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File 1988-0039

Project Name: Wal-Mart Street Improvements – Construction Plans

P r e s e n t	S c a n n e d	<p>A few items are denoted with an asterisk (*), which means they are to be scanned for permanent record on the in some instances, not all entries designated to be scanned by the department are present in the file. There are also documents specific to certain files, not found on the standard list. For this reason, a checklist has been provided.</p> <p>Remaining items, (not selected for scanning), will be marked present on the checklist. This index can serve as a quick guide for the contents of each file.</p> <p>Files denoted with (**) are to be located using the ISYS Query System. Planning Clearance will need to be typed in full, as well as other entries such as Ordinances, Resolutions, Board of Appeals, and etc.</p>			
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		Review Sheet Summary			
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<u>DOCUMENTS SPECIFIC TO THIS DEVELOPMENT FILE:</u>					
X	X	Letter Thomas Logue to Don Newton re: response to letter dated April 29, 1988 to Ron Rish re: Site Plan, Site Details, Grading and Drainage Plan – 7/13/88	X	X	Letter from Don Newton to Thomas Logue re: 45" of ROW will not be adequate for future street improvement of Melody Lane – 3/28/89
X		Certificate of Occupancy – ** - 6/1/89	X	X	Letter from Don Newton to John Walters, Jerald Construction re: pre-inary inspection of Wal-Mart Site items to be addressed-4/13/89
X		Letter from Mike Sutherland to Thomas Logue re: response to comments – 7/20/88	X	X	Letter from Don Newton to Ronald Rish re: comments on grading and drainage plan – 4/29/88
		Letter from Don Newton to Tom Logue re: comments-7/21/88	X	X	Memo from Don Newton to Karl Metzner re: damage to pavement on Melody Lane from Wal-Mart construction – 5/4/89
X	X	Letter from Michael Sutherland, Senior Planner to Tom Logue re: review of drawings – 5/25/88	X	X	Agreement entered into May 26, 1989 re: mislocation of improvements and defective improvements
X	X	Letter from R.P. Moston, Distract Engineer to Wal-Mart Stores, Inc. re: Construction of the signal – 7/10/89	X		Demolition Plan
X	X	Letter from Don Newton, City Engineer to Armstrong Consultants, Inc. re: review of final site, grading, drainage and utility plans – 7/21/88	X		Boundary Survey
X	X	Letter from Don Newton to R.P. Moston, District Engineer Dept. Warrant numbers are satisfied – 6/22/89	X		Topographic Survey
X		Colorado Dept. of Highways State Highway Access Permit # 30240 – 11/29/83	X		Water Vault Detail
X	X	Letter from Thomas Logue to Don Newton re: considerations given in establishing the west right-of-way line – 2/24/89	X		Landscaping Plan



Grand Junction Planning Department
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430

May 25, 1988

Mr. Tom Logue
Armstrong Consultants, Inc.
861 Rood Avenue
Grand Junction, CO 81501

Dear Tom:

After reviewing the drawings which you provided (sheets 2 and 8 of 11), and following our discussion on May 24, there are two outstanding concerns regarding the site for the proposed Wal-Mart store.

First is the fact that Section 5-5-1:G of the Grand Junction Zoning and Development Code specifies "When an area provides parking spaces for more than fifteen cars, at least five percent of the total area of the parking lot shall be used for landscaping...Part of this area may be required to have shade trees." The policy regarding this requirement has been to enforce it with any new development (i.e. Mesa Mall, Kettle Restaurant, State Employees' Credit Union, 25½ Road Multi-Theatre).

For a parking lot of approximately 200,000 square feet, nearly 10,000 square feet of landscaping is required within the parking area. Shade trees are a necessity with four and a half acres of asphalt parking, and the benefits will far outweigh the inconveniences during the rare times when snow removal occurs.

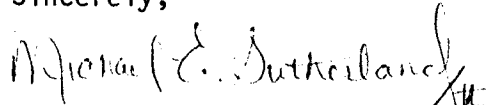
My second concern is with the alignment (or lack of) for the western ingress/egress lanes with 28 3/4 Road. Summertime traffic generated by Fun Junction along with Wal-Mart traffic may eventually warrant a signal light, and the 28 3/4 Road intersection seems to be the logical location. Planning at this stage should include considerable forethought about future traffic controls.

At this time it appears that all other related factors are satisfactory. The existing C-1 (Light Commercial) zoning is appropriate for the Wal-Mart facility. Perimeter landscaping exceeds the total required for a C-1 site, and the plant selection looks good. The number of parking spaces provided meets all requirements for a store of 82,000 square feet.

Mr. Tom Logue
May 25, 1988
Page 2

If there is additional information which you require, or if our office can provide any assistance, please feel free to contact me. Best of luck with the project.

Sincerely,

A handwritten signature in cursive script that reads "Michael E. Sutherland". The signature is written in dark ink and is positioned above the typed name.

Michael E. Sutherland
Senior Planner

MES/tt

xc: Don Newton

ARMSTRONG CONSULTANTS, INC.

861 Rood Avenue

— Grand Junction, Colorado 81501 —

(303) 242-0101

July 13, 1988

J. Don Newton, P.E.
City Engineer
City of Grand Junction
250 N. Fifth Street
Grand Junction, CO 81501

RE: The Grand Junction Wal-Mart Store

Dear Don:

Accompanying you will find revised and updated final Site Plan, Site Details, Grading and Drainage Plan.

In response to your letter dated April 29, 1988, to Ron Rish of our office, note the following:

1. The onsite drainage inlets have been sized to pass designed flows of the drainage pipes. Curb opening type inlets have been used. Drainage calculations have been transmitted for your review under separate cover.
2. The accompanying site plan indicates that all existing curb cuts fronting on the property on North Avenue, with the exception of those adjoining the outlot, are to be removed and replaced with new curb and gutter. The balance of any remaining curb openings within the outlot will be removed and replaced with new curb and gutter at such time as development occurs on the one acre outlot.
3. The accompanying site plan depicts the construction of a new six foot curb walk extending from Wal-Mart's west property line easterly to a point approximately midway across the outlot. The balance of the curb walk will be constructed at such time as the outlot is developed to a point on the easterly property line of the outlot. Wal-Mart has instructed us to prepare a design for your consideration for future construction by others across the Fruitvale Sanitation District property. This is shown on the Site Plan.
4. Full half-street improvements are indicated on the accompanying site plan for Melody Lane adjoining the Wal-Mart property. Once again, Wal-Mart has asked us to submit to you a design to be constructed by others for future improvements to the Fruitvale Sanitation District Property. This is shown on the Site Plan.

CONSULTING ENGINEERS



Grand Junction Planning Department
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430

July 20, 1988

Mr. Thomas A. Logue
Armstrong Consultants, Inc.
861 Rood Avenue
Grand Junction, CO 81501

RE: Grand Junction Wal-Mart Store

Dear Tom:

I've reviewed the revised site plans submitted on July 14 and have a number of comments.

The first is a response to your calculation indicating 760 percent more landscaping than the Zoning and Development Code requires. As I've pointed out previously, the Code requires that 5% of the total parking area must be landscaped. While excesses in perimeter landscaping is appreciated, it still does not meet nor exceed the 5% as required in section 5-5-1:G of the Code for parking lot landscaping.

Regarding the five examples Wal-Mart cited as similar size and nature, K-Mart was built prior to zoning which required landscaping; Teller Arms was, as well, but installed trees and some landscaping adjacent to perimeter parking in spite of the lack of zoning requirements; Eastgate and United Bank both installed landscaping adjacent to perimeter parking; and finally, Lincoln Park has both extensive perimeter landscaping and interior landscaping islands.

As I've pointed out previously, Mesa Mall and other recent large and small developments such as Sundstrand Aviation, McDonald's and Wendy's restaurants, and most recently the Veterans Administration project have all been required to include interior parking lot landscaping islands. No variances are permitted to that section of the Zoning and Development Code.

In calculating the required setback on the east side of the Wal-Mart parking lot for which 75% must be landscaped, the excess width of 15 feet by the length of approximately 350 feet provides 5,250 square feet of parking lot landscaping. This qualifies due to the fact that it is directly adjacent to 38 parking spaces. This equates to approximately 52% of the total area required which I've found to be 5% of 200,550 square feet, or 10,028 square feet of required parking lot landscaping.

The remaining 4,778 square feet must be designed in such a manner as to qualify in one form or another. As I've indicated, it is certainly the preference of this department to see a well designed interior plan which contributes to the aesthetics of the parking lot, not merely to meet the requirements of the Code.

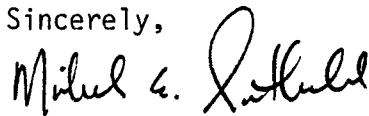
Mr. Thomas A. Logue
July 20, 1988
Page 2

After careful consideration on this matter, I've found no alternative other than "going by the book" and remaining consistent with policy as it has applied to previous development projects in the past.

All other site concerns which we've discussed appear to be satisfactorily addressed in this revised plan. One additional question which has arisen was whether or not Wal-Mart has made arrangements through the Mesa County Assessor's office to have the four parcels aggregated into one, with one tax parcel number. Since the proposed building overlaps property lines, and parking for the building is on, or partly on, adjoining lots, there is the potential for the sale of one or more lots. Future problems might be avoided if it is all under one tax number and description.

Your attention to outstanding site concerns is greatly appreciated.

Sincerely,



Michael E. Sutherland
City Development Planner

MES/tt

xc: Don Newton
File #28-88



City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

July 21, 1988

Armstrong Consultants, Inc.
Thomas A. Logue
861 Rood Avenue
Grand Junction, Colorado 81501

Re: The Grand Junction Wal-Mart Store

Dear Tom:

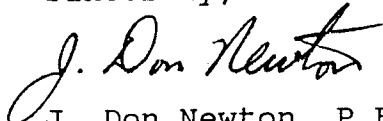
I have reviewed the final site, grading, drainage and utility plans for the proposed Wal-Mart development and have the following comments:

1. Sheet 2: Please extend the monument line to the south on Melody Lane and show the existing and proposed right-of-way dimensions on the site plan.
2. Sheet 5: Fire hydrant assemblies which are teed off of water main do not show valve per symbol in the legend.
3. There are no valves shown to isolate the water meter vault without taking the entire water main out of service. Such valves would be useful to maintain water service to the building if water was discontinued on either side of the meter vault. (Recommendation only).
4. No traffic signing plan was submitted. Please see the attached print showing recommendations for signing this project.
5. As a result of vehicular traffic generated by the Wal-Mart Development a traffic signal may be warranted either at the store's main entrance on North Avenue or at Melody Lane. Installation of such a signal would be the responsibility of Wal-Mart and/or the Colorado Department of Highways.
6. The City has no foreseeable plans for improvements to Melody Lane or to its intersection with North Avenue. Due to the narrow width of Melody Lane at North Avenue, the street is not adequate to accommodate the turning movement of large

trucks. Trucks entering or leaving Wal-Mart should be instructed not to use the Melody Lane - North Avenue intersection.

Upon receiving revisions and additions described in 1 and 4 above, all requirements by the Departments of Public Works and Utilities will be met (with the exception of sewer and water tap fees).

Sincerely,



J. Don Newton, P.E.
City Engineer

JDN:skw

xc: Jim Shanks
Mike Sutherland
Greg Trainor
File

JDN\ARM.WAL

ARMSTRONG CONSULTANTS, INC.

861 Rood Avenue

— Grand Junction, Colorado 81501

— (303) 242-0101

February 24, 1989

Mr. J. Don Newton
City Engineer
250 N. 5th Street
Grand Junction, CO 81501

RE: Melody Lane

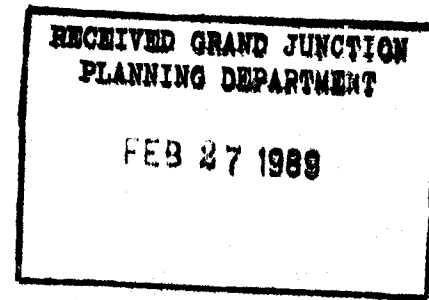
Dear Mr. Newton:

In accordance with your request, we have investigated how the right-of-way width for Melody Lane adjoining the Wal-Mart store was established. As discussed with you at your office this morning, during the preparation of the construction plans for Melody Lane, the following considerations were given in establishing the west right-of-way line.

1. Your original request was for 30 feet of half street right-of-way. The right-of-way dedicated by Wal-Mart was established by allowing for a total of 30 feet of right-of-way from the center of the existing dedicated 30 foot right-of-way to the west.
2. The configuration of the existing west Melody Lane right-of-way line south of Wal-Mart was also a consideration in establishing the new right-of-way line adjoining Wal-Mart. The accompanying tax map shows that past dedications of right-of-way along the west side of Melody Lane and south of the Wal-Mart property have been approximately in line with the 15 ft. line established for Wal-Mart. We thought you wanted the right-of-way to align closely with that to the south.
3. Further, consideration was given to the Fruitvale Sanitation District property. Should the Sanitation District property be redeveloped in the future and a full 30 ft. right-of-way dedication be required by the City, the property would be rendered useless for development due to its narrow width.

As discussed with you this morning, by not having on-street parking along the Wal-Mart parking lot, less right-of-way will be needed on the east side when Melody Lane is fully improved.

CONSULTING ENGINEERS



We hope that the above answers the questions you have raised. However, if not, feel free to contact our office for additional information.

Respectfully,

ARMSTRONG CONSULTANTS, INC.

Thomas A. Logue

Thomas A. Logue
Project Manager

TAL/sh
DALY23

cc: Tim Woodmansee
Mike Southerland



Grand Junction Planning Department
250 North Fifth Street
Grand Junction, Colorado 81501-2668
(303) 244-1430

MEMORANDUM

TO: Don Newton, City Engineer
FROM: Mike Sutherland MS
DATE: February 28, 1989
RE: Right-of-way for Melody Lane, Adjacent to the Wal-Mart Property

Having reviewed the letter submitted February 24, 1989 by Mr. Tom Logue of Armstrong Consultants, Inc., I have the following comments:

First, your request for 30 feet of half-street right-of-way was made early on in the review process, and it was the contractor's error in locating the actual property line/centerline of right-of-way which caused the problem. With a project the size and scope of Wal-Mart, a survey error (or interpretation of the survey) of this magnitude shouldn't have occurred.

Next, the issue of the Fruitvale Sanitation District property is a separate and distinct concern. While I agree that a 30-foot dedication from that property at the time of redevelopment may cause design difficulties, it should have no bearing on whether Wal-Mart dedicates 15 feet or 30 feet of right-of-way.

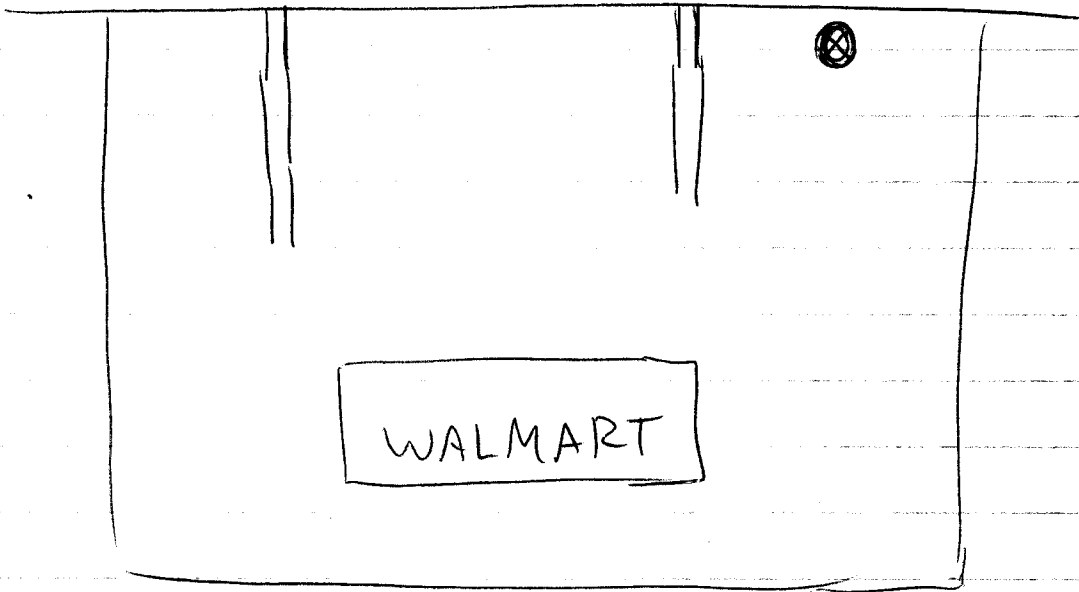
Finally, it has long been anticipated that Melody Lane may eventually become an important collector street as development occurs in that area. The contention by Armstrong Consultants that, by not having on-street parking along the Wal-Mart property, less right-of-way is needed for full street improvements, may be valid for the short run. However, in the scope of long-term planning, I believe it is important that an additional 15 feet be dedicated as originally requested, but not require that the recently completed improvements be replaced until the widening of Melody Lane is justified. An agreement by Wal-Mart to participate in the future street improvements should be provided, as well.

At no time, now or in the future, can we justify acquiring additional right-of-way from the properties to the east in lieu of a dedication from the Wal-Mart property.

xc: Tim Woodmansee
Tom Logue
File #39-88 ✓

AN

North Ave.



Land for Sale

501-273-4535

1.1012 acre

Wal-Mart Stores Inc.

Bentonville, AR 72716



March 28, 1989

Mr. Thomas A. Logue
Armstrong Consultants
861 Rood Avenue
Grand Junction, CO 81501

City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

Re: Right-of-Way and Street Improvements on Melody Lane adjacent to Wal-Mart Property

In April of 1988, I received and reviewed the grading and drainage plan for the Wal-Mart development. On April 29, 1988 my written review comments were sent to Ron Rish, the design engineer with your firm.

In the first paragraph of comment number 4, I stated that "Melody Lane is functionally classified as a collector requiring 30' half right-of-way (ROW) width".

Somehow, only 15' of ROW was dedicated along Wal-Mart's frontage instead of the 30' width requested. This resulted in a total ROW width of 45' of which 30' was dedicated by Sparn Subdivision in 1946. The Sparn ROW dedication is on the east side of the city monument line.

After review of the right-of-way situation and your letter of February 24, 1989, it is my opinion that 45' of ROW will not be adequate for future street improvement of Melody Lane.

I agree that on-street parking could be eliminated on the Wal-Mart side, however, a left turn lane will probably be needed for north bound traffic turning into the Wal-Mart Driveways and turning left onto North Avenue. The desired street configuration is shown on the attached street cross section.

This section would require a back of walk to back of walk width of 54 feet. Additional width will also be needed behind the sidewalks for utilities such as power poles, water meters, etc.

For these reasons we will require that another 15 feet of right of way width be dedicated on Wal-Mart's side of the street to complete the 60' total width needed for future widening to collector street standards.

The new street improvements which have been constructed along Wal-Mart frontage on the west side of Melody Lane will not have to be removed at this time because we currently have no plans for widening the street. However, we will require an improvement's guarantee (of acceptable form) from the owners of the Wal-Mart property for half street improvements to be executed at such time in the future that the street is improved.

The additional 15' of right-of-way and the improvements guarantee will be required prior to insurance of a certificate of occupancy.

Please call if you have any questions regarding these requirements.

Sincerely,



J. Don Newton
City Engineer
xc: Jim Shanks
Mark Achen
Karl Metzner
Andy Anderson

JDN:skw
JDN\FILE\ROWMELOD



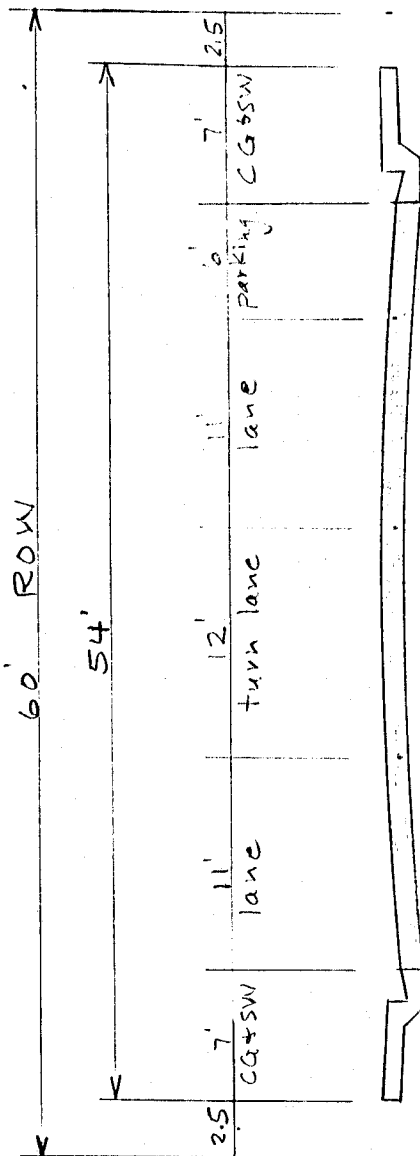
CITY OF GRAND JUNCTION
 DEPARTMENT OF PUBLIC WORKS AND UTILITIES
 ENGINEERING DIVISION



PROJECT: Wal-Mart

SUBJECT: Melody Lane Street Section

DATE 3-28-89: BY J. D. Newton : FILE NO. _____ : SHEET _____ OF _____



Wal-Mart
Side

Proposed Section

Melody Lane

I-70 B to North Ave.



April 13, 1989

City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

Mr. John Walters
Jerald Construction
P.O. Box 40268
Grand Junction, Colorado 81504

Re: Inspection of Wal-Mart Site

Dear Mr. Walters:

At your request, Kathy Portner and I have conducted a preliminary inspection of the Wal-Mart site. As a result of this inspection we have identified the following items within the public right-of-way which will need to be addressed:

1. Landscaping is currently being installed along the west side of Melody Lane between the new street improvements and the Wal-Mart parking lot. An additional 15 feet of right-of-way is to be dedicated west of the existing sidewalk to provide a total half width of 30 feet required for future street widening.

Our concern is that any landscaping placed within the fifteen foot wide strip behind the sidewalk will have to be removed when the street is widened. We would recommend that all trees be located at least 20 feet behind the existing sidewalk so that they will not be disturbed by future street construction.

2. We have identified approximately 300 square yards of asphalt pavement on Melody Lane which have been damaged by the hauling of fill material into the Wal-Mart site. The street was overlaid with a two inch thick asphalt mat in 1985 and was in good condition prior to the construction of the Wal-Mart development. The pavement section on this street is sufficient for local traffic in the area but is not adequate to support large numbers of heavy trucks. I am requesting that the failed pavement areas be removed and replaced as soon as possible.

3. I noticed that there is considerable flaking and scaling on the surfaces of the new concrete curb, gutter, sidewalk, and drainage pans along North Avenue. This concrete was placed late last year and probably did not have time to adequately cure before winter.

It is the owners responsibility to provide necessary curing, sealing, etc. to protect new concrete from damage until the improvements are accepted by the city. Therefore, the damaged sections of concrete will have to be replaced before the street improvements will be accepted.

The above items will need to be resolved prior to issuance of a planning clearance for release of the certificate of occupancy.

Please call if you have any questions or need additional information regarding the above items.

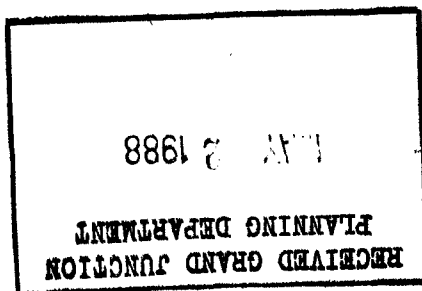
Sincerely

J. Don Newton,
City Engineer

xc. Kathy Portner, Planning Department
Jim Shanks, Public Works Department
Tom Logue, Armstrong Consultants, Inc.
Roy Anderson, Building Department



City of Grand Junction, Colorado
81501-2668
250 North Fifth Street



April 29, 1988

Mr. Ronald P. Rish
Armstrong Consultants
861 Rood Avenue
Grand Junction, CO 81501

Dear Ron:

I have reviewed the grading and drainage plan for the proposed Wal-Mart Store and have the following comments:

1. The on site drainage inlets should be seized to pass the design flows of the drainage pipes. Where inlets are located adjacent to curbs, curb opening type inlets should be used. Please submit drainage calculations for review. Proposed connections to the 30" storm sewer in Melody Lane is acceptable.
2. All existing curb cuts fronting the property on North Avenue shall be removed and replaced with curb and gutter.
3. A 6' wide concrete sidewalk will be required adjacent to the existing curb along the south side of North Avenue from the west property line to Melody Lane. Wheel chair ramps will be required at each location where the sidewalk crosses a curb.
4. Half street improvements including curb, gutter and sidewalk, pavement and drainage facilities will be required along the west side of Melody Lane from North Avenue to the south boundary lines of the Wal-Mart property. Melody Lane is functionally classified as a collector requiring 30' half right-of-way width. The collector street section includes a 7' wide monolithic curb, gutter, and sidewalk and 22.5' half width pavement section. The pavement on Melody Lane may be left in place and matched along a neat cut line on the west side.

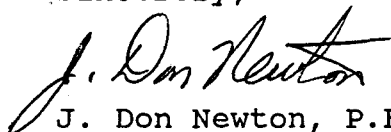
Additional right-of-way will be required along the Fruitvale Sanitation districts frontage in order to construct street improvements on Melody Lane. The City's resources will be

available to assist with the acquisition of this right-of-way, however all costs associated with acquiring property will be the responsibility of the Wal-Mart developer.

The only method available at this time for improving the remaining portion of Melody Lane is through a street improvement district. However, it is unlikely that the other owners of property fronting on Melody Lane would support such improvements at their expense.

5. Any modification to the irrigation ditch along the south side of North Avenue will require approval by the Fruitvale Lateral and Waste Ditch Company.
6. The deceleration lane and proposed access onto North Avenue will require a permit from the Colorado Department of Highways.
7. Align Melody Lane entrance with Teller Avenue.
Please call if you have any questions or wish to discuss any of these items.

Sincerely,



J. Don Newton, P.E.
City Engineer

xc: Richard Heeley, Fruitvale Lateral & Waste Ditch Company
Chuck Dunn - Colorado Department of Highways
Jim Shanks - Director of Public Works
✓ Mike Sutherland - City Planner

Electronic Mail

Sent To : KARLM

Sent By : DONN

Sent Date: 5/ 4/89

Subject: meeting held at Wal-Mart on May 4, 1989

John Kenney and I met today with Gary Allen (Wal-Marts construction manager), and representatives from Jerald Construction (the general contractor), and United Companies (subcontractor) discuss the damage to approximately 300 square yards of pavement on Melody Lane caused by the hauling of materials to the Wal-Mart site (approx. 100,000 tons of pit run aggregate was imported) and damage to the surface of the new concrete curb, gutter and sidewalk and drainage pans on North Avenue. This concrete was placed late in December of last year and didn't have time to cure before it was exposed to freezing weather and deicing salts.

It appears that none of the above is willing to correct the damage. Melody Lane was in good condition before the Walmart project was started and Johnk has records to verify. The street was never designed or constructed as a truck haul route. Also, I will not accept five month old concrete curbs, gutters, pans, etc. on which the entire surface has spalled off.

In addition to the above we have not received a deed for the additional 15 feet of right-of-way required on the west side of Melody Lane or an improvement guarantee for removal and reconstruction of the street improvements on the west side of Melody Lane fronting their property.

Nothing was resolved at today's meeting. Mr. Allen says that he will be in to see Marka regarding these issues.

Copied to JIMS, MARKA, KARLM, DANM, JOHNK, TIMM

KMM

file Wal-Mart K. Metzger

AGREEMENT

THIS AGREEMENT is entered into this 26th day of May, 1989, by and between the CITY OF GRAND JUNCTION, a municipal corporation ("City"), and WAL-MART PROPERTIES, INC., a Delaware Corporation ("Wal-Mart").

In consideration of the several promises, accords, and terms set forth herein the parties agree as follows:

1. Wal-Mart is the owner and developer of certain lands situate in the Northeast Quarter of the Northeast Quarter of Section 18, Township 1 South, Range 1 East of the Ute Meridian, City of Grand Junction, Mesa County, Colorado ("Development") upon which Wal-Mart has caused to be constructed a retail facility.

2. As a result of the construction or development of the new retail facility of WAL-MART, Wal-Mart, or its agents, contractors, or employees, has constructed certain road, curb and sidewalk improvements along Melody Lane in a location east of the location required by the City. Wal-Mart hereby acknowledges that it, regardless of who caused or made the errors is legally responsible for the mis-location of such improvements. The parties have agreed that the costs of reconstruction is estimated to be \$34000 to construct in the proper location the improvements identified above.

3. The City has indicated that it will not issue its Certificate of Occupancy for the development until such item be corrected to the satisfaction of the City Engineer. Wal-Mart desires to occupy the development on May 27, 1989 and recognizes that it cannot complete the items to the satisfaction of the City in time. Therefore, Wal-Mart is willing to waive its right to contest the validity of the claims of the City with regard to the items and to irrevocably release the City, and the City's employees and officers from any claims or causes of action it has or may have in the future relating to or arising out of the City's refusal to otherwise issue its Certificate of Occupancy. With regard to the improperly located improvements along Melody Lane, Wal-Mart had previously asserted that either the City should have caught the error prior to construction or that Wal-Mart's engineers, ("Armstrong Engineers") are responsible to Wal-Mart if Wal-Mart is forced to pay for the relocation of such improvements.

Armstrong Engineers, specifically, Tom Logue, disputes that Armstrong made an error--instead Armstrong Engineers allege that: the City was supplied sufficient information to have determined, prior to construction, that the location was in error; and that the City cannot now complain nor can the City now require Wal-Mart nor Armstrong Engineers to bear the costs associated with removing and reconstructing the improvements along Melody Lane.

4. In order to resolve the several disputes the parties have further agreed that it is in the best interests of each to finally resolve all of their disputes and related disputes in order that Wal-Mart may lawfully occupy its store on time and in order that the City will not have to be further involved in the dispute, especially any dispute that Wal-Mart may have with or against Armstrong Engineers or any other agent or contractor of Wal-Mart.

5. The City has agreed to accept the cash sum of \$19000 from Wal-Mart which sum has been wire transferred to the City's account. That sum represents the amount that the City is willing to accept with regard to the improperly located improvements along Melody Lane.

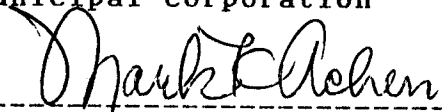
6. In the event that a dispute arises: as to the duties, promises or obligations arising out of this Agreement; and/or relating to the issuance of the Certificate of Occupancy; and/or relating to or arising out of any claim of Wal-Mart or any of Wal-Mart's agents or contractors, specifically including but not limited to Armstrong Engineers and/or Ron Rish and/or Tom Logue; Wal-Mart agrees that it shall indemnify and hold harmless the City and the City's officers, agents, and employees from any and every expense, claim and/or cause of action, however stated, whether or not frivolous or insubstantial; specifically, but not by way of limitation, Wal-Mart agrees that it will forthwith pay the City, upon receipt of a billing therefor, for the reasonable value of an attorney's or attorneys time employed or engaged by the City in regard to the matters described in this paragraph.

7. In further consideration of the agreement of the City to issue its Certificate of Occupancy, Wal-Mart agrees that it hereby waives and releases the City, and the City's employees and officers from any claims or causes of action it now has, whether or not known, including but not limited to lost profits, lost opportunities or any similar or equivalent claims relating to Melody Lane.

8. The individuals who execute this agreement represent that they have the authority to completely and fully bind their respective principal and that they understand the effect and provisions of this agreement. Further, the person signing on behalf of Wal-Mart, by his signature hereon, represents that he or she has consulted with an attorney engaged on behalf Wal-Mart.


9. Any lawsuit arising out of or relating to this agreement or the relations between the parties with respect to the subjects dealt with in this agreement shall be filed and prosecuted only in Mesa County Colorado.

The City of Grand Junction,
a municipal corporation

By: 

Mark K. Achen, City Manager

Wal-Mart Properties, Inc.,
a Delaware Corporation

By: 

Gary Allen, Construction Manager

AGREEMENT

THIS AGREEMENT is entered into this 26th day of May, 1989, by and between the CITY OF GRAND JUNCTION, a municipal corporation ("City"), and JERALD CONSTRUCTION COMPANY, INC., a Colorado Corporation ("Jerald").

In consideration of the several promises, accords, and terms set forth herein the parties agree as follows:

1. Jerald, or its subcontractors, has improperly constructed certain concrete improvements along North Avenue; Jerald hereby acknowledges that it, regardless of who caused such damage or made the errors set forth, is legally responsible for the repairs or reconstruction required. The parties have agreed that the costs of such repairs and reconstruction is estimated to be \$5250 for the costs to repair the work. Wal-Mart, Jerald's principal, desires to occupy the development on May 27, 1989 and recognizes that it cannot complete the items to the satisfaction of the City in time. Therefore, Jerald is willing to waive its right to contest the validity of the claims of the City with regard to the items and to irrevocably release the City, and the City's employees and officers from any claims or causes of action it has or may have in the future relating to or arising out of the City's refusal to otherwise issue its Certificate of Occupancy.

2. In settlement of the dispute concerning the defective improvements along North Avenue, the City has agreed: to accept \$5250 from Wal-Mart's agent Jerald Construction Company, Inc, a Colorado Corporation ("Jerald") to be held by the City as security for the obligation of Wal-Mart and Jerald, jointly and severally, to cause said defective improvements to be reconstructed; if Jerald causes the improvements to be reconstructed to the satisfaction of the City Engineer by the 120th calendar day following execution of this agreement, the City shall pay the amount of the cash security, with interest at 8 percent per annum, to Jerald; if the improvements are not so reconstructed by said date, the City may retain said sum. Jerald has wire transferred to the City's account \$2625; Jerald agrees to pay the balance of \$2625 to the City on or before the seventh day following execution of this agreement. Jerald agrees that if the City does not receive said \$2625 in a timely fashion: interest shall accrue on said sum at the rate of 26% per annum from June 3, 1989 until payment in full is received by the City.

3. In the event the improvements are not reconstructed to the satisfaction of the City Engineer as aforesaid, the City will use said \$5250 to hire a contractor to repair the faulty concrete work along North Avenue. If the City retains the \$5250, the work will probably be

5. Construction plans for modification to the existing irrigation ditch along the south side of North Avenue have been transmitted to the Fruitvale Lateral and Waste Ditch Company. We are awaiting their acceptance at this time.
6. A permit from the Colorado Department of Highways has been obtained as of this date.
7. The site plan has been amended to align the Melody Lane access with Teller Avenue.

As indicated above and on the accompanying drawings it is apparent that Wal-Mart is willing to meet all the stipulations set forth within your letter with the exception of the half-street improvements adjoining Fruitvale Sanitation District's property along Melody Lane and North Avenue. After careful consideration of your request, Wal-Mart has asked us to provide you with the following justifications as to their reluctance to complete the improvements you have requested.

1. Wal-Mart Stores, Inc. believe that they are providing the City of Grand Junction a major capital improvement for the City with the planned improvements along Melody Lane and North Avenue, which greatly enhances the functionability of these two roads.
2. Wal-Mart will be providing the City an additional source of revenues which will be gained from sales taxes, property taxes and other special fees.
3. Once the store is constructed Wal-Mart will be creating about 40 new jobs in our area.
4. Wal-Mart has provided the City with engineering drawings of the requested improvements at their expense.
5. Wal-Mart is willing to notify the City of their selected site contractor and assist them with any scheduling if the City may decide to complete the improvements as requested in your letter.

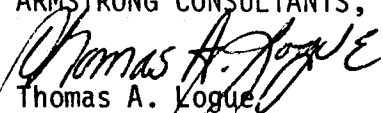
At this time, Wal-Mart's tentative construction schedule is to begin sometime in the mid to latter part of August. When a more exact ground breaking date can be identified, we will notify you.

We would request that you notify our office in writing as to your acceptance of the accompanying plans.

We would like to take this opportunity to thank you in advance with your timely response to our request.

Respectfully,

ARMSTRONG CONSULTANTS, INC.


Thomas A. Logue
Project Manager

TAL/sh, DALY13

cc: Carl Ownbey
Mike Sutherland - City Planner

done in August of 1989; in such event, the City agrees to coordinate the work so that at least one of the North Avenue entrances to the development shall remain open to the public during the reconstruction activity.

4. The individuals who execute this agreement represent that they have the authority to completely and fully bind their respective principal and that they understand the effect and provisions of this agreement.

The City of Grand Junction,
a municipal corporation

By: Mark K. Achen

Mark K. Achen

Jerald Construction Company, Inc.
a Colorado Corporation

By: John R. Walters

John R. Walters

Wal-Mart Stores, Inc., a Delaware Corporation, agrees that if Jerald does not perform as set forth above Wal-Mart shall cause the improvements referred to above to be reconstructed to the satisfaction of the City Engineer (such work to be completed by Wal-Mart on or before November 1, 1989). Wal-Mart also agrees that it hereby waives and releases the City and the City's officers and employees from any claims or causes of action it now has, whether or not known, including but not limited to claims for lost profits, lost opportunities and/or similar or equivalent claims arising out of or related to the reconstruction of the improvements along North Avenue.

WAL-MART STORES, INC.

By: Gary Allen

Gary Allen, Construction Manager Dated: 5/26/89



June 22, 1989

City of Grand Junction, Colorado
81501-2668
250 North Fifth Street

R.P. Moston
District Engineer
Colorado Department of Highways
222 South Sixth Street
P.O. Box 2107
Grand Junction, CO 81502-2107

Dear Bob:

We have conducted a signal warrant evaluation at Walmart's main access location on North Avenue. This evaluation was based on traffic counts taken on June 14, 1989.

As a result, warrant numbers 1,2,5,7,8,9,10 and 11 are satisfied in accordance with the Manual on Uniform Traffic Control Devices. Based upon these warrants, a traffic signal should be required and installed as soon as possible at this location.

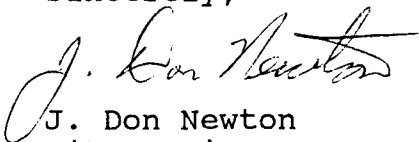
Colorado State Highway access permit No. 388037 issued to Wal-Mart Stores, Inc. on December 1, 1988, states "Any signals required due to this development shall be paid for by the permittee".

We estimate that the cost to design and construct this signal would be \$60,000. The City Engineering Department would be available to design and administer construction of this signal.

Enclosed for your information are copies of the Signal Warrant Evaluation and the State Highway Access Permit.

Please let me know how you wish to proceed.

Sincerely,


J. Don Newton
City Engineer

JDN:skw

DT:FILE:WALMART.SIG

xc: Jim Shanks
Dan Wilson
Karl Metzner ✓

KM ✓

STATE OF COLORADO

DEPARTMENT OF HIGHWAYS

222 South Sixth Street, P.O. Box 2107
Grand Junction, Colorado 81502-2107
(303) 248-7208



CERTIFIED MAIL RETURN RECEIPT REQUESTED

July 10, 1989

Wal-Mart Stores, Inc.
Mitchell Building
701 South Walton Blvd., Hwy. 71
Bentonville, AR 72716



Re: State Highway Access Permit

Gentlemen:

The State Highway Access Permit (#388037) issued by the Colorado Department of Highways December 1, 1988 to Wal-Mart Stores, Inc. for the store at 2881 North Avenue, Grand Junction, Colorado contains a provision that "Any signals required due to this development shall be paid for by the permittee".

A traffic signal warrant study was conducted June 14, 1989 at the main access location to the Wal-Mart Store on North Avenue by the City of Grand Junction Engineering Department. This study was performed in accordance with the methodology presented in the Manual on Uniform Traffic Control Devices which is published by the U.S. Department of Transportation and has been officially adopted by the Colorado State Highway Commission. The study indicates that traffic signals are currently warranted at this location.

Mr. J. Don Newton, Grand Junction City Engineer, has notified me that the City engineering department would be available to design and administer the construction of the signal, charging only their actual cost. Mr. Newton estimates the total cost to design and construct (including all materials) at \$60,000.

Please notify me by July 31, 1989 whether you would prefer to have the Grand Junction Engineering Department design the signal or whether you would prefer to hire a consulting engineer for this purpose.

It is imperative that the signal be installed in a timely manner in the interest of public safety, which includes the safety of Wal-Mart's customers. Please furnish me by August 15, 1989 with a plan and tentative schedule for installation of the signal.

Wal-Mart Stores, Inc.
July 10, 1989
Page 2

If you have questions regarding this matter, please phone me at
(303) 248-7225.

Very truly yours,

R.P. Moston

R. P. Moston
District Engineer

cc: ~~J.~~Don Newton,
City of Grand Junction Engineer
Dunn
Sanburg
Nall
file