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number. Written responses will not be allowed as the primary method of correcting plans.

Status of Review: Denied **06/14/2012 2:03:59 PM**

Reviewer BUILDING/ZONING/ACCESSIBLITY **RICHARD BURTON**

Comments: 1. After Zoning Coordinator Terry Kathe assigns an address, please amend the building permit application with the correct address.

2. Please provide COMcheck in accordance with Nebraska Energy Code.

3. Signs are not approved under this permit. A separate sign permit will be required. No response necessary.

Status of Review: Approved **08/08/2012 10:31:34 AM**

Reviewer BUILDING/ZONING/ACCESSIBLITY **GARY SPIER**

Comments: APPROVED

Status of Review: Denied **06/20/2012 7:34:19 AM**

Reviewer CURB CUT **BARNIE BLUM**

Comments: 6/20/12
(1) On site plan, dimension width of new driveway to Grainger Parkway, add dimension from centerline of driveway to an existing lot corner.
(2) Submit 3 additional revised copies of site plan (these are in addition to Building and Safety copies) with City of Lincoln curb cut application

Status of Review: Approved **08/06/2012 9:03:02 AM**

Reviewer CURB CUT **BARNIE BLUM**

Comments: 8/6/12
(1) Curb cut approved

Status of Review: Approved **06/22/2012 7:48:54 AM**

Reviewer ELECTRICAL CODE REVIEW **ED BERGSTRASSER**

Comments: All pre-manufactured wiring systems must be field approved by inspector prior to installation. Plans approved with comments subject to codes and inspections.

Status of Review: Approved **06/15/2012 11:48:12 AM**

Reviewer FIRE PREVENTION/LIFE SAFETY CODE **BOB FIEDLER**

Comments: approved

Status of Review: Approved **06/19/2012 9:13:21 AM**

Reviewer HEALTH FOOD SERVICES **JUSTIN DANIEL**

Comments: Submitted plans approved. Final approval is subject to field inspections. Contact the Lincoln-Lancaster County Health Department prior to opening for final inspections and permitting requirements.

For any questions, please contact Justin L. Daniel at 402-441-8028.

Status of Review: Approved **06/21/2012 8:57:09 AM**

Reviewer IMPACT FEES **MICHAELA DUGAN**

Comments:

TOTAL IMPACT FEES = $465,956.20

WATER SYSTEM/WATER DISTRIBUTION 2" METER $6,723.00
WASTEWATER EXEMPT

ARTERIAL STREETS (126,860 X 3.62/SQ FT) $459,233.20

Status of Review: Approved **06/21/2012 8:57:09 AM**

Reviewer IMPACT FEES **MICHAELA DUGAN**

Comments: CORRECTED IMPACT FEE. ARTERIAL STREET FEE S/B BASED UPON SQ FT OVER 100,000 SF

WATER/WASTEWATER	6,723.00
ARTERIAL STREET	413,563.60
TOTAL	420,286.60

Status of Review: Denied **06/21/2012 10:41:57 AM**

Reviewer LANDSCAPING/SCREENING PLAN REVIEW **TOM CAJKA**

Comments: 1. Add the mature height and spread to the Plant Schedule.I cannot determine if you have the required amount of shrub coverage without the mature spread and height.

2. The driving aisle parallel to S. 27th St. must be screened.

3. Use plants for the City approved plant list.

See Chapter 3.50 of the City of Lincoln Design Standards for all information. Particulalry refer to Section3, part 2; Section4, part 1 & 2; Section 7, part 7.1

Status of Review: Approved **08/06/2012 1:10:44 PM**

Reviewer LANDSCAPING/SCREENING PLAN REVIEW TOM CAJKA

Comments:

Status of Review: Approved **06/20/2012 1:37:02 PM**

Reviewer MECHANICAL CODE REVIEW ANY

Comments:

Status of Review: Denied **06/14/2012 4:26:53 PM**

Reviewer NDEQ RICHARD BURTON

Comments: Please provide SWPPP Approval Number.
If you have any questions, contact Gary Lacy 402-430-9716

Status of Review: Approved **08/02/2012 11:19:25 AM**

Reviewer NDEQ GARY SPIER

Comments: APPROVED

Status of Review: Denied **06/14/2012 4:27:20 PM**

Reviewer NRD RICHARD BURTON

Comments: Please provide SWPPP Approval Number.
If you have any questions, contact Gary Lacy 402-430-9716

Status of Review: Approved **08/02/2012 11:19:45 AM**

Reviewer NRD GARY SPIER

Comments: APPROVED

Status of Review: Denied **06/28/2012 9:18:37 AM**

Reviewer PARKING LOT LIGHTING **KRETAK**

Comments: 1. Outdoor Lighting Design Standards shall apply. These design standards restrict the amount of light that can trespass at the property line between commercial and residential uses with regard to lighting on the exterior of the building and any parking lot lighting. (Both horizontal and vertical footcandles) The outdoor lighting standards can be found on the website at the following link;

http://www.lincoln.ne.gov/city/attorn/designs/ds3100.pdf

A certification form can also be obtained in this office or you may email me a request at;

tkathe@lincoln.ne.gov

**This certification must be completed by a certified lighting professional or licensed electrician and must take into consideration the parking lot lighting in addition to the any outdoor lighting. This certification must include plans that comply with Section 10 - SUBMISSION OF PLANS AND EVIDENCE OF COMPLIANCE

****It appears by the table provided that the maximum vertical footcandles at any property line is .8 fc, which is well within the limits. However, the horizontal footcandles cannot be read and thus cannot be verified to be in compliance. Horizontal footcandles at the property line that abuts a residential district must be less that .5 fc.

****missing the certification form.

Status of Review: Approved **08/07/2012 11:32:32 AM**

Reviewer PARKING LOT LIGHTING **KRETAK**

Comments:

Status of Review: Approved **06/14/2012 6:57:06 AM**

Reviewer PLUMBING CODE REVIEW **BOB SIEMSEN**

Comments:

Status of Review: Denied **06/26/2012 11:31:00 AM**

Reviewer PUBLIC WORKS ENGINEERING **BUFF BAKER**

Comments: from Ben Higgings- Watershed - The storm drain plan sheets (C9) for the private storm drain lines (lines 'A', 'B' and 'C' on plan sheet set C9) need to show the riprap pad details at the end of each of these lines. Need to include plan and profile view and need to meet or exceed energy dissipation requirements shown in the city of Lincolns Drainage Criteria Manual in Chapter 7.

Note: I checked the conveyance of the small creek to the west of the building and it has adequate capacity.

Buff, Engineering comments..No dual exit onto Grainger. The drive width is satisfactory to accomodate the truck manouvers.

Status of Review: Approved **08/03/2012 11:19:23 AM**

Reviewer PUBLIC WORKS ENGINEERING **BUFF BAKER**

Comments:

Status of Review: Denied **06/14/2012 10:59:05 AM**

Reviewer PUBLIC WORKS UTILITIES **DOUG LUEDTKE**

Comments: Sheet P3 - Water Entry Detail - Please add the 10" FM water meter to this detail.
Need valid address.

Status of Review: Approved **08/09/2012 1:41:55 PM**

Reviewer PUBLIC WORKS UTILITIES **DOUG LUEDTKE**

Comments:

Status of Review: Approved **06/14/2012 8:28:49 AM**

Reviewer SIDEWALK PLAN REVIEW **HARRY KROOS**

Comments: 6/14/12
(1) Sidewalk to be 6" thick through driveway to Grainger Parkway

---

Status of Review: Denied **06/28/2012 9:17:36 AM**

Reviewer SPECIAL PERMIT/USE PERMIT REVIEWS **TERRY KATHE**

Comments: 1. Building is located on what is now an outlot, an outlot is not buildable. There is a subdivision under review by Planning Department, but until this subdivision is approved this lot remains an outlot.

2. When building permit application is amended to correct new legal description, then a review can take place in relation to the lot dimensions and easements. Verify that those property lines and easements are correctly drawn and dimensioned based on the newly approved filed plat.

3. L.M.C. 27.69; Signs are not allowed under this building permit. If the Applicant intends to install signs on the property or the exterior of the building, sign permits will be required and will need to be applied for separately. (No action needed for this at this time.)

4. Unable to determine compliance with the approved plan for Use Permit 149. Setbacks and easement lines are not dimensioned or labeled on site plan(page C-4)

Additional Comment from Public Works-Watershed Mgmt....

Need to get their erosion and sediment control permit in and approved prior to any work being done.

The storm drain plan sheets (C9) for the private storm drain lines (lines 'A', 'B' and 'C' on plan sheet set C9) need to show the riprap pad details at the end of each of these lines. Need to include plan and profile view and need to meet or exceed energy dissipation requirements shown in the city of Lincolns Drainage Criteria Manual in Chapter 7.

Status of Review: Approved **08/20/2012 1:44:05 PM**

Reviewer SPECIAL PERMIT/USE PERMIT REVIEWS **TERRY KATHE**

Comments:

Status of Review: Denied **06/19/2012 8:37:14 AM**

Reviewer STRUCTURAL PLAN REVIEW **GARY SPIER**

Comments: Building Permit No.: B1201678
Project Name: Wal-Mart Store #2432
Date: June 18, 2012
Reviewer: King Kuebler Little, P.E., S.E., F.ASCE
Status: Approved w/COMMENT

Comments:

1. Ref. Sht. No. SP2.1, Detail 16, Flagpole Foundation, is the 24" diameter x 5'-9" embedded concrete pier adequate for this 30 foot high pole? Please submit structural engineering calculations.
2. Ref. Sht. No. S0, General Notes, Foundation & Slab on Grade, Note #2.1, Footing were designed for Net Soil Bearing Pressure of 3,000 PSF. Is there a Geotechnical Soils Investigation to warrant using this value?
3. Please submit a complete set of structural engineering calculations for both the gravity and lateral load resisting systems sealed by the Structural Engineer of Record.

Status of Review: Approved **06/29/2012 10:26:30 AM**

Reviewer STRUCTURAL PLAN REVIEW **GARY SPIER**

Comments: APPROVED

Current Codes in Use Relating to Construction Development in the City of Lincoln:

2006	International Building Code and Local Amendments
2006	International Residential Code and Local Amendments
1994	Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
1989	Fair Housing Act As Amended Effective March 12, 1989
1979	Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
2003	Lincoln Plumbing Code (The Lincoln Plumbing Code uses the 2000 Uniform Plumbing Code and Local Community Amendments.)
2002	National Electrical Code Adopted by Local Ordinance.
1997	Uniform Mechanical Code and Local Amendments
1994	Lincoln Gas Code
2000	NFPA 101 Life Safety Code
2006	Local Amendments International Firecode
	Applicable NFPA National Fire Code Standards

Building & Safety Department
City of Lincoln - Lancaster County

COMMERCIAL BUILDING PERMIT

Inspection Line 441-8213
For Technical Questions,
Call Plan Reviewers at 441-7882 - 8:00 a.m. to 4:00 p.m.

Contractor:
SGA DESIGN GROUP PC
1437 S BOULDER STE 550
TULSA OK
74119

Applicant:

Permission is hereby granted to construct the following as described per application and listed hereon:

PERMIT #: **B1201678** **STATUS:** **ISSUED**

APPLIED: 06/13/2012 PLAN REVIEW APPROVED: 08/20/2012 FINALED:
ISSUED: 08/27/2012 TO EXPIRE: 05/19/2014

JOB ADDRESS: **2501 GRAINGER PKWY L**
2501 GRAINGER PKWY , LINCOLN, NE.
LEGAL DESC:
OWNER: WAL-MART REAL ESTATE BUISNESS TRUST

WORK DESCRIPTION: **WAL-MART SUPERCENTER**

Description	Tot Fee	Paid
Building Fee	12,863.00	12,863.00
Fire Plan Review Fee	7,947.50	7,947.50
Occupancy Certificate	30.00	30.00
Plan Review Fee	8,360.95	8,360.95

TOTAL FEES: **$29,201.45**

TOTAL PAID: **$29,201.45**
BALANCE DUE: **$0.00**

10-17-2012
Scanned and
attached to
both Bldg & BZA
- ML

Processed By: RINT DATE:10-17-2012

RECEIVED

JUN 13 2012

IF120522

CITY OF LINCOLN
BUILDING & SAFETY DEPARTMENT
555 S. 10th St., Room 203, Lincoln, NE 68508

Application for BUILDING PERMIT

☒ City ☐ 3-Mile District ☐ County
☐ Residential ☒ Commercial

Street Address ~~SW Corner 27th St. &~~ 2501 Granger Parkway Suite N/A
Lot 1 Block N/A
Subdivision Name To be platted as Stone Ridge Estates 6th Addition. Currently platted as Stone Ridge Estates Commercial Center Addition.

BUILDING PERMIT

The undersigned hereby applies for a permit for:
☒ New ☐ Enlarge/Addition ☐ Move-on ☐ Alteration

TOTAL CONSTRUCTION VALUATION $ 6,089,280

DESCRIBE WORK TO BE DONE: Construction of new Wal-Mart Supercenter

USE OF BUILDING (description): Retail Store

Size Approx 456' x Approx 294'-8" Height Approx: 25'-4" # of Units N/A # of Stories 1

CONSTRUCTION ACTIVITY SWPPP

☐ SWPPP Permit Number # TBD CSW12C274

OCCUPANCY CERTIFICATE OC # ~~3764~~ 120561

Mail Certificate To: (Print or Type)
Name [redacted] DCK Worth America
Address 2618 So. 156th Circle
City/State/Zip Code Omaha, NE 68130

APPLICANT / CONTRACTOR INFORMATION

Property Owner: Wal-Mart Real Estate Business Trust
Owner Phone: (479) 273-4000
Lessee or Tenant Name: N/A
Engineer/Architect: SGA Design Group, Attn: Micala Marchese
Building Contractor: TBD
Contractor Email Address TBD
Contractor Cell Phone# TBD FAX # TBD

SGA Design Group
1437 S Boulder Suite 550 Tulsa, OK 74119
Micala Marchese (918) 587-8600
Micala Marchese 6/11/12

Office Use Only

Permit No. B 12016 78

Building Permit:	$ 12,863
Plan Review:	$ 8,360.95
Fire Code Review:	$ 7,947.50
Fair Housing Review:	$
Shell Permit:	$
Limited Permit:	$
Additional Review:	$
Other: O.C	$ 30
Investigation Fee	$
Miscellaneous Fee	$
LANCASTER COUNTY FEE 3-8 miles--$15; Over 8 miles--$30	$
TOTAL FEES	$ 29,201.45
Plan Review Deposit	$ 116,308.45
Balance Due	$

Fin. Floor Area	126,868	Sq. Ft.	$6,357,414
Fin. Bsmt.		Sq. Ft.	$
Unfin. Bsmt.		Sq. Ft.	$
Garage		Sq. Ft.	$
Deck		Sq. Ft.	$
Exist. Bsemt		Sq. Ft.	$
		TOTAL	$

Zoning District	B2
Occupancy Group	M
Type of Construction	IIB/Sprink
Flood Plain Permit #	
Curb Cut Permit #	CU120282
Septic #	
Well #	
Special Permit #	
Admin. Amendment #	
Bd. of Zoning Appeals #	
Historic Preservation Cert. #	
House Moving Permit #	
Height Permit #	
Subdivision Permit #	

Water Dept. Approval:
Date

Building Application Approval:
Date 8-20-12

15-113 10-10

CERTIFICATE

STATE OF NEBRASKA	)
	)
COUNTY OF LANCASTER	) ss:
	)
CITY OF LINCOLN	)

I, Joan E. Ross, City Clerk of the City of Lincoln, Nebraska, do hereby certify that a copy of Administrative Amendment No. 11065 to UP #149 Stone Ridge Estates Commercial Center and attached site plans as approved by the Director of Planning are on file in the office of the City Clerk and available for public inspection and review upon request.

In Witness Whereof, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, on November 15, 2012.

Joan E. Ross

Joan E. Ross, City Clerk

CITY OF LINCOLN · FOUNDED JULY 29, 1867 · SEAL · INCORPORATED APRIL 1, 1869 · LANCASTER COUNTY, NEBRASKA

certify.wpd

RECEIVED
JUN 13 2012
CITY BUILDING AND SAFETY

Application for Curb Cut

Building & Safety Department
555 S.10th St., Suite 203
Lincoln, NE 68508

☐ City
☐ Three-Mile Limit

☐ Residential
☒ Commercial

Street Address ~~SW Corner 27th Streets &~~ 2501 Grainger Parkway Suite N/A

Lot 1 Block 1

Subdivision to be platted as Stone Ridge Estates 6th Addition
currently platted as Stone Ridge Estates Commercial Center Addition

CURB CUT PERMIT

Office Use Only

Curb Cut Permit # CU120282

Building Permit # B1201678

Fee Paid: ☐ Cash ☒ Check ☐ Prepaid

Rec'd by

Residential

Existing Cut ____ New Cut ____ Total ____

Existing Cut ____ New Cut ____ Total ____

Commercial

Existing Cut N/A New Cut 109 L.F. Total 109 L.F.

Existing Cut ____ New Cut ____ Total ____

Existing Cut ____ New Cut ____ Total ____

Fees

$ ____

$ ____

Sidewalk $ ____

Subtotal $ ____

$ ____

$ ____

$ ____

Sidewalk $ ____

TOTAL $ 1301.50 pd

Public Works Office Use Only

Commercial

Existing Cut ____ New Cut 109' Total 109'

Existing Cut ____ New Cut ____ Total ____

Existing Cut ____ New Cut ____ Total ____

Approved by: APPROVED CITY TRAFFIC ENGINEERING DIVISION

Curb Cut # 3952

Date 8/6/12

Public Works/Utilities Department

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of the law and ordinances of Chapter 14, LMC governing this type of work will be complied with, specified or not.

The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Owner/Tenant Wal-Mart Real Estate Business Trust Architect/Engineer SMC Consulting Engineers, P.C. Attention: T. Alec Bass

Concrete Approach Contractor T.B.D.

Mobile Phone # T.B.D. Office Phone # T.B.D.

APPLICANT

Print Name T. Alec Bass Date June 11, 2012

Signature T. Alec Bass

Day Phone # 405-232-7715 Cell Phone # 405-740-4722

Email address Alec.Bass@smcokc.com

Application Issued By:

Date 8-20-12

FORM 15-111 May2010

State of Nebraska
Accountability and Disclosure Commission

P.O. BOX 95086
Lincoln, Nebraska 68509
nadc.nol.org

11th Floor, State Capitol
Phone (402) 471-2522
Fax (402) 471-6599

November 21, 2012

Lynn O. Sunderman
Lincoln Board of Zoning Appeals
555 South 10th Street
Lincoln, NE 68508

Dear Mr. Sunderman:

Reference is made to your Potential Conflict of Interest Statement which was received by this office on November 21, 2012. As I understand it, you are a member of the Lincoln Board of Zoning Appeals. On November 27th the Board will consider Appeal #1204. This is an appeal of a decision to issue a building permit to Walmart for a store on a tract of land located on the southwest portion of the intersection of South 27th Street and Grainger Parkway. The current permit provides Walmart with access to its store from Grainger Parkway. Grainger Parkway runs generally east and west on the north side of the Walmart property. The appellants are a group of local property owners who believe there should be no access from Grainger Parkway. Instead, they believe that access should be from Jamie Lane. Jamie Lane would run generally east and west on the south side of the Walmart property.

You state that you are one of the owners of Du Teau Subaru located at 2750 Jamie Lane which is approximately one block east of South 27th Street. Currently the intersection of Jamie Lane and South 27th Street is a right/right intersection. That is, access to Jamie Lane from South 27th Street or access to South 27th Street from Jamie Lane may only be accomplished via a right turn. If Walmart is denied Grainger Parkway access and is instead given Jamie Lane access, the intersection of South 27th Street and Jamie Lane may become a full access intersection.

The concern has been expressed you have a conflict of interest because converting South 27th and Jamie Lane to a full access intersection could have a beneficial financial effect on Du Teau Subaru. In my opinion, you do not have a conflict of interest.

Section 49-14,101.01(1) generally provides that a public official or public employee shall not use his or her public position for personal financial gain, that of an immediate family

member or that of a business with which he or she is associated. Voting on a matter which would result in financial gain could constitute a violation of this section.

Section 49-1407 defines the term business as "any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or entity." Du Teau Subaru meets the definition of business.

Section 49-1408 defines the term "business association" as a business in which the individual is "...a partner, limited liability company member, director, or officer." An individual may also have a business association if the individual owns stock in the business which has a certain dollar value or represents a certain equity interest in the business. You do not state precisely your connection to Du Teau Subaru. However, you describe yourself as "one of the owners". Accordingly, for the purposes of this opinion I am assuming that you have a business association with Du Teau Subaru.

In determining whether a public official may experience financial gain, the Commission has used the "reasonably foreseeable" test. That is, it determines if it is reasonably foreseeable that the action or decision with which the official is faced will result in a financial benefit. In applying the "reasonably foreseeable" test, the Commission has stated that it is not reasonably foreseeable if the financial benefit is remote, contingent, speculative, uncertain or de minimis.

Reversing the decision on the issuance of the building permit does not, by itself, result in a shift in access from Grainger Parkway to Jamie Lane. This would require the issuance of a new building permit. The fact that any new permit granted access from Jamie Lane does not, by itself, cause the intersection to be a full access intersection. This would require further action by other city agencies or governmental entities. Thus, any conversion of the access from Grainger Parkway to Jamie Lane is contingent on a series of actions by a number of governmental entities. In addition, it is a matter of speculation as to whether a full access intersection would have any financial effect on Du Teau Subaru.

Summary: Any financial effect on Du Teau Subaru as the result of the action of the Lincoln Board of Zoning Appeals on Appeal #1204 is remote, speculative, contingent or uncertain. Your participation in the matter would not appear to be the use of public office for personal financial gain or that of a business with which you are associated. You may participate and vote on the matter as you see fit.

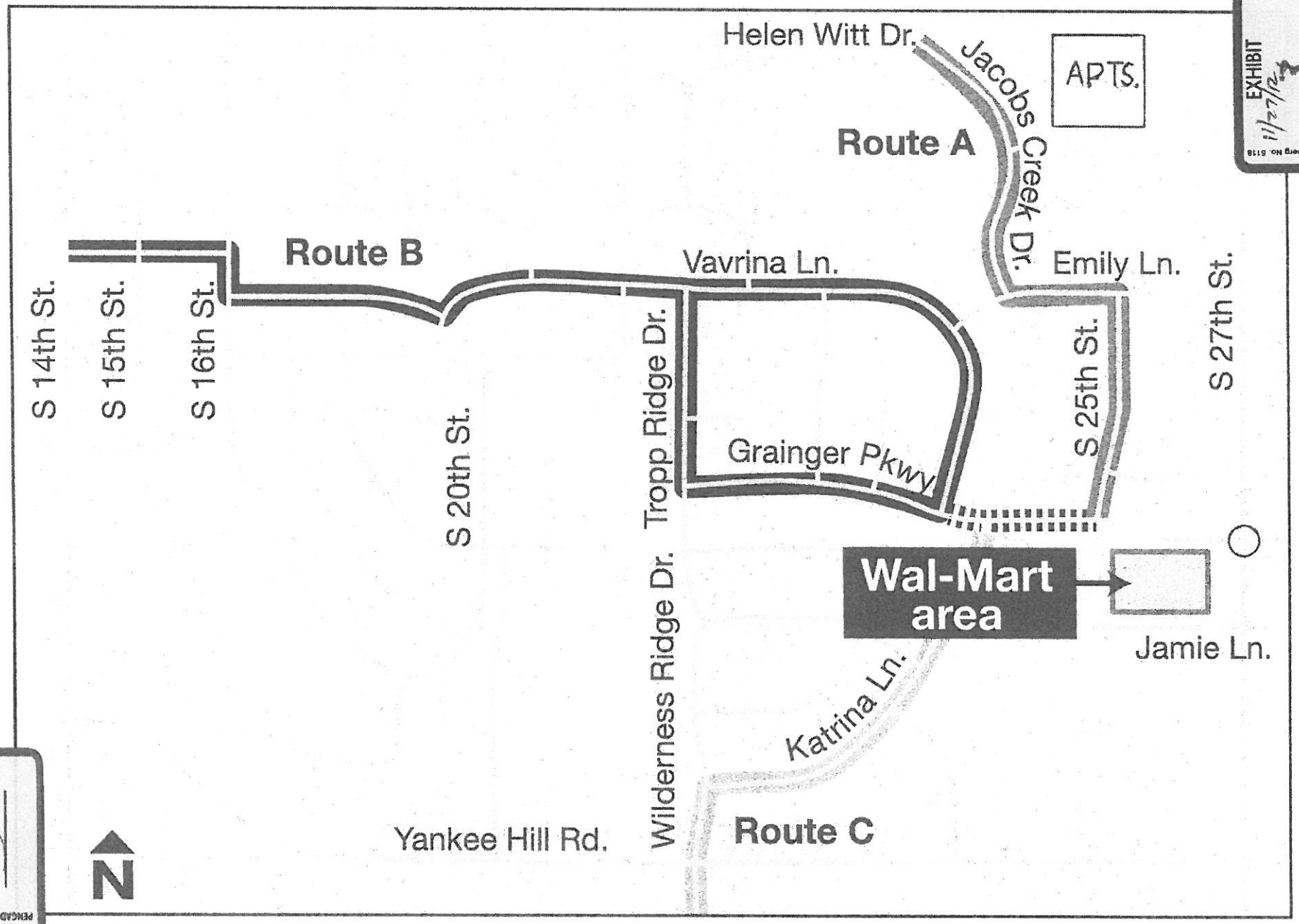
Please understand that this is a staff opinion only and not a formal Commission Advisory Opinion. If you have any questions, please feel free to contact me.

Sincerely,

Frank J. Daley, Jr.
Executive Director

xc: Lynn Sunderman
Via Fax: 402-420-3329

Tim Sieh
Assistant Lincoln City Attorney
Via email



SHEILA STORY/Lincoln Journal Star

EXHIBIT 3 11/27/12 Blumberg No. 5118

EXHIBIT 3 PENGAD-Bayonne, N. J.

Pictures Related to New WalMart Under Construction at 27th St. & Grainger Parkway.

Grainger Parkway Looking West From 25th St. (WalMart to the left)

- Entrance to the new WalMart is currently located at the bottom left of the picture – at 25th St.

Shortcut from Grainger Parkway to Katrina Lane

- Looking South on Katrina from intersection with Grainger (Mew WalMart is behind houses on left)

Safety Concerns Related to Short-Cut Routes To/From WalMart

- These short-cuts, noted on the MAP as Routes A, B, and C, will be taken to shorten their trips, avoid congestion, and avoid stops at the planned traffic light at Grainger & 27th and subsequent lights.
  - *I think we all know what would probably happen if customers leaving the store see traffic backed up at the light at 27th St. (MAP) They will likely take these short-cuts even if traffic is not backed up because these are shorter routes and there are no lights to contend with.*
- The neighborhood has a very large density of young children which makes the additional traffic a major concern.
- Children are known to impulsively chase a ball or bike into a street without looking regardless of parent supervision and coaching.
  - *A case in point is an accident in Hastings, NE reported in the Journal Star on 7/16/12: "a 2-year-old boy is dead after he was hit by a car while running across a street. " (Exhibit ___)*
- A quick glance to a ringing cell phone is all that it would take to potentially maim or end the life of a child.
- Customers that don't live in the neighborhood will quite possibly travel faster than those living in the neighborhood – to get out to the arterials and on to their destination.
- Holiday traffic between Halloween and New Year's greatly multiplies our concern.
- Traffic that will be coming from and returning to the Tamarin Ridge Apartments (180 units) on Jacobs Creek Drive will alone be a cause of concern.

Article in the Lincoln Journal Star

July 16, 2012

2-year-old boy killed by car

HASTINGS — The Nebraska State Patrol said a 2-year-old boy is dead after he was hit by a car while running across a street.

Authorities said the crash happened shortly after 8 p.m. Saturday. Dusty Consbruck, 18, was driving in Hastings and did not see the toddler run across the street.

The state patrol said Consbruck's 2001 Buick LeSabre hit the child and dragged the boy a short distance. Emergency crews took the boy to Mary Lanning Memorial Hospital in Hastings, where he was pronounced dead.

Authorities said they have notified the toddler's family, but the state patrol has not yet identified the boy. Officials said no charges have been filed.

Jim Hansbrough

From:	Miki Esposito <mesposito@lincoln.ne.gov>
Sent:	Tuesday, August 28, 2012 8:42 AM
Subject:	FW:
Importance:	High

Stone Ridge Estates Residents and Neighbors,

Thank you for writing the City with your concerns about Wal-Mart cut through traffic.

I would like to share with you a letter I wrote to representatives of the Stoneridge Estates HOA last week describing the types of mitigation techniques we'd use to prevent cut-through traffic in your neighborhood.

I understand your fears about the safety of pedestrians and children in your neighborhood. We certainly want to help. Unfortunately, the City does not have the power to simply cut off Wal- Mart's access at Grainger. We need Wal-Mart to voluntarily agree to make that change. When we spoke to a Wal-Mart representative late last week about a proposal to restrict access at Grainger in an attempt to prevent cut through traffic, Wal-Mart was not willing to consider this option.

That's why the City is attempting to mitigate neighborhood concerns with methods that the City does control to discourage cut-through drivers, such as the traffic calming techniques. In order to do so, it is essential for the City to begin working with you and other residents to achieve consensus around ideas that help address your traffic concerns. Moreover, since Wal-Mart is set to begin construction in the area, time is of the essence to leverage the company for payment and construction of such measures.

We hope that you consider the use of these proposed measures and look forward to working with you in the very near future. Please be in touch if you have any questions and particularly, if you are ready to begin discussing these traffic calming options.

Kindest Regards,
Miki

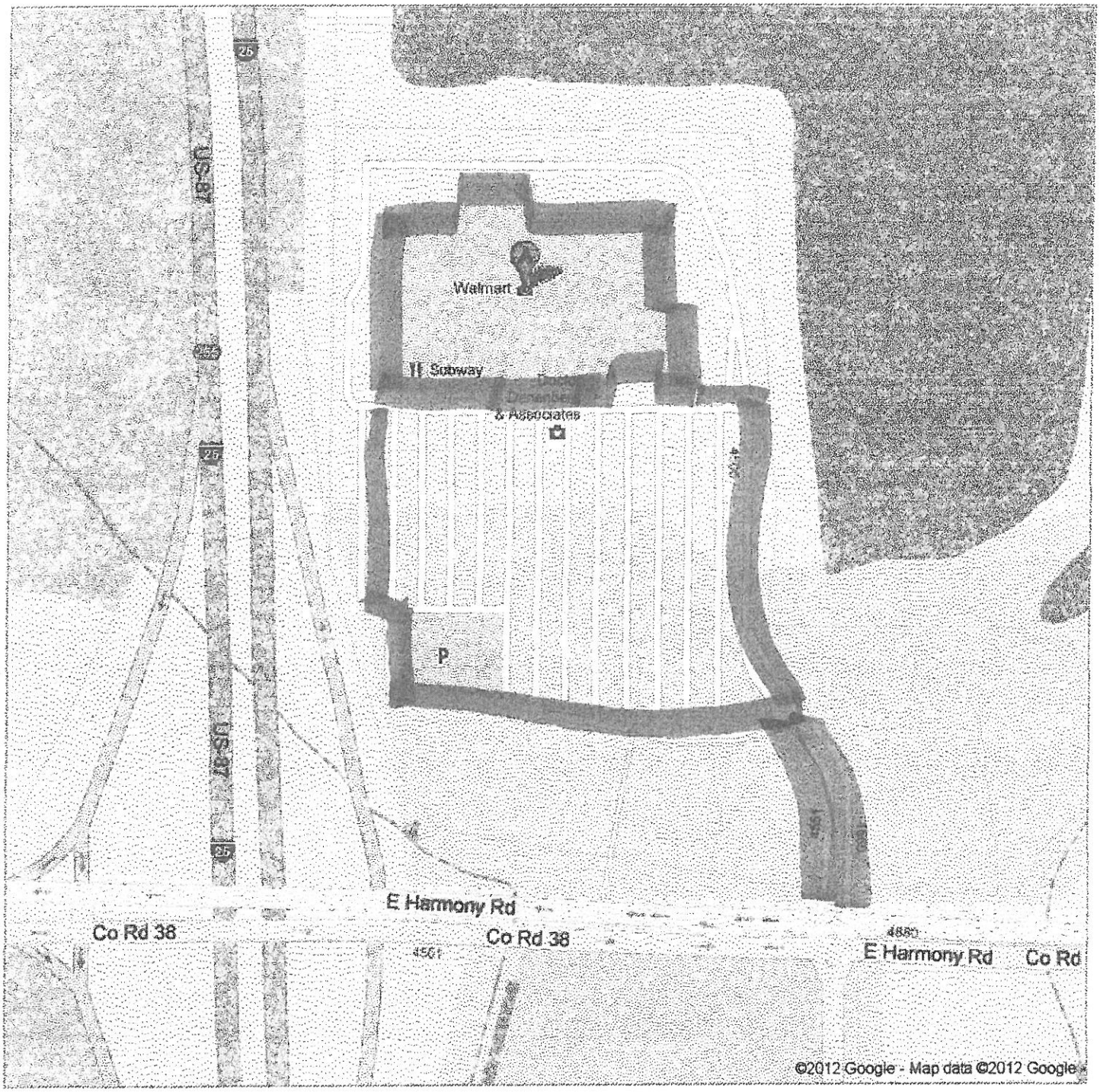
Miki Esposito, Director
Public Works & Utilities
555 S. 10th St. Room 208
Lincoln, NE 68508
(402) 441-6173
mesposito@lincoln.ne.gov

August 20, 2012

Stone Ridge Estates Home Owners Association
2227 Grainger Pkwy Lincoln, NE

Attn: Michaela Maglalang
Thomas Zimmerman

5



A. **Walmart** Supercenter
4500 Weitzel Street, Timnath, CO

Five Traffic Options Regarding Grainger Access to/from the New WalMart That Would Either Eliminate or Reduce Short-cut Traffic Back Into the Neighborhood

In the summary below, the options shown are those identified by Miki Esposito in her email of September 26, 2012 in which she also stated, "From a traffic Standpoint, Public Works can make all 5 work." The commentary provided is from the perspective of the neighborhood residents.

OPTIONS (Per Public Works)	COMMENTARY (Resident's Perspective)
1) No access to Grainger	This makes the most sense since it eliminates the short-cut issue and eliminates other entry/exit traffic at Grainger. It also would keep Grainger free of large delivery trucks/semis.
2) Right out only at Grainger	Although this eliminates the short-cut safety issue, it still allows for a significant increase in traffic congestion since customers and delivery trucks would still be exiting WalMart on Grainger which is a neighborhood street, not an arterial.
3) Closing Grainger at 25th Street	Causes residents to travel significantly longer distances to get to and out of the neighborhood from their homes, thus increasing traffic. Emergency vehicles would travel longer distances and would thus take more time to get to their emergency site.

4) Right in/Right out only at Grainger	These two options only reduce the shortcut traffic by half, whereas the options above eliminate it completely.
5) Left in/Right in/Right out only at Grainger	

For a safer neighborhood

When Wal-Mart announced it planned to build a superstore at 27th Street and Grainger Parkway in south Lincoln, it touched off a lot of fireworks.

Neighbors, represented by the Stone Ridge Estates Homeowners Association, tried to stop Wal-Mart.

OUR VIEW

When the smoke cleared, it was apparent that the giant retailer held all the cards. Zoning was in place. Street access to the retail zoning had been in place since 2003.

Now, the framework of the store already is taking shape on the open space that was there just a few weeks ago.

But neighbors still are worried that additional traffic attracted by the store will use residential streets.

They're worried that their children will be endangered.

There still might be time for that concern to be addressed.

Current plans call for the Wal-Mart store to have two entrances — one on 27th Street and one on Grainger Parkway.

Wal-Mart has turned down a request by the neighbors to limit the store to one entrance, on 27th Street. Store officials say they want two access points for convenience and safety.

There are a few options that still could be considered.

Although Wal-Mart probably could prevail against a city attempt to close the entrance to Wal-Mart on Grainger Parkway, the city does have the authority to close Grainger at 25th Street west of Wal-Mart.

However, that might have other ramifications, such as forcing firetrucks and ambulances to take longer routes to reach the neighborhood. Public Works Director Miki Esposito termed closure an "extraordinary measure" the city would not contemplate unless there was consensus neighborhood support for the move.

The city also could use various measures to make the residential route less desirable to shoppers, such as narrowing Grainger Parkway west of the retail site, and installing speed bumps.

Another option that's been discussed, one that seems realistic and desirable to the Journal Star editorial board, is for the city to design the Wal-Mart entrance on Grainger Parkway with curbs that would not allow traffic leaving the store to turn left into the neighborhood.

There's little doubt that feelings are bruised.

But we hope that the neighbors, Wal-Mart and the city once more try to find common ground.

It's not too late for Wal-Mart to be a good neighbor and make a concession for the sake of keeping children safer.

8

Google

Timnath, CO outside of Fort Collins area, shows only one entrance/exit for store

EXHIBIT
Blumberg No. 5118
11/28/12
4

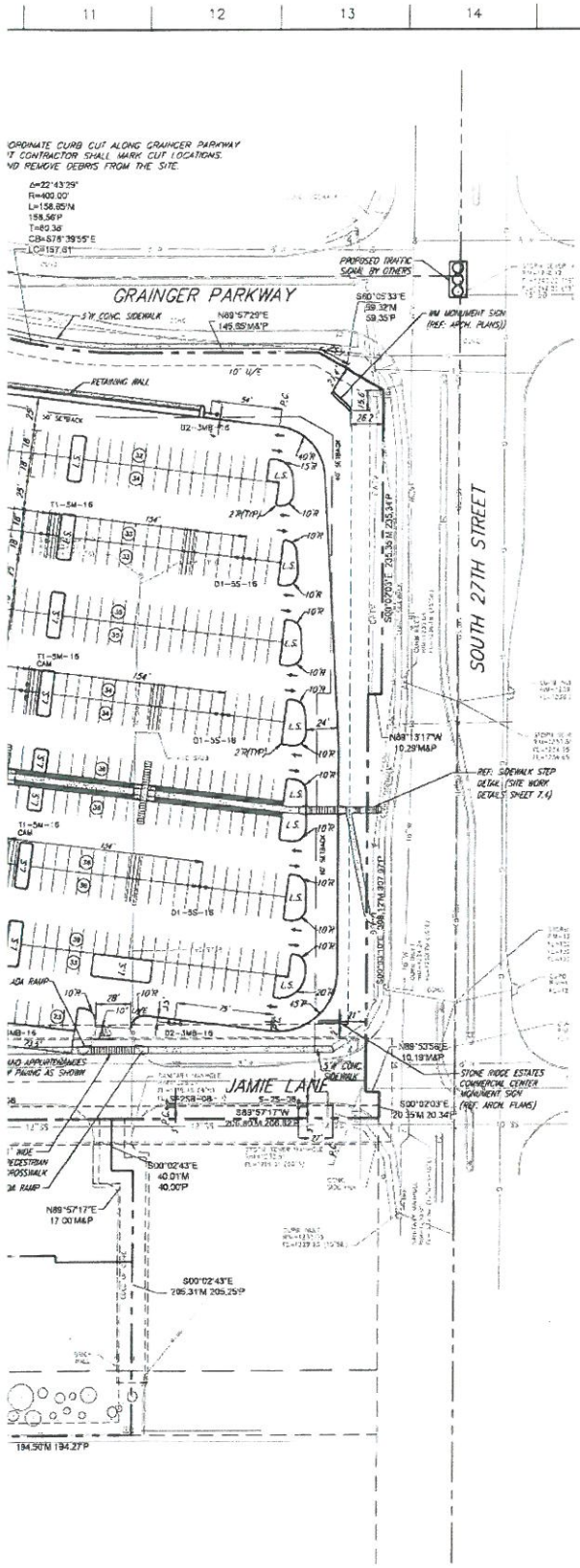
Five Traffic Options Regarding Grainger Access to/from the New WalMart That Would Either Eliminate or Reduce Short-cut Traffic Back Into the Neighborhood

In the summary below, the options shown are those identified by Miki Esposito in her email of September 26, 2012 in which she also stated, "From a traffic Standpoint, Public Works can make all 5 work." The commentary provided is from the perspective of the neighborhood residents.

OPTIONS (Per Public Works)	COMMENTARY (Resident's Perspective)
1) No access to Grainger	This makes the most sense since it eliminates the short-cut issue and eliminates other ~~entry/exit~~ TRAFFIC CONGESTION traffic at Grainger. It also would keep Grainger free of large delivery trucks/semis.
2) Right out only at Grainger	Although this eliminates the short-cut safety issue, it still allows for a significant increase in traffic congestion since customers and delivery trucks would still be exiting WalMart on Grainger which is a neighborhood street, not an arterial.
3) Closing Grainger at 25th Street	Causes residents to travel significantly longer distances to get to and out of the neighborhood from their homes, thus increasing traffic. Emergency vehicles would travel longer distances and would thus take more time to get to their emergency site.

4) Right in/Right out only at Grainger	These two options only reduce the shortcut traffic by half, whereas the options above eliminate it completely.
5) Left in/Right in/Right out only at Grainger	

Blumberg No. 5118 EXHIBIT 11/7/12 5



LEGEND

	SIGN (i.e. STOP, YIELD, etc...)		ASSOCIATE PARKING, WHITE SOLID COLOR
	LIGHT POLE AND FIXTURE TYPE	L.S.	LANDSCAPE AREA
	TRAFFIC FLOW ARROW	R	RADIUS
	HEAVY DUTY CONCRETE (H.D.C.)	U/E	UTILITY EASEMENT
	HEAVY DUTY ASPHALT (H.D.A.)	SW	SIDEWALK
	STANDARD DUTY ASPHALT (S.D.A.)	SWSL/4"	SINGLE WHITE SOLID LINE / 4" WIDE
	STANDARD DUTY CONCRETE (S.D.C.)	DYSL/4"	DOUBLE YELLOW SOLID LINE / 4" WIDE EACH
	STRAIGHT ARROW	SWDL/4"	SINGLE WHITE DASHED LINE / 4" WIDE
	LEFT TURN ARROW	FLS	"NO PARKING FIRE LANE" SIGN
	RIGHT TURN ARROW		AISLE ROW NUMBER
			PARKING STALL COUNT PER AISLE
			STOP BAR & SIGN
			CART CORRALS

GENERAL NOTES

1. ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE SITEWORK SPECIFICATIONS, UNLESS OTHERWISE SPECIFIED.
2. CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF VESTIBULE, SLOPED PAVING, EXIT PORCHES, RAMPS, TRUCK DOCKS, PRECISE BUILDING DIMENSIONS, EXACT BUILDING UTILITY ENTRANCE LOCATIONS, AND BOLLARDS ADJACENT TO BUILDING NOT INDICATED OR SHOWN ON SITE WORK PLANS.
3. ALL STANDARD DUTY PAVEMENT IS ASPHALT TYPE UNLESS OTHERWISE NOTED.
4. ALL CURB & GUTTERS ARE TYPE "A" UNLESS OTHERWISE NOTED.
5. ALL CONCRETE APPROACHES ALONG PUBLIC ROADWAYS WILL HAVE TYPE "B" CURB. ALL DRIVEWAY APPROACHES SHALL BE HEAVY DUTY CONCRETE UNLESS OTHERWISE NOTED.
6. REFERENCE SITE DETAIL SHEETS FOR CONCRETE JOINT DETAILS FOR HEAVY DUTY CONCRETE PAVEMENTS.
7. REFER ARCH. PLANS FOR CONSTRUCTION JOINT SPACING FOR CONCRETE CURB AND SIDEWALK AROUND THE BUILDING.
8. UNLESS OTHERWISE NOTED, ALL RADII ON PARKING ISLANDS AND CURB CUTS SHALL BE 2'.
9. ALL PARKING STALLS ADJACENT TO PROPOSED CURBS SHALL INCLUDE A 2' STRIPED AREA FOR ADDITIONAL ACCESS SPACE.
10. ALL PARKING LOT LIGHTING POLES AND FIXTURES WITH LAMPS AND REQUIRED PAINT WILL BE PROVIDED BY WALMART AND INSTALLED BY THE ELECTRICAL CONTRACTOR. ALL INCURRED COSTS FOR RECEIVING, UNWRAPPING OF FACTORY PAINTED POLES, STORAGE, LIABILITY AND WARRANTY LABOR SHALL BE INCLUDED IN THE INSTALLATION CONTRACT PRICE.
11. REFER TO ARCH. PLANS FOR SITE LIGHTING ELECTRICAL PLAN.
12. ALL STOP BARS SHALL BE INSTALLED WITH A STOP SIGN (R1-1) AS PER DETAILS IN THE LATEST MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES AND AS SHOWN IN THIS PLAN.
13. FIRE LANE MARKING: PAINT FIRE LANE MARKING AS PER DETAIL AND INSTALL "FIRE LANE-NO PARKING" SIGNS AS DIRECTED BY CITY FIRE MARSHALL. ADDITIONAL FIRE LANE MARKING AND FIRE LANE SIGNAGE MAY BE REQUIRED FOR FINAL APPROVAL BY THE FIRE MARSHALL. INSTALL FIRE LANE STRIPING TO PAINTED ISLAND SHOWN AT FRONT OF THE STORE.
14. THE CONTRACTOR SHALL COORDINATE THE LOCATIONS OF CART CORRALS WITH WALMART CONSTRUCTION MANAGER AND STORE PLANNING.

SITE SUMMARY

LEGAL DESCRIPTION

ALL OF OUTLOT A, LOT 1, LOT 2, LOT 3, LOT 5, & LOT 6 STONE RIDGE ESTATES COMMERCIAL CENTER ADDITION, LINCOLN, LANCASTER COUNTY, NEBRASKA (OUTLOT A, LOT 1, LOT 2, & LOT 3 ARE TO BE PLATTED AS LOT 1 STONE RIDGE ESTATES 6TH ADDITION, LINCOLN, LANCASTER COUNTY, NEBRASKA).

ADDRESS: 2501 Grainger Parkway, Lincoln, NE 68517

ZONING: B-2, PLANNED NEIGHBORHOOD BUSINESS DISTRICT

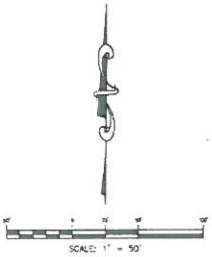
LOT AREAS:	
WAL-MART LOT (LOT 1)	15.37± ACRES
LOT 5	0.83± ACRES
LOT 6	0.51± ACRES
TOTAL PROPERTY AREA	16.71± ACRES

PARKING DATA

BUILDING GROSS FLOOR AREA	125,748 S.F.
GROSS FLOOR AREA INCL. GARDEN CENTER	132,162 S.F.
CART CORRALS	24 SPACES
ACCESSIBLE SPACES	13 SPACES
TOTAL PARKING PROVIDED (INCL. H.C. SPACES)	509 SPACES
CITY REQUIRED PARKING SPACES (1 / 300 S.F. GROSS FLOOR AREA INCL. GC)	442 SPACES
WM PARKING RATIO (w/ CART CORRALS)*	4.05
CITY PARKING RATIO (w/ CART CORRALS)**	3.85
CITY REQUIRED PARKING RATIO	3.3

NOTES:
* WM PARKING RATIO IS CALCULATED USING BUILDING GROSS FLOOR AREA.
** CITY PARKING RATIO IS CALCULATED USING GROSS FLOOR AREA INCLUDING GARDEN CENTER.

	Arr. Watts	BUG Rating	Arr. Lum. Lumens
	285	B2-U0-G3	13575
	133	B1-U1-G1	7975
	133	B3-U0-G3	10380
	530	B2-U1-G3	29162
	133	B1-U1-G2	7342
526-43K	795	B2-U0-G3	40725
	530	B2-U0-G3	27150
	530	B4-U0-G2	45248
	795	B4-U0-G3	61088
	1060	B4-U0-G2	90496



© SMC CONSULTING ENGINEERS, P.C. ALL RIGHTS RESERVED. THESE DOCUMENTS MAY NOT BE USED FOR ANY PURPOSES WITHOUT PRIOR WRITTEN PERMISSION FROM SMC CONSULTING ENGINEERS, P.C.

Walmart

NOT VALID FOR CONSTRUCTION

UNLESS SEALED IN THIS BLOCK

WALMART SUPERCENTER #2432-00

27TH STREET AND GRAINGER PARKWAY LINCOLN, NEBRASKA

SMC
SMC Consulting Engineers, P.C.
825 Phoenix Drive, Lincoln, NE 68542
Ph: 402-232-7115 Fax: 402-232-7836
Website: www.smcpc.com
NEBRASKA CERTIFICATE OF AUTHORIZATION NO. CA0887 EXP. 12/31/13

No.	Revision	By	Date
1	SCHEDULE PUD, SWC, & CRT. REVIEW	DMA	12/20/12

PROJECT NO.: 5218.00
DATE: 08/08/12
SCALE: 1" = 50'
DRAWN BY: TAB
ENGINEER: CHRISTOPHER
P.E. NUMBER: E-5207

SITE

SHE
C

Blumberg No. 5118

EXHIBIT
6
11/27/12

Building & Safety Telephone Directory

ADMINISTRATION

Fred Hoke
Director of Building & Safety
555 South 10th Street, Suite 203
Lincoln, NE 68508
(402) 441-7049
fhoke@lincoln.ne.gov

Geri Rorabaugh
Executive Secretary
(402) 441-6457
grorabaugh@lincoln.ne.gov

BUSINESS OFFICE

Lana Tolbert
Administrative Officer
(402) 441-6456
ltolbert@lincoln.ne.gov

Justin Meyer
Accounting
(402) 441-6455
jjmeyer@lincoln.ne.gov

Kathleen Chadwick
Administration
(402) 441-6406
kchadwick@lincoln.ne.gov

Jeri Luft
Housing, Ins, Bond
(402) 441-6428
jluft@lincoln.ne.gov

Janet Rose
Electrical
(402) 441-6413
jrose@lincoln.ne.gov

Angela Green
Fire
(402) 441-6405
agreen@lincoln.ne.gov

Julie Jakoubek
Plumbing
(402) 441-6407
jjakoubek@lincoln.ne.gov

Michelle Leaver

Blumberg No. 5118
EXHIBIT
7
11/27/12

Front Counter
(402) 441-6684
mleaver@lincoln.ne.gov

Rita Cox
Systems Specialist III
(402) 441-6454
rcox@lincoln.ne.gov

Jerris Nider
Systems Specialist II
(402) 441-6470
jnider@lincoln.ne.gov

IMPACT FEES

Michaela Dugan
(402) 441-7559
mdugan@lincoln.ne.gov

BUILDING SERVICES DIVISION

Mel Goddard
Chief Building Inspector
(402) 441-6423
mgoddard@lincoln.ne.gov

Dale Buchholz
Building Inspector
(402) 430-5832

Allen Gilbert
Building Inspector
(402) 432-4147

Steve Weiss
Building Inspector
(402) 432-4169

Greg Edwards
Building Inspector
(402) 430-5829

Bill Fuelling
Building Inspector
(402) 430-5834

PLAN REVIEW SECTION

Terry Kathe
Zoning Coordinator
(402) 441-6447
tkathe@lincoln.ne.gov

Gary Spier
Plans Examiner
(402) 441-6448
gspier@lincoln.ne.gov

Richard Burton
Plans Review Engineer
(402) 441-6451
rburton@lincoln.ne.gov

Mike Petersen
Plans Examiner
(402) 441-6445
mjpetersen@lincoln.ne.gov

Shawn Johnson
Plans Examiner
(402) 441-6174
sjohnson@lincoln.ne.gov

Gordon McGill
Plans Examiner
(402) 441-6424
gmcgill@lincoln.ne.gov

Todd Stutzman
Plans Examiner
(402) 441-7097
tstutzman@lincoln.ne.gov

INSPECTION & ENFORCEMENT DIVISION

PLUMBING

Bob Siemsen
Chief Plumbing Inspector
(402) 441-6408
(402) 432-8625 Mobile
bsiemsen@lincoln.ne.gov

Jim Skinner
Plumbing Inspector
(402) 432-3704 Mobile

Bill Fleischman
Plumbing Inspector
(402) 432-2141 Mobile

Rex Crawford
Plumbing Inspector
(402) 432-1878 Mobile

ELECTRICAL SECTION

Ed Bergstraesser
Chief Electrical Inspector
(402) 441-6414
ebergstraesser@lincoln.ne.gov

Jerry Henkel
Electrical Inspector
(402) 432-1494

Ray Paulson
Electrical Inspector
(402) 430-5824

MECHANICAL SECTION

Merl Scott
Chief Mechanical Inspector
(402) 441-6419
(402) 432-8624 Mobile
mscott@lincoln.ne.gov

Steve Hartsock
Mechanical Inspector
(402) 432-3795

Clint Mailahn
Mechanical Inspector
(402) 440-9805

Mark Howard
Mechanical Inspector
(402) 432-4504

HOUSING SECTION

John Boies
Chief Housing Inspector
(402) 441-6429
(402) 432-8622 Mobile
jboies@lincoln.ne.gov

Dennis Drbal
Housing Inspector
(402) 441-6431
(402) 440-5995 Mobile
ddrbal@lincoln.ne.gov

Dennis Ribeiro
Housing Inspector
(402) 441-6432
(402) 440-5982 Mobile
dribeiro@lincoln.ne.gov

Sean Stewart
Housing Inspector
(402) 441-6525
(402) 440-6022 Mobile
sstewart@lincoln.ne.gov

Mickey Tuttle
Housing Inspector
(402) 441-6430
(402) 440-5991 Mobile
mtuttle@lincoln.ne.gov

BUREAU OF FIRE PREVENTION

Bill Moody
Chief Fire Inspector
(402) 441-6437
(402) 525-9631 Mobile
bmoody@lincoln.ne.gov

Damon Robbins
Fire Inspector
(402) 441-6436
(402) 326-0511 Mobile
drobbins@lincoln.ne.gov

Roger Chapp
Fire Inspector
(402) 441-6435
(402) 440-5942 Mobile
rchapp@lincoln.ne.gov

Rick Campos
Fire Inspector
(402) 441-6438
(402) 440-5383 Mobile
rcampos@lincoln.ne.gov

Don Gross
Fire Inspector
(402) 441-6439
(402) 440-5960 Mobile
dgross@lincoln.ne.gov

Bob Fiedler
Fire Inspector
(402) 441-6440
(402) 440-5965 Mobile
rfiedler@lincoln.ne.gov

Chuck Schweitzer
Fire Inspector
(402) 441-6441
(402) 440-5952 Mobile
cschweitzer@lincoln.ne.gov

Ken Hilger
Fire Inspector
(402) 441-6450
(402) 440-5953 Mobile
khilger@lincoln.ne.gov

RECEIVED

JUN 1 2 2012

IF120522

Application for BUILDING PERMIT

CITY OF LINCOLN
BUILDING & SAFETY DEPARTMENT
555 S. 10th St., Room 203, Lincoln, NE 68508

☒ City ☐ 3-Mile District ☐ County
☐ Residential ☒ Commercial

Street Address ~~SW Corner 27th St. &~~ 2501 Granger Parkway Suite N/A
Lot 1 Block N/A
Subdivision Name To be platted as Stone Ridge Estates 6th Addition. Currently platted as Stone Ridge Estates Commercial Center Addition.

BUILDING PERMIT

The undersigned hereby applies for a permit for:

☒ New ☐ Enlarge/Addition ☐ Move-on ☐ Alteration

TOTAL CONSTRUCTION VALUATION $ 6,089,280

DESCRIBE WORK TO BE DONE: Construction of new Wal-Mart Supercenter

USE OF BUILDING (description): Retail Store

Size Approx: 458' x Approx: 294'-8" Height Approx: 25'-4" # of Units N/A # of Stories 1

CONSTRUCTION ACTIVITY SWPPP

☐ SWPPP Permit Number # TBD CSW12C274

OCCUPANCY CERTIFICATE OC # ~~3764~~ 120561

Mail Certificate To: (Print or Type)
Name [redacted] DCK North America
Address 2618 So. 156th Circle
City/State/Zip Code Omaha, NE. 68130

APPLICANT/CONTRACTOR INFORMATION

Property Owner: Wal-Mart Real Estate Business Trust
Owner Phone: (479) 273-4000
Lessee or Tenant Name: N/A
Engineer/Architect: SGA Design Group, Attn: Micala Marchese
Building Contractor: TBD
Contractor Email Address TBD
Contractor Cell Phone# TBD FAX # TBD

SGA Design Group
1437 S Boulder Suite 550 Tulsa, OK 74119
Micala Marchese (918) 587-8600
Micala Marchese 6/11/12

BS15-113 10-10

Office Use Only

Permit No. B 12011678

Building Permit:	$ 12,863
Plan Review:	$ 8,360.95
Fire Code Review:	$ 7,947.50
Fair Housing Review:	$
Shell Permit:	$
Limited Permit:	$
Additional Review:	$
Other: O.C	$ 30
Investigation Fee	$
Miscellaneous Fee	$
LANCASTER COUNTY FEE 3-8 miles--$15; Over 8 miles--$30	$
TOTAL FEES	$ 29,201.45
Plan Review Deposit	$ 116,308.45
Balance Due	$

Fin. Floor Area	126,868	Sq. Ft.	$ 6,357,414
Fin. Bsmt.		Sq. Ft.	$
Unfin. Bsmt.		Sq. Ft.	$
Garage		Sq. Ft.	$
Deck		Sq. Ft.	$
Exist. Bsemt		Sq. Ft.	$
		TOTAL	$

Zoning District	B2
Occupancy Group	M
Type of Construction	IIB/Sprink
Flood Plain Permit #	—
Curb Cut Permit #	CU120282
Septic #	
Well #	
Special Permit #	
Admin. Amendment #	
Bd. of Zoning Appeals #	
Historic Preservation Cert. #	
House Moving Permit #	
Height Permit #	
Subdivision Permit #	

Water Dept. Approval:
Date

Building Application Approval:
Date 8-20-12

EXHIBIT
Blumberg No. 5118
11-3-12

Review Requested

☒ Full / Final (plans are complete)

☐ Limited (**specify type of Limited Permit you are requesting in the box below)

☐ Shell Only (No Occupancy allowed) (Interior will be finished under a separate permit)

Dept. of Building & Safety – Plan Review Section
555 S. 10th St., Lincoln, NE 68508-2803
City-County Building, 2nd Floor, NE corner, Rm. 203
(402)441-7882 (402)441-8214 (fax)

Job Name: ~~Wal-Mart Supercenter #2432~~ 2501 Grainger Pkwy Permit #: B12016 78

Date: 6/11/12

Project Address: TBD- NW Corner 27th and Grainger Applicant: Micala Marchese

Contact: Micala Marchese Fax #: (918) 587-8601

Phone #: (918) 587-8602 Ext. 299 Cellular #: N/A

Signature: X Micala Marchese

Additional fees may be assessed for each additional review required

Yes ☒ No ☐ I review comments on-line

Yes ☐ No ☐ I would like comments faxed

Type of Occupancy: Mercantile [3] Plan Sets Submitted

Construction Type: II-B [509] of Parking Stalls

Gross Square Footage: 126,860

Category: ☒ New ☐ Enlarge ☐ Interior Alter ☐ Parking Lot

**Description/Scope of Limited Permit

NOTE: Each Limited permit adds an ADDITIONAL 20% to the Building Permit fees. ($100.00 minimum)

Please indicate whether the following plans are included in the drawings that you submitted.

Y	N	N/A	
☒	☐	☐	Site Plan? (Submitted by Civil)
☒	☐	☐	Landscape Plan? (Submitted by Civil)
☒	☐	☐	Utility Plan? (Submitted by Civil)
☒	☐	☐	Grading Plan? (Submitted by Civil)
☒	☐	☐	Electrical Plan?
☒	☐	☐	Plumbing Plan?
☒	☐	☐	Mechanical Plan?

☒ Check here if you are also applying for curb cuts. (You will be required to provide (3) additional copies of the site plan for this permit.) (Submitted by Civil)

☒ Check here if the parking lot will be provided with lighting. (See Plan Reviewer for Appl. (Submitted by Civil)

☒ Check here if you included a copy of the approved UP/SP site plan from Planning Department in your building drawings. (Submitted by Civil)

Office Use Only

Date: 6/13/12 Initials: CRM

☐ Build	☒ Fire	☒ Struc	☒ Plum	☒ Elec	☒ Mech
☒ Sp. Permit	☐ Flood Plain	☒ Engin	☒ Curb	☒ Util	☒ Screen
☒ Sidewalk	☐ Fair Hsg	☐ Hlth/Pool	☐ Hlth/Daycare	☒ Hlth/Food	☐ Hist

☒ lights ☒ NDEQ NRD ☒

Comments:

☐ Sent for Structural Review

☒ Spec Book

Date Printed: Monday, November 19, 2012

City of Lincoln, Nebraska

IMPORTANT

All revisions to plans must include Building Permit # and Job Address.

A seperate set of plans for review and and final approval must be submitted by the licensed installing contractor/s if fire suppression systems, sprinklers, dry powder, fire alarm systems or underground tanks are installed.

Plan Review Comments

Permit # **B1201678**

Address: 2501 GRAINGER PKWY

Permit Description: WAL-MART SUPERCENTER

ZONING: B2

Construction Type IIB/Sprink

OCCUPANCY: M

TO RESPOND TO COMMENTS:

Return this report with at least two sets of corrected plans. The corrections noted below are required to be made to the plans prior to issuance of a permit. Please indicate under each item where the correction is made by plan sheet number or plan detail number. Written responses will not be allowed as the primary method of correcting plans.

Status of Review: Denied **06/14/2012 2:03:59 PM**

Reviewer BUILDING/ZONING/ACCESSIBLITY **RICHARD BURTON**

Comments: 1. After Zoning Coordinator Terry Kathe assigns an address, please amend the building permit application with the correct address.

2. Please provide COMcheck in accordance with Nebraska Energy Code.

3. Signs are not approved under this permit. A separate sign permit will be required. No response necessary.

Status of Review: Approved **08/08/2012 10:31:34 AM**

Reviewer BUILDING/ZONING/ACCESSIBLITY **GARY SPIER**

Comments: APPROVED

Status of Review: Denied **06/20/2012 7:34:19 AM**

Reviewer CURB CUT **BARNIE BLUM**

Comments: 6/20/12
(1) On site plan, dimension width of new driveway to Grainger Parkway, add dimension from centerline of driveway to an existing lot corner.
(2) Submit 3 additional revised copies of site plan (these are in addition to Building and Safety copies) with City of Lincoln curb cut application

Status of Review: Approved **08/06/2012 9:03:02 AM**

Reviewer CURB CUT **BARNIE BLUM**

Comments: 8/6/12
(1) Curb cut approved

Status of Review: Approved **06/22/2012 7:48:54 AM**

Reviewer ELECTRICAL CODE REVIEW **ED BERGSTRASSER**

Comments: All pre-manufactured wiring systems must be field approved by inspector prior to installation. Plans approved with comments subject to codes and inspections.

Status of Review: Approved **06/15/2012 11:48:12 AM**

Reviewer FIRE PREVENTION/LIFE SAFETY CODE **BOB FIEDLER**

Comments: approved

Status of Review: Approved **06/19/2012 9:13:21 AM**

Reviewer HEALTH FOOD SERVICES **JUSTIN DANIEL**

Comments: Submitted plans approved. Final approval is subject to field inspections. Contact the Lincoln-Lancaster County Health Department prior to opening for final inspections and permitting requirements.

For any questions, please contact Justin L. Daniel at 402-441-8028.

Status of Review: Approved **06/21/2012 8:57:09 AM**

Reviewer IMPACT FEES **MICHAELA DUGAN**

Comments:

TOTAL IMPACT FEES = $465,956.20

WATER SYSTEM/WATER DISTRIBUTION 2" METER $6,723.00
WASTEWATER EXEMPT

ARTERIAL STREETS (126,860 X 3.62/SQ FT) $459,233.20

Status of Review: Approved **06/21/2012 8:57:09 AM**

Reviewer IMPACT FEES **MICHAELA DUGAN**

Comments: CORRECTED IMPACT FEE. ARTERIAL STREET FEE S/B BASED UPON SQ FT OVER 100,000 SF

WATER/WASTEWATER	6,723.00
ARTERIAL STREET	413,563.60
TOTAL	420,286.60

Status of Review: Denied **06/21/2012 10:41:57 AM**

Reviewer LANDSCAPING/SCREENING PLAN REVIEW **TOM CAJKA**

Comments: 1. Add the mature height and spread to the Plant Schedule.I cannot determine if you have the required amount of shrub coverage without the mature spread and height.

2. The driving aisle parallel to S. 27th St. must be screened.

3. Use plants for the City approved plant list.

See Chapter 3.50 of the City of Lincoln Design Standards for all information. Particulalry refer to Section3, part 2; Section4, part 1 & 2; Section 7, part 7.1

Status of Review: **Approved** **08/06/2012 1:10:44 PM**

Reviewer **LANDSCAPING/SCREENING PLAN REVIEW** **TOM CAJKA**

Comments:

Status of Review: **Approved** **06/20/2012 1:37:02 PM**

Reviewer **MECHANICAL CODE REVIEW** **ANY**

Comments:

Status of Review: **Denied** **06/14/2012 4:26:53 PM**

Reviewer **NDEQ** **RICHARD BURTON**

Comments: Please provide SWPPP Approval Number.
If you have any questions, contact Gary Lacy 402-430-9716

Status of Review: **Approved** **08/02/2012 11:19:25 AM**

Reviewer **NDEQ** **GARY SPIER**

Comments: APPROVED

Status of Review: **Denied** **06/14/2012 4:27:20 PM**

Reviewer **NRD** **RICHARD BURTON**

Comments: Please provide SWPPP Approval Number.
If you have any questions, contact Gary Lacy 402-430-9716

Status of Review: **Approved** **08/02/2012 11:19:45 AM**

Reviewer **NRD** **GARY SPIER**

Comments: APPROVED

Status of Review: Denied **06/28/2012 9:18:37 AM**

Reviewer PARKING LOT LIGHTING **KRETAK**

Comments: 1. Outdoor Lighting Design Standards shall apply. These design standards restrict the amount of light that can trespass at the property line between commercial and residential uses with regard to lighting on the exterior of the building and any parking lot lighting. (Both horizontal and vertical footcandles) The outdoor lighting standards can be found on the website at the following link;

http://www.lincoln.ne.gov/city/attorn/designs/ds3100.pdf□□

A certification form can also be obtained in this office or you may email me a request at;

tkathe@lincoln.ne.gov

**This certification must be completed by a certified lighting professional or licensed electrician and must take into consideration the parking lot lighting in addition to the any outdoor lighting. This certification must include plans that comply with Section 10 - SUBMISSION OF PLANS AND EVIDENCE OF COMPLIANCE

****It appears by the table provided that the maximum vertical footcandles at any property line is .8 fc, which is well within the limits. However, the horizontal footcandles cannot be read and thus cannot be verified to be in compliance. Horizontal footcandles at the property line that abuts a residential district must be less that .5 fc.

****missing the certification form.

Status of Review: Approved **08/07/2012 11:32:32 AM**

Reviewer PARKING LOT LIGHTING **KRETAK**

Comments:

Status of Review: Approved **06/14/2012 6:57:06 AM**

Reviewer PLUMBING CODE REVIEW **BOB SIEMSEN**

Comments:

Status of Review: Denied **06/26/2012 11:31:00 AM**

Reviewer PUBLIC WORKS ENGINEERING **BUFF BAKER**

Comments: from Ben Higgings- Watershed - The storm drain plan sheets (C9) for the private storm drain lines (lines 'A', 'B' and 'C' on plan sheet set C9) need to show the riprap pad details at the end of each of these lines. Need to include plan and profile view and need to meet or exceed energy dissipation requirements shown in the city of Lincolns Drainage Criteria Manual in Chapter 7.

Note: I checked the conveyance of the small creek to the west of the building and it has adequate capacity.

Buff, Engineering comments..No dual exit onto Grainger. The drive width is satisfactory to accomodate the truck manouvers.

Status of Review: Approved **08/03/2012 11:19:23 AM**

Reviewer PUBLIC WORKS ENGINEERING **BUFF BAKER**

Comments:

Status of Review: Denied **06/14/2012 10:59:05 AM**

Reviewer PUBLIC WORKS UTILITIES **DOUG LUEDTKE**

Comments: Sheet P3 - Water Entry Detail - Please add the 10" FM water meter to this detail.
Need valid address.

Status of Review: Approved **08/09/2012 1:41:55 PM**

Reviewer PUBLIC WORKS UTILITIES **DOUG LUEDTKE**

Comments:

Status of Review: Approved **06/14/2012 8:28:49 AM**

Reviewer SIDEWALK PLAN REVIEW **HARRY KROOS**

Comments: 6/14/12
(1) Sidewalk to be 6" thick through driveway to Grainger Parkway

---

Status of Review: Denied **06/28/2012 9:17:36 AM**

Reviewer SPECIAL PERMIT/USE PERMIT REVIEWS **TERRY KATHE**

Comments: 1. Building is located on what is now an outlot, an outlot is not buildable. There is a subdivision under review by Planning Department, but until this subdivision is approved this lot remains an outlot.

2. When building permit application is amended to correct new legal description, then a review can take place in relation to the lot dimensions and easements. Verify that those property lines and easements are correctly drawn and dimensioned based on the newly approved filed plat.

3. L.M.C. 27.69; Signs are not allowed under this building permit. If the Applicant intends to install signs on the property or the exterior of the building, sign permits will be required and will need to be applied for separately. (No action needed for this at this time.)

4. Unable to determine compliance with the approved plan for Use Permit 149. Setbacks and easement lines are not dimensioned or labeled on site plan(page C-4)

Additional Comment from Public Works-Watershed Mgmt....

Need to get their erosion and sediment control permit in and approved prior to any work being done.

The storm drain plan sheets (C9) for the private storm drain lines (lines 'A', 'B' and 'C' on plan sheet set C9) need to show the riprap pad details at the end of each of these lines. Need to include plan and profile view and need to meet or exceed energy dissipation requirements shown in the city of Lincolns Drainage Criteria Manual in Chapter 7.

Status of Review: Approved **08/20/2012 1:44:05 PM**

Reviewer SPECIAL PERMIT/USE PERMIT REVIEWS **TERRY KATHE**

Comments:

Status of Review: Denied **06/19/2012 8:37:14 AM**

Reviewer STRUCTURAL PLAN REVIEW **GARY SPIER**

Comments: Building Permit No.: B1201678
Project Name: Wal-Mart Store #2432
Date: June 18, 2012
Reviewer: King Kuebler Little, P.E., S.E., F.ASCE
Status: Approved w/COMMENT

Comments:

1. Ref. Sht. No. SP2.1, Detail 16, Flagpole Foundation, is the 24" diameter x 5'-9" embedded concrete pier adequate for this 30 foot high pole? Please submit structural engineering calculations.
2. Ref. Sht. No. S0, General Notes, Foundation & Slab on Grade, Note #2.1, Footing were designed for Net Soil Bearing Pressure of 3,000 PSF. Is there a Geotechnical Soils Investigation to warrant using this value?
3. Please submit a complete set of structural engineering calculations for both the gravity and lateral load resisting systems sealed by the Structural Engineer of Record.

Status of Review: Approved **06/29/2012 10:26:30 AM**

Reviewer STRUCTURAL PLAN REVIEW **GARY SPIER**

Comments: APPROVED

Current Codes in Use Relating to Construction Development in the City of Lincoln:

2009	International Building Code and Local Amendments
2009	International Residential Code and Local Amendments
1994	Nebraska Accessibility Guidelines (Patterned after and similar to ADA guidelines)
1998	Fair Housing Act As Amended Effective March 12, 1989
1979	Zoning Ordinance of the City of Lincoln as Amended including 1994 Parking Lot Lighting Standards
2009	Lincoln Plumbing Code (The Lincoln Plumbing Code uses the 2000 Uniform Plumbing Code and Local Community Amendments.)
2011	National Electrical Code Adopted by Local Ordinance.
2006	Uniform Mechanical Code and Local Amendments
2006	Lincoln Gas Code
2000	NFPA 101 Life Safety Code
2009	Local Amendments International Firecode
	Applicable NFPA National Fire Code Standards

Chapter 2.08

DEPARTMENT OF BUILDING AND SAFETY

Sections:

2.08.010	**Director; Appointment; Duties Generally.**
2.08.020	**Office; Custody of Documents.**
2.08.030	**Reports to Council.**
2.08.040	**Building and Safety Fund; Created; Fees Credited.**
2.08.050	**Miscellaneous Fees.**

2.08.010 Director; Appointment; Duties Generally.

The Mayor shall appoint, with approval of the City Council, a Director of Building and Safety, who shall be a member of the unclassified service of the city. The Director of Building and Safety shall be responsible for the inspection of buildings and other structures within the jurisdiction of the city, inspection and abatement of dangerous buildings, issuance of construction permits, and enforcement of land use, construction, and life safety codes and ordinances of the city. The Director of Building and Safety shall have immediate charge and supervision of those inspectors and their subordinate employees responsible for the enforcement of Titles 17 and 18 representing the housing, building and construction codes of the Lincoln Municipal Code and said director shall have all the powers granted to such inspectors pursuant to those titles as enumerated and shall be responsible for administrative supervision of all divisions of the executive branch assigned or attached to the Department of Building and Safety. (Ord. 15379 §1; January 8, 1990).

2.08.020 Office; Custody of Documents.

The Director of Building and Safety shall keep an office in the rooms provided by the City Council which shall be kept open to the public during usual business hours. The Director of Building and Safety shall have charge and control of all the necessary public maps, charts, graphs, plans, books, documents, and other records pertaining to the office which shall be carefully preserved in the director's office as the property of the city. (Ord. 15379 §2; January 8, 1990).

2.08.030 Reports to Council.

The Director of Building and Safety shall furnish the City Council with such reports as it may from time to time request. (Ord. 15379 §3; January 8, 1990).

2.08.040 Building and Safety Fund; Created; Fees Credited.

There is hereby created a fund to be designated the Building and Safety Fund. All fees received by the Department of Building and Safety in the performance of duties imposed upon it by any applicable law, ordinance, or regulation shall be credited to such fund. (Ord. 17046 §1; August 19, 1996).

2.08.050 Miscellaneous Fees.

The City Council may from time to time establish or revise, by resolution, fees to be charged to any person desiring the Department of Building and Safety to perform a duty imposed upon it by an applicable law, ordinance, or regulation for which a fee has not otherwise been provided for. Such fees when so established or revised shall be exclusively for the purposes of administering, operating, and performing said duty. (Ord. 17206 §1; July 14, 1997).

EXHIBIT
10

CHAPTER 27.64

USE PERMITS

Sections:

27.64.010 Procedures and Requirements.

27.64.010 Procedures and Requirements.

(a) Application: Applications for a use permit under this chapter for development in the O-3, R-T, B-2, B-5, and I-3 zoning districts shall be filed by the owner in writing with the Planning Department on a form provided by the City. Upon filing the application, the City Council shall refer the application to the Planning Commission for its consideration and final action as provided in subsection (g) below.

(b) Preliminary plan: The Planning Director may require a preliminary plan that may include the following information:

(1) Boundary survey and gross acreage;
(2) Contour lines at intervals not to exceed five feet based on NAVD 1988. Spot elevations on 100-foot grid shall be required to fully indicate the topography on flat land;
(3) Street right of way;
(4) Utility easements;
(5) Adjacent land use and zoning classifications;
(6) Location of structures on property to be removed;
(7) Vicinity map;
(8) Date prepared, scale and north point;
(9) Schematic and location of existing buildings;
(10) Parking areas and capacity;
(11) Open space for residential uses (except in the R-T District);
(12) Use of buildings, such as retail, service, restaurant, office, residential and other uses;
(13) Height of buildings;
(14) Location of existing trees and proposed landscape plan;
(15) Proposed vehicular and pedestrian circulation system including egress and ingress;
(16) Building and parking setback lines;
(17) Grading plan;
(18) On-site and off-site water and sanitary sewer improvements;
(19) On-site and off-site drainage and storm sewer improvements;
(20) Location of proposed free-standing signs;
(21) Cross-section for paving of parking lots and sidewalks;
(22) In the B-2 and B-5 districts, proposed name of the shopping center;
(23) Name, address, and telephone number of developer; certified record owner or owners and addresses; and legal description of the proposed use permit area, including the number of acres.

(c) Environmental performance standards: Any applicant for a use permit under the provisions of this section shall comply with environmental performance standards relating to noise, emission, dust, odor, glare, and heat as shall be from time to time established by various municipal departments and approved by resolution of the City Council.

(d) Environmental impact statement and market analysis: If any application for a change of zone to the B-5 Planned Regional Business District or for a use permit in the B-5 district under the provisions of this section substantially deviates from the Comprehensive Plan in terms of location or size, as determined by the Planning Director, the applicant shall submit an environmental impact statement and a market analysis in accordance with Chapters 3.05 and 3.10 of the City of Lincoln Design Standards for Zoning Regulations which shall serve as a guide to the Planning Commission for evaluation of such application in terms of need, desirability, supportability, and its implications for the overall growth of the community.

(e) Planning Commission review: The Planning Commission shall hold a public hearing upon such application and shall consider the effect of the proposed use upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare.

(f) Planning Commission action: After holding at least one public hearing, the Planning Commission shall proceed to give final consideration to the application. The Planning Commission shall impose such conditions as are appropriate and necessary to ensure compliance with the Comprehensive Plan and protect the health, safety, and general welfare in the issuance of any such use permits. Such conditions may include an increase in the minimum parking and yard requirements and decrease in the maximum height restrictions set forth in this chapter. Lots fronting on private roadways may be permitted. Unless expressly modified by the terms of the use permit, all regulations of the applicable R-T, O-3, B-2, B-5, or I-3 District shall apply. The Planning Commission may require that certain conditions be fulfilled by the applicant in conjunction with approval of the use permit applied for which may include the requirement that applicant grant additional right of way in accordance with the Comprehensive Plan. The Planning Commission may also require the execution of a written agreement with the city relating to the installation of public improvements by the applicant, together with the execution of performance bonds or provision of other appropriate surety relating thereto. The installation of all public improvements shall be accomplished in compliance with existing city standards as provided by ordinance or by departmental publications approved by resolution of the City Council. In the event the Planning Commission fails to act upon the application within ninety days from the date of the Council's referral of the application to the Planning Commission, the applicant may file a written request with the Planning Director requesting the Planning Commission to take final action on the application. If the Planning Commission fails to take such final action within thirty days following the Planning Director's receipt of the written request, the Planning Director shall schedule the application on the City Council's agenda for public hearing and final action.

(g) Appeal of Planning Commission action:

(1) Any aggrieved person or any person or group officially designated to participate in the administration of this title may appeal any action of the Planning Commission to the City Council by filing notice of appeal with the City Clerk within fourteen days following the action of the Planning Commission.

(2) Upon receipt of the appeal by the City Council, the council shall hold a public hearing thereon within thirty days from the date of appeal. Notice of the public hearing shall be given as provided in Chapter 27.81.

(3) In exercising its appellate jurisdiction, the action appealed from shall be deemed advisory and the City Council may, after public hearing, in conformity with the provisions of this title make such decision as ought to be made.

(h) Adjustment of minimum subdivision requirements and zoning sign, parking, height and lot requirements and height restrictions: Upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, adjust the minimum subdivision requirements, minimum parking, height and lot requirements, and sign regulations for location, height and area of a sign set forth in Title 26 and this chapter provided the public welfare and interest of the City and surrounding area are protected and the general interest and spirit of the regulations are preserved and provided further that in the R-T district, the maximum height of a building shall not exceed the height of the tallest residence on the same and facing block fronts. The Planning Commission shall hold a public hearing upon the requested adjustment at the same time that it hears the application for the use permit and shall make a report to the City Council regarding the effect the proposed use and adjustment has upon the surrounding neighborhood, the community as a whole, and other matters relating to public health, safety, and general welfare. Upon receiving a report from the Planning Commission, the City Council shall take final action upon the use permit and the adjustment.

(j) Amendment: The Planning Director is authorized to approve amendments to the use permit provided that:

(1) A request for amendment is filed with the Planning Director and, if appropriate, accompanied by a plot plan showing all pertinent information;

(2) Minor increases in the number of dwelling units or total floor area originally authorized by the Planning Commission or City Council may be approved if such increases will not cause a significant adverse impact on the public infrastructure, existing development within the use permit and adjoining properties. Minor increases shall not exceed more than fifteen percent (15%) cumulative additional dwelling units or total floor area;

(3) Amendments shall preserve the intent and spirit of the approved development plan;

(4) Amendments shall not violate any regulation set forth in this title;

(5) No change is made to the applicable setback, yard, or height requirements for lots along the perimeter of the use permit;

(6) Minor internal changes to the applicable setback, yard, or height requirements may be made within the use permit if they conform to the intent of the approved use permit and do not adversely impact existing development within the use permit;

(7) Any amendment not in conformance with this paragraph shall be submitted to the Planning Commission in the same manner as a formal application for use permit.

(k) Building permits, certificates of occupancy, and certificates of compliance: Upon the approval of a use permit as provided for under this section, building permits and certificates of occupancy may be issued. Certificates of compliance shall not be issued until there has been compliance with all conditions of a use permit and subsequent amendments within each phase of development of a use permit.

(l) Preexisting uses: An existing use of a type permitted in this chapter which was lawfully established in this district on the effective date of this title shall be deemed to have received a use permit as herein required and shall be provided with such permit by the Director of Building and Safety upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in conformance with this section shall be required.

(m) If an application for a use permit located within a flood plain is granted approval by the city, it shall not be necessary for the applicant to make an application for a special permit to be approved by the City Council as required by Resolution Nos. A-55150, A-56382, and A-57540. It shall be presumed that the applicant has received all such approvals as may be required by the foregoing resolutions by virtue of the city granting approval to the use permit.

(n) Expiration of Application. All applications for a use permit which have been placed on pending by an applicant shall automatically expire and become null and void one year thereafter. At least thirty days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the application shall automatically expire unless prior to the expiration date, the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or City Council agenda as appropriate.

(Ord. 19733 §32; June 25, 2012).

EXHIBIT

11

CITY BOARD OF ZONING APPEAL #1204

DATE SCHEDULED FOR PUBLIC HEARING: November 27, 2012

TYPE OF APPEAL:

1. THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO AN ERROR.

   A. Lincoln Municipal Code (LMC) Section 27.75.040(a) allows the Board to hear appeals where it is alleged there is an error in any order, decision, or determination made by an administrative official in the enforcement of this title.

BACKGROUND

The following is a summary of the applicable zoning history associated with the property affected by building permit #1201678.

- July 10, 2001 - The area was annexed by the City Council per Ordinance 17869, which included approximately 270 acres of land generally located between S. 14th Street and S. 27th Street, north of Yankee Hill Road.

- January 14, 2002 - Stone Ridge Estates Preliminary Plat #01010 was approved by the City Council which included the approximately 350 residential lots in the adjacent R-3 Residential zoned land surrounding the property currently zoned B-2 Planned Neighborhood Business. The preliminary plat showed a conceptual "big box" commercial use for the property on the southwest corner of S. 27th & Grainger which remained zoned AG Agricultural.

- July 14, 2003 - Comprehensive Plan Amendment #03014 changed the designation for this property to from Urban Residential to Commercial use.

- November 3, 2003 - Change of Zone #3409 approved the change from AG Agriculture to B-2 for the 19 acre property.

- November 3, 2003 - Use Permit (UP) #149 was approved for a total 166,100 square feet of commercial use. The approved plan consisted of 6 buildings; the largest building was 108,500 sq. ft. of grocery, commercial and restaurant use on three lots. The Use Permit included a note which would pertain to a large store on this lot: "... The exterior materials of the primary facades (abutting a public street or private roadway) for buildings 30,000 square feet and larger shall consist of brick or stone masonry, split face concrete masonry, architectural pre-cast, synthetic stucco or a combination thereof." It also required double the number of trees be planted between the building and the neighborhood to the west.

- 2004 -2006 - In 2004 the adjacent houses to the west were built. To north, the houses across Grainger Parkway were built from 2006 to 2010.

- March 27, 2008 - Administrative Amendment #07118 to UP 149 was approved to revise the plan for the drive-thru bank (now Midwest Bank) and revised several of the pad sites.

- March 9, 2012 - Administrative Amendment #11065 to UP 149 was approved to increase the largest building from 108,500 to 133,000 square feet of grocery and retail use. The remaining 3 buildings had a total of 20,000 square feet, bringing the total to 153,000 square feet of commercial space.

- August 20, 2012 - Curb cut permit issued. (Approved August 6th)

- August 26, 2012 - Building permit issued. (Approved August 20th)

- August 26, 2012 - Stone Ridge Estates 6th Add. final plat filed with Register of Deeds. (Approved Aug. 17th)

Prepared by

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
November 15, 2012

Q:\BZA\1200\BZA1204 History Summary bjw.wpd

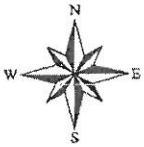
2010 aerial

Board of Zoning Appeals #1204
S 27th St & Grainger Prkwy

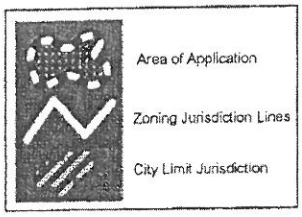
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial Distnct
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

m:\plan\arcview\Agendadrawings.mxd (BZA1204)



One Square Mile
Sec. 24 T09N R06E



PLANNING DEPT. [illegible] DATE OF HEARING 11/27/12 BOARD OF APPEALS NO BZA 1204

Fee _____ Receipt No. _____ Date _____, 20___.

APPEAL TO BOARD OF ZONING APPEALS

BOARD OF ZONING APPEALS, City of Lincoln, Nebraska

On the 13th day of June, 2012, Wal-Mart Real Estate Business Trust applied for a building permit to construct a Wal-Mart Supercenter

Located on Lot 1 Block n/a Addition to be platted as Stone Ridge Estates 6th Addition - currently platted as Stone Ridge Estates Commercial Center Addition

Address 2501 Grainger Parkway

TO BE FILLED IN BY BUILDING OFFICIAL: This permit was approved because _____

The above decision(s) of the Building Official is hereby appealed on the grounds that (check and complete all that apply):

☒ The Administrative Official erred by see accompanying letter

☐ A Variance to (height, area, parking, density, sign) is necessary because the property is peculiar, exceptional, and unusual in the following ways: _____

☐ An exception is necessary to:

1. Reconstruct a non-conforming building for a compelling public necessity because: _____
2. Correct a mapping error due to: _____
3. Reduce the parking requirements due to the use of the building is such as to make unnecessary the full provisions of the parking because: _____

RECEIVED
OCT 17 2012
CITY BUILDING AND SAFETY

Contact Person: Thomas E. Zimmerman Address: 5640 So. 84th Street, Suite 100, Lincoln, NE 68516

Phone #: 402-483-7711 E-mail (if applicable) tom@jhhz.net

Staff will post a notification sign in the yard of the property and other officials may visit the site prior to the hearing. Signing this form hereby grants permission to the staff to enter onto property for purposes related to this application.

Signed: _____ Attorney for Appellants

5640 So. 84th Street, Suite 100, Lincoln, NE 68516 — Appellant's Address

402-483-7711 — Phone #

Form 15-17

F:\FILES\SHARED\board of zoning appeals.wpd 5-13-03

MICHAEL L. JEFFREY 1944-2009
JOHN C. HAHN
BARRY L. HEMMERLING
THOMAS E. ZIMMERMAN
TODD R. MULLINER
BRENT C. STEPHENSON

JEFFREY | HAHN
HEMMERLING &
ZIMMERMAN, PC, LLO
ATTORNEYS AT LAW
5640 SO. 84TH STREET, SUITE 100 • LINCOLN, NEBRASKA 68516
TELEPHONE (402) 483-7711 • FACSIMILE (402) 483-6133

JOHN@JHHZ.NET
BARRY@JHHZ.NET
TOM@JHHZ.NET
TODDRM@JHHZ.NET
BSTEPHENSON@JHHZ.NET

RECEIVED
OCT 16 2012
BUREAU OF FIRE PREVENTION
LINCOLN, NEBRASKA

October 12, 2012

Fred Hoke
Director of Building & Safety
555 South 10th Street, Suite 203
Lincoln, NE 68508

RE: NOTICE OF APPEAL
RE: BUILDING PERMIT NO. B1201678
RE: PROPERTY OWNER: WAL-MART REAL ESTATE BUSINESS TRUST
RE: AGGRIEVED PARTIES/APPELLANTS: STONE RIDGE ESTATES HOMEOWNERS ASSOCIATION AND MICHAELA MAGLALANG

Dear Mr. Hoke:

This firm represents the interests of Stone Ridge Estates Homeowners Association (hereinafter "Stone Ridge") and Michaela Maglalang (hereinafter collectively the "Appellants") with respect to the above-referenced matter. In this capacity, I am writing this correspondence to formally appeal the decision made by the Director of Building and Safety on August 20, 2012 approving the application of Wal-Mart Real Estate Business Trust for a building permit and the issuance of Building Permit No. B1201678 (hereinafter the "Building Permit") with respect to real property commonly known as 2501 Grainger Parkway, Lincoln, NE 68512 (hereinafter the "Property"). Enclosed with this correspondence, please find the Appellant's Appeal to County Board of Zoning Appeals.

This appeal is brought pursuant to Lincoln Municipal Code § 27.75.030. That section provides that:

> (a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any office, department or bureau of the City of Lincoln affected by any decision of the director of building and safety. The decision of the director of building and safety shall be made in writing and the appeal shall be taken within sixty days from such written decision by filing with the director of building and safety a notice of appeal specifying the grounds thereof. The Director of Building and Safety shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from is taken.

(b) Upon receipt of the appeal by the board, the board shall fix a reasonable time for the hearing thereon within thirty days. Notice shall be given as provided in Chapter 27.81.

(c) If, due to the absence of one or more of the members of the board, any proposition put to a vote shall fail to receive three or more votes either for or against, said proposition shall be deemed to have received neither approval nor disapproval.

Stone Ridge and Michaela Maglalang, for the reasons and grounds set forth hereinbelow, constitute persons aggrieved by the Director of Building and Safety's approval and issuance of the Building Permit. This appeal is hereby submitted in writing and is made within sixty (60) days of the Director of Building and Safety's approval of the application for the Building Permit. Accordingly, please accept this letter as a formal request, pursuant to Lincoln Municipal Code § 27.75.030(a), that the Director of Building and Safety immediately transmit to the Board of Zoning Appeals all the papers constituting the record upon which the Director of Building and Safety relied when approving the application for the Building Permit.

It is the position of my clients that the approval and issuance of the Building Permit was contrary to the intent and purpose of Title 20 and Title 27 of the Lincoln Municipal Code. The intent of the Building Code is to "provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location, and maintenance of all buildings and structures within the city . . . ." *See* Lincoln Municipal Code § 20.08.030. The Purpose of Title 27 is to "lessen congestion in the streets; to secure safety from fire, flood, and other dangers, to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements." *See* Lincoln Municipal Code § 27.01.010. Further, Title 27 is aimed at conserving the value of property and encouraging the most appropriate use of land throughout the City of Lincoln. *Id.*

The proposed Wal-Mart entrance/exit off of Grainger Parkway (hereinafter the "Grainger Entrance/Exit") is unsafe and presents a danger to life, limb, health, property and the public welfare generally. Grainger Parkway provides the main access to the Stone Ridge Estates neighborhood. More than that, parents and children from multiple subdivisions funnel through Grainger Parkway to access three (3) schools: Adams Elementary, Scott Middle School, and Southwest High School. Grainger Parkway has already seen an increase in traffic as the result of the newly constructed Holiday Inn, Dillon's Auto and Life Pointe. This increase will become even more substantial when the new apartments that are under construction in the area are completed. As hundreds of children populate the Stone Ridge Estates subdivision, any further increase in traffic congestion is a matter of the utmost concern. Not only will the proposed Grainger Entrance/Exit increase the volume of traffic as a result of the number of additional vehicles in the area but it will also increase the likelihood that drivers will cut through the

Stone Ridge Estates neighborhood on their way to and from this location. For these reasons, it is our position that the intent and purpose of Title 20 and Title 27 would be more fully served by utilizing Jamie Lane as the sole means of ingress and egress to the anticipated Wal-Mart Supercenter.

There are a myriad of additional reasons why the approval and issuance of the Building Permit was in error. The proposed Wal-Mart is bordered by residential development on three of four sides and will be open twenty-four (24) hours per day. This effectively means that customer vehicles and commercial trucks will be entering and exiting the Property at all hours of the day and night. Moreover, the plans for the prospective Wal-Mart do not provide sufficient trees to screen off Wal-Mart from the neighboring homes. Surely, Wal-Mart's disruptive presence will decrease the property value of the homes immediately surrounding the Property. Additionally, the construction of the proposed Wal-Mart is expected to result in drainage issues and increase the amount of runoff onto neighboring property as well as add to the overflow already experienced by the waterway on the west boundary of the Property. You may be aware of the fact that we have had extensive discussions with representatives of Wal-Mart; however, while they have offered some concessions toward the various issues posed by my clients, many of these concerns remain unabated.

It is therefore our firm position that the granting and issuance of the Building Permit was contrary to the intent and purpose of Title 20 and Title 27 of the Lincoln Municipal Code and in error. Therefore, Stone Ridge and Michaela Maglalang respectfully request that the Zoning Board of Appeals reverse the decision of the Building & Safety Department, finding that the application for the Building Permit submitted by Wal-Mart Real Estate Business Trust and SGA Design Group should be denied.

Sincerely,

JEFFREY, HAHN, HEMMERLING &
ZIMMERMAN, P.C., L.L.O.

By: _____
Thomas E. Zimmerman

TEZ/bcs
Enclosure
p.c. Stone Ridge Estates Homeowners Association
Mark A. Hunzeker, Counsel for Wal-Mart Real Estate Business Trust

RECEIVED

JUN 13 2012

IF120522

CITY OF LINCOLN
BUILDING & SAFETY DEPARTMENT
555 S. 10th St., Room 203, Lincoln, NE 68508

Application for BUILDING PERMIT

NOTE: Separate Permits Required for: Electrical, Plumbing, Mechanical, Signs, Fire Alarms, Fire Suppression, Fire Sprinkler Systems, Flammable Liquid Tanks, Grading

☒ City ☐ 3-Mile District ☐ County

☐ Residential ☒ Commercial

Street Address ~~SW Corner 27th St. &~~ 2501 Granger Parkway Suite N/A

Lot 1 Block N/A

Subdivision Name To be platted as Stone Ridge Estates 6th Addition. Currently platted as Stone Ridge Estates Commercial Center Addition.

BUILDING PERMIT

The undersigned hereby applies for a permit for:

☒ New ☐ Enlarge/Addition ☐ Move-on ☐ Alteration

TOTAL CONSTRUCTION VALUATION $ 6,089,280
(Building, plumbing, electrical, planning, mechanical, etc.)

DESCRIBE WORK TO BE DONE: Construction of new Wal-Mart Supercenter

USE OF BUILDING (description): Retail Store

Size Approx 458' x Approx 284'-6" Height Approx: 25'-4" # of Units N/A # of Stories 1

CONSTRUCTION ACTIVITY SWPPP

☐ SWPPP Permit Number # TBD CSW12C274

The undersigned hereby certifies that the building phase of development for the property described on this application will be conducted in conformance with L.M.C. Chapter 28.01 and the Construction Activity SWPPP (Storm Water Pollution Prevention Plan).

OCCUPANCY CERTIFICATE OC # ~~3764~~ 120561

The undersigned hereby applies for a Certificate of Occupancy to comply with Chapter 20.08 and 20.10 LMC and Article 20 of Lancaster County Code.

Mail Certificate To: (Print or Type)

Name [redacted] DCK Worth America

Address 2618 So. 156th Circle

City/State/Zip Code Omaha, NE. 68130

APPLICANT / CONTRACTOR INFORMATION

Property Owner: Wal-Mart Real Estate Business Trust

Owner Phone: (479) 273-4000

Lessee or Tenant Name: N/A

Engineer/Architect: SGA Design Group, Attn: Micala Marchese

Building Contractor: TBD

Contractor Email Address TBD

Contractor Cell Phone# TBD FAX # TBD

THE UNDERSIGNED HEREBY CERTIFIES that they have read and examined this application and know the same to be true and correct. All provisions laws and ordinances governing this type of work will be complied with, whether specified or not. The granting of a building code and permission to start building to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Company/Name SGA Design Group

Address 1437 S Boulder Suite 550 Tulsa, OK Zip 74119

Print Name: Micala Marchese Day Phone # (918) 587-8600

Signature: Micala Marchese Date 6/11/12

BS15-113 10-10

Office Use Only

Permit No. B 12011678

Building Permit:	$ 12,863
Plan Review:	$ 8,360.95
Fire Code Review:	$ 7,947.50
Fair Housing Review:	$
Shell Permit:	$
Limited Permit:	$
Additional Review:	$
Other: O.C	$ 30
Investigation Fee	$
Miscellaneous Fee	$
LANCASTER COUNTY FEE 3-8 miles--$15; Over 8 miles--$30	$
TOTAL FEES	$ 29,201.45
Plan Review Deposit	$ 116,308.45
Balance Due	$

Fin. Floor Area	126,868	Sq. Ft.	$ 6,357,414
Fin. Bsmt.		Sq. Ft.	$
Unfin. Bsmt.		Sq. Ft.	$
Garage		Sq. Ft.	$
Deck		Sq. Ft.	$
Exist. Bsemt		Sq. Ft.	$
		TOTAL	$

Zoning District	B2
Occupancy Group	M
Type of Construction	IIB/Sprink
Flood Plain Permit #	—
Curb Cut Permit #	CU120282
Septic #	
Well #	
Special Permit #	
Admin. Amendment #	
Bd. of Zoning Appeals #	
Historic Preservation Cert. #	
House Moving Permit #	
Height Permit #	
Subdivision Permit #	

Water Dept. Approval:

Date

Building Application Approval:

Date 8-20-12

Chapter 2.35

PUBLIC WORKS AND UTILITIES DEPARTMENT

Sections:

2.35.010	Director; Appointment; Duties Generally.
2.35.020	Office; Custody of Engineering Instruments and Papers.
2.35.030	Surveys and Estimates.
2.35.035	Utility Operations.
2.35.037	Traffic Signals and Controls.
2.35.040	Report Encroachments on Streets.
2.35.050	Supervise Work on Public Property; Enforcement.
2.35.060	Preserve Official Documents; Reports to Council.

2.35.010 Director; Appointment; Duties Generally.

The Mayor shall appoint, with approval of the City Council, a Director of Public Works and Utilities, who shall be a member of the unclassified service of the City. The Director of Public Works and Utilities shall, in addition to the duties imposed by the charter, perform such other duties as may be imposed by ordinance. (Ord. 16951 §9; March 11, 1996: prior Ord. 15392 §5; January 8, 1990: P.C. §2.20.010: Ord. 10033 §11; February, 1, 1971: Ord. 3489 §27-901; July 6, 1936).

2.35.020 Office; Custody of Engineering Instruments and Papers.

The Director of Public Works and Utilities shall keep an office in the rooms provided by the City Council, which shall be kept open during the usual business hours. The Director of Public Works and Utilities shall have charge of all of the engineering and surveying instruments belonging to the City, and of all public maps, charts, drafts, plans, profiles, surveys, books, and papers pertaining to the office, and shall cause the same to be properly recorded in suitable books to be provided at the expense of the City, which, together with the field notes of all surveys, shall be carefully preserved in the Director's office as the property of the City. (Ord. 16951 §10; March 11, 1996: prior Ord. 15392 §6; January 8, 1990: P.C. §2.20.020: Ord. 10033 §12; February, 1, 1971: Ord. 3489 §27-902; July 6, 1936).

2.35.030 Surveys and Estimates.

The Director of Public Works and Utilities shall make surveys of all streets, sidewalks, alleys, lanes, marketspaces, public grounds, sewers and drains of the City, calculate and ascertain the grade-lines and levels thereof, and execute and record such plans, charts, profiles, drafts, estimates, and calculations, as shall be necessary for a complete record and history thereof, and of the changes and improvements made therein from time to time. The Director of Public Works and Utilities shall make such surveys, plans, drafts, and estimates of public works and improvements as may be required of him by the City Council, or City Attorney, for prosecuting or defending any action in which the City is interested. (Ord. 16951 §11; March

11, 1996: prior Ord. 15392 §7; January 8, 1990: P.C. §2.20.030: Ord. 10033 §13; February, 1, 1971: Ord. 3489 §27-903; July 6, 1936).

2.35.035 Utility Operations.

The Director of Public Works and Utilities shall have general control and supervision over the construction, operation, maintenance, repair, extension, and replacement of all public utilities owned or operated by the City of Lincoln, including the Lincoln Water System, the Lincoln Wastewater System, sanitary landfill operations, and storm sewer systems, but excluding the Lincoln Electric System. The Director of Public Works and Utilities shall be responsible for all future planning and development (in conformance with the Comprehensive Plan), fiscal planning, project development, and design and construction engineering relating to such utilities. (Ord. 16951 §12; March 11, 1996).

2.35.037 Traffic Signals and Controls.

The Director of Public Works and Utilities shall have general charge and control of, and shall be responsible for, the following:

(a) The placement, installation, maintenance, and operation of traffic control signs, signals, devices, and markings; safety zones, islands, and platforms; crosswalks, passenger and freight curb loading zones, and loading platforms;

(b) The installation and maintenance of on-street parking meters;

(c) Examination and approval of the location and plans for public and commercial off-street vehicle parking areas;

(d) The approval of applications for the construction of driveways entering any street of the City;

(e) Such other duties as may be functionally related to the above. (Ord. 16951 §13; March 11, 1996).

2.35.040 Report Encroachments on Streets.

The Director of Public Works and Utilities shall report to the Mayor all intrusions over the line of any street, alley, or public ground by buildings, fences, or otherwise which shall come to his or her knowledge. (Ord. 16951 §14; March 11, 1996: prior Ord. 15392 §8; January 8, 1990: P.C. §2.20.040: Ord. 10033 §14; February, 1, 1971: Ord. 3489 §27-904; July 6, 1936).

2.35.050 Supervise Work on Public Property; Enforcement.

The Director of Public Works and Utilities shall supervise any and all improvements and excavations of the streets or other public ground of the City, unless the City Council shall otherwise direct; shall see that streets are not unduly obstructed by persons performing work therein; shall instruct that proper barricades and guards and signals at all such places are to be put up and maintained by contractors, owners, or persons doing such work; shall see that all earth, paving material, or other material removed from the streets and alleys by any person are promptly replaced; shall see that earth so removed is solidly tamped where replaced; and shall see that the streets and alleys are left in as good a condition as they were before the removal of any earth, paving material or other material therefrom. The Director of Public Works and Utilities shall see that when paving material is removed, the same is kept properly separated from the soil and that all deficiencies in such paving material are made good when the paving is replaced; shall cause

pavements to be replaced; and shall instruct that all the surplus material shall be taken off the streets by the person making the excavation.

The Director of Public Works and Utilities may, in writing, suspend or revoke any permit issued by the City for work done under the Director's supervision pursuant to this section whenever the permit was issued in error or on the basis of false or incorrect information supplied, or in any case where the work is in violation of any ordinance, regulation, or codes of the City. (Ord. 16951 §15; March 11, 1996: prior Ord. 15392 §9; January 8, 1990: P.C. §2.20.050: Ord. 10033 §15; February, 1, 1971: Ord. 3489 §27-905; July 6, 1936).

2.35.060 Preserve Official Documents; Reports to Council.

The Director of Public Works and Utilities shall preserve all maps, plats, profiles, and surveys of the City, and all plans and specifications of any work or improvement constructed by the City, together with the books, papers, and letters relating thereto. The Director of Public Works and Utilities shall furnish the council, from time to time, with such reports as they may desire. (Ord. 16951 §16; March 11, 1996: prior Ord. 15392 §10; January 8, 1990: P.C. §2.20.060: Ord. 10150 §1; May 3, 1971: Ord. 3489 §27-906; July 6, 1936).

PENGAD-Bayonne, N. J.
EXHIBIT
B

Chapter 2.30

PLANNING DEPARTMENT

Sections:

2.30.010 Director; Appointment; Duties Generally.
2.30.020 Office; Custody of Documents.
2.30.030 Reports to Council.

2.30.010 Director; Appointment; Duties Generally.

There shall be a Planning Director who shall be appointed by the Mayor with the approval of the Council and upon the affirmative vote of a majority of the County Board of Commissioners, who shall be a member of the unclassified service of the city. The Planning Director shall serve as secretary of the commission and as administrative head of the Planning Department. The Planning Director shall be responsible for the preparation of a comprehensive plan and all amendments thereto, a zoning ordinance and regulations and all amendments thereto for the City of Lincoln for the area within three miles of the City of Lincoln, and outside of any incorporated village, and for all of the other areas in Lancaster County not within the limits of any incorporated village. The Planning Director shall submit these plans, ordinances, and regulations to the commission for its consideration and action. (Ord. 15390 §1; January 8, 1990: P.C. §2.40.060: Ord. 6969 §6; July 27, 1959).

2.30.020 Office; Custody of Documents.

The Planning Director shall keep an office in the rooms provided by the City Council which shall be kept open to the public during usual business hours. The Planning Director shall have charge and control of all the necessary public charts, graphs, plans, books, documents, and other records pertaining to the office which shall be carefully preserved in the director's office as the property of the city. (Ord. 15390 §2; January 8, 1990).

2.30.030 Reports to Council.

The Planning Director shall furnish the City Council with such reports as it may from time to time request. (Ord. 15390 §3; January 8, 1990).