



## COUNCIL AGENDA REPORT

COUNCIL MEETING Date: 7/11/11

### CITY COUNCIL

Chris Vierra, Mayor  
Ken Lane  
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**Report Preparation Date: 6/29/11**

TO: Mayor and City Council

FROM: Tom Westbrook, Planning, Building and Housing Division Manager

SUBJECT: Consider appeal by Citizens for Ceres to a decision of the Planning Commission Approving a Conditional Use Permit (07-31 CUP) and Vesting Tentative Subdivision Map (07-31 VTSM) for the proposed Mitchell Ranch Center on the west side of Mitchell Road extending from Service Road to Don Pedro Road (continued from May 23, 2011).

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### **RECOMMENDED COUNCIL ACTION:**

1. Adopt attached Resolution No. 2011-\_\_\_\_ denying the requested appeal and Resolution No. 2011-\_\_\_\_ certifying the Environmental Impact Report for the project; adopting a Mitigation and Monitoring Program, and adopting a Statement of Overriding Considerations.

### **I. BACKGROUND:**

On May 23, 2011, the City Council held a hearing regarding an appeal by Citizens for Ceres of the Planning Commission action approving the Mitchell Ranch Center. At the conclusion of the hearing, the City Council had a number of questions and continued the hearing until July 11, 2011 to allow staff and the consultant team time to respond. The public input portion of the hearing was closed prior to the item being continued.

### ***Response to Comments and Questions Raised at the Council Meeting of May 23, 2011***

#### **A. Traffic issues**

1. Mitchell/Service Road intersection operation with proposed design

The Council requested that staff provide further analysis and clarification of the operation of the Mitchell/Service Road intersection and specifically address the adequacy of the proposed design, which provides for a single northbound-to-eastbound left turn lane. The City's traffic consultant, Fehr & Peers, analyzed and recommended the proposed design and clarifies the operation as follows:

The mitigation measure at the Mitchell Road/Service Road intersection identified in the DEIR is:

- Construct a second eastbound left-turn lane on Service Road to Mitchell Road
- Extending the northbound left-turn lane to provide at least 325 feet of vehicle storage
- Modify the traffic signal to provide protected east-west left-turn phasing
- Evaluate the traffic signal timing six months subsequent to the issuance of the final certificate of occupancy for the Walmart portion of the project to ensure optimal traffic flows through the intersection based on conditions at that time

The improvements detailed above would result in level of service D or better operations for the weekday morning and evening peak hours, and the Saturday afternoon peak hour, reducing the impact to a less-than-significant level.

Concerns regarding the adequacy of the proposed mitigation measure at the Mitchell Road/Service Road intersection were discussed, and Council members suggested the provision of a second northbound left-turn lane from Mitchell Road to Service Road be considered.

During the preparation of the DEIR other intersection mitigation measures were considered, but rejected due to inadequacy in mitigating the impact or physical constraints. The addition of a second northbound left-turn lane was considered but was ultimately not selected as that improvement would require construction of two receiving lanes on Service Road. While two receiving lanes could be constructed, there is inadequate distance between the Mitchell Road/Service Road and Mitchell Road/El Camino Avenue intersections to transition to a single lane before El Camino Avenue and the bridge over SR 99. The second northbound left-turn was not required to achieve an acceptable service level, but was considered to alleviate potential vehicle queue spillback from the left-turn pocket to the travel way. Therefore, it was ultimately recommended that the northbound left-turn lane be extended to better accommodate peak queues.

The mitigation measure identified in the DEIR was selected for a number of reasons, including:

- Improves the intersection operations to LOS D, reducing the significant impact to a less-than-significant level
- Minimizes the effects of vehicle queue spillback from turn pockets
- Constructability within the ultimate right-of-way required for the interchange improvement project

## 2. Freeway operations at the Mitchell Road/99 interchange

The Council requested that staff provide further analysis and clarification of the operation of the Mitchell/99 interchange and specifically respond to the question of the potential for vehicle spill back in the northbound off-ramp onto the main line of the freeway and potential safety hazards resulting therefrom. The City's traffic consultant, Fehr & Peers, analyzed the operation of this interchange and recommended the proposed mitigation and clarifies the operation as follows:

Peak period vehicle counts were collected for the analysis periods at the SR 99/Mitchell Road ramp terminal intersections to determine freeway ramp traffic volumes and intersection operations. Counts at the ramps were collected in September and October 2007 when area schools were in session. Mainline freeway traffic volumes were obtained from Caltrans for use in evaluating the freeway mainline. Fehr & Peers staff observed interchange and freeway mainline operating conditions.

Analysis results and field observations indicate that the ramp terminal intersections of SR 99 and Mitchell Road, especially the southbound ramps, operate poorly in the existing condition without the addition of project traffic. However, vehicle queues were not observed to extend back to the freeway and block mainline travel during the time periods analyzed in the TIS. With the addition of Project traffic, vehicle queues are projected to increase but would still be maintained within the off-ramp area as presently existing.

Operations of the freeway mainline are not expected to degrade from their current condition with development of the Project; therefore, Project-specific freeway mainline mitigations were not identified.

The addition of Project traffic would worsen the operation of the SR 99/Mitchell Road interchange; mitigation measures conditioned on the Project would improve the peak hour operations of the interchange and improvements at the Southbound SR 99 On/Off-Ramp/Mitchell Road intersection would improve conditions for existing vehicles traveling through the area by signalizing the intersection and providing additional capacity for vehicles entering the freeway. Coordination of the traffic signals on the Mitchell Road corridor would also provide additional benefits to travel flow through the area. The mitigation measures identified in the DEIR for the SR 99 interchange area were selected for the following reasons:

- Improves the intersection operations to LOS D or better
- Minimizes the effects of vehicle queue spillback from turn pockets
- Constructability within available right-of-way

### 3. Operation of Mitchell Road with proposed additional signals

The Council requested that staff provide further analysis and clarification of the operation and level of delay on Mitchell Road with the installation of multiple signals from Don Pedro Road to SR99. The City's traffic consultant, Fehr & Peers, clarifies the operation of Mitchell Road as follows:

With development of the Project, a traffic signal would be installed at the Don Pedro Road/ Mitchell Road intersection and a signalized driveway would be constructed on Mitchell Road approximately 500 feet south of Don Pedro Road. The existing signalized Mitchell Road/Service Road intersection is located approximately 700 feet south of the proposed driveway, resulting in three signalized intersections within approximately 1,300 feet.

The TIS and DEIR show that the three closely spaced intersections are projected to operate at ***acceptable service levels*** (LOS D or better) with the Project and roadway improvements that would be constructed with the Project (or as feasible mitigation) in both the existing and cumulative condition (without and with the new Service Road/Mitchell Road interchange).

The intersections serving the Project site have been designed to provide ***adequate vehicle storage*** for vehicles turning from Mitchell Road to the Project site and Don Pedro Road. As the traffic signals would be interconnected and coordinated, traffic flow is expected to be maintained on Mitchell Road; however, it is expected that periodically during the weekday evening and Saturday peak hours (1 to 2 times in the peak hour), southbound vehicle queues could extend back from the Project driveway on Mitchell Road to Don Pedro Road. The resulting queues are not expected to interfere with operations of the Don Pedro/Mitchell Road intersection or other movements and vehicle queues are expected to clear quickly as the intersections are projected to operate acceptably over the course of the peak periods analyzed for this Project.

#### 4. Effect of currently-proposed elementary school

The Council expressed concern with the relationship of the project to the elementary school that is now planned along Rose Avenue between Roeding Road and Don Pedro Road, as this facility was not planned at the time the EIR Notice of Preparation was issued. The City's traffic consultant, Fehr & Peers, has provided the following analysis:

At the time of the Notice of Preparation for the proposed Project, the Lucas Elementary school had not yet been contemplated by the Ceres Unified School District (CUSD) and the City was unaware of plans to locate a new school in this area; accordingly, the school was not considered in the TIS. The CUSD now proposes to construct a new school between Roeding Road and Don Pedro Road, and an extension of Rose Avenue connecting those two roadways would be constructed to facilitate school circulation. This proposal was analyzed in a traffic study prepared by KD Anderson and Associates in June 2009.

The school is expected to generate approximately 1,740 daily vehicle trips, including 695 trips in the morning peak hour and 425 trips in the afternoon peak hour around school bell times. The traffic study prepared for the school estimates that approximately 12 percent of traffic, or 210 daily, 83 AM peak hour and 51 afternoon peak hour trips, from the school, would arrive to the school via Don Pedro Road to the east and would potentially travel along the Mitchell Ranch Center Project frontage.

The school would generate most of its traffic during the morning peak hour, when school begins, and in the early afternoon. The Mitchell Ranch Center would generate the most traffic during the evening commute period, as people stop by the store on their way home from work, and on Saturdays. Considering the minimal amount of overlap in peak trip generation between the School and the proposed Project, the excess off-peak capacity provided by the mitigation measures that would be constructed as part of the proposed Project, would improve vehicular access to the school, and the roadway system is expected to be able to accommodate traffic from both projects.

The proposed Project is also conditioned to prepare and implement a traffic calming plan for Don Pedro Road subsequent to the completion of the proposed Walmart portion of the Project, based on the actual additional traffic flow on Don Pedro Road generated by the Walmart portion of the Project. The traffic calming plan is to be completed 6 months following the opening (issuance of certificate of occupancy) of Walmart. The final traffic calming plan will consider the potential vehicular and pedestrian related traffic from the proposed school.

#### 5. Pedestrian Safety along Don Pedro Road

The Council requested that staff respond to the issue of pedestrian safety along Don Pedro Road with the addition of the proposed project.

City standards as implemented by the conditions of approval require the project to provide a sidewalk on the project's frontage along Don Pedro Road. Existing sidewalk along the north side of Don Pedro Road extends from Mitchell Road to the proposed extension of Rose Avenue. As part of the proposed Lucas Elementary School, Rose Avenue will be extended from Roeding Road to Don Pedro Road in order to provide access to the new school.

Don Pedro Road is straight from Mitchell Road to the proposed extension of Rose Avenue, and the proposed project will construct a traffic signal at the intersection of Don Pedro and Mitchell roads that would allow pedestrians from the east side of Mitchell Road to cross in a designated crosswalk.

The primary increase in traffic on Don Pedro Road associated with the proposed project would occur west of Mitchell Road along the frontage of the project site to the project's western edge. Traffic volumes west



of the project site are not anticipated to increase by more than 12 percent, or approximately 120 vehicles per day. Don Pedro Road west of Mitchell Road currently includes a commercial development on the north side of the Mitchell Road intersection and a church on the north side of Don Pedro Road, west of Archcliffe Drive.

The posted speed limit on Don Pedro Road is 25 MPH, which will not change as result of the project. Mitigation measure MM 4.13.3 (implemented by project conditions) provides for preparation and implementation of a traffic calming plan. The function of the traffic calming would be to slow traffic and discourage the use of Don Pedro Road as primary access to the project. Mitigation measure MM 4.13.2b requires that the project install a traffic signal at the intersection of Mitchell Road and Don Pedro Road prior to a certificate of occupancy. These mitigation measures will improve pedestrian circulation both by reducing the number of vehicles and by slowing the vehicle traffic along Don Pedro Road. The installation of the traffic signal will provide for signalized pedestrian crossings of both Don Pedro and Mitchell roads.

6. Existing Deficiencies – CEQA requirement for impacts, conditions of approval

The Council requested that staff clarify the approach to traffic facilities which are already operating under stress.

The City's power to place conditions of approval on projects and require the mitigation of impacts arises from the City's constitutionally provided "police powers." However, the US and California constitutions also provides protections to private property owners against the government taking private property without just compensation. The interaction of these two constitutional rights has made for a large and complicated body of case law. In sum, in the context of development impacts, the courts have found that governments can require private developers to mitigate their "fair share" of impacts. Government can also require a developer to "oversize" certain improvements – i.e. construct improvements that would cost more than a developer's fair share – so long as the developer will be reimbursed for the costs above the developer's fair share. Governments can also require developers to pay development impact fees. These fees can then be used by the government to construct necessary improvements or to pay back developers that have constructed "oversize" improvements.

Here the mitigation measures identified in the EIR, which are conditions of approval of the project, will ensure that the developer is responsible for its fair share of impacts of traffic improvements. In some cases, this means that the developer will construct actual improvements that will improve traffic circulation. In others, as in the 99 interchange, the developer will pay fees which will go towards paying for the overall cost of those improvements. The City cannot, and has not, however, required the developer to pay more than its fair share to make up for any existing deficiencies in the City's circulation system.

B. Economics/Urban Decay

1. Source of/Justification for Sales per Square Foot Assumption

The Government Affairs Director for Food4Less, Mr. Guiterrez, noted that the rate of sales per square foot assumed in the EIR is different than the national average rate of sales per square foot for Walmarts. To quote from his letter:

*Economic Impact flaws: According to Bay Area Economics (BAE) study for Ceres, the average retail floor space figure that was used to calculate the projected success of Wal-Mart in the*

*proposed center claims sales per square foot at \$575.00 with a projected rate of \$90.9 Million of general merchandise. Comparatively, in Atascadero where a proposed center is currently undergoing an EIR review the sales figure per square foot by BAE was listed at \$428.00 and referred to as a "national average" (Walmart sales per square foot average \$428 nationally [as shown in Table 10] Source: Atascadero DEIR page 47 & 39, attached).*

- a. 158,139 Sq. Ft of general merchandise by Wal-Mart floor space average of \$428 = \$67.6 million*
- b. Difference based on BAE and Wal-Mart national average: (-\$23.3million)*
- c. This would also have an affect on project tax revenue and considering the Atascadero Report was complete in 2010 rather than 2008. I would recommend a re-evaluation of the figures provided.*

The City Council requested clarification as to why the rate used in the EIR was chosen. The City's Economic consultant, BAE, clarifies this assumption as follows:

BAE attempts to use the best available information at the time of analysis to assess the project-specific impacts for a particular project. In the case of Ceres, there is an existing store with a track record of sales performance. As noted in BAE's report found in the Appendices to the Draft EIR:

Based on site visits and available sales data, the combined sales for these two stores are approximately \$95 to \$100 million annually [referring to Kmart and Wal-Mart]. The Wal-Mart store performs considerably better than the Kmart, and well above Wal-Mart national averages (emphasis added). Because of its location, the Wal-Mart is well-situated to draw shoppers from the southeastern portion of nearby Modesto, being closer to much of this area than the Modesto Wal-Mart and other region-serving retail concentrated along State Highway 99. [page 22].

The methodology for the specific estimate for the proposed Ceres Walmart Supercenter is discussed in further detail in Table 11 on page 28 of BAE's report. In short, the existing store is a strong performer, and thus the new store in Ceres would continue to be a strong performer with sales levels above national averages for Walmart.

In Atascadero, there is no existing store upon which to base estimates for sales at a new store. Therefore, BAE used the national average sales per square foot data as calculated from the most recently available Walmart Annual Report. In the absence of an existing store to benchmark to, this national sales average constitutes a reasonable assertion regarding sales in Atascadero.

It is also worth noting that with respect to urban decay, the use of the national per square foot averages as a sales benchmark would have indicated lesser impacts in Ceres. If the new store performed at national sales per square foot averages for Walmart, potential impacts on other retailers in Ceres would be lower than what was indicated by BAE's analysis. This is because the Urban Decay analysis describes how much of the sales of the existing market the new store is expected to "take" from other stores. Using a lower sales per square foot value would mean that the new store would "take" less of the sales from other stores than the current report anticipates. As such, the analysis conducted by BAE was a conservative approach.

## 2. Currency of Economic Findings in EIR

Council noted that the economic analysis set forth in the EIR was initially carried out in 2007 and updated to reflect conditions in 2009, and requested that the economic consultant provide information as to the adequacy of the analysis in light of current economic conditions. BAE has responded as follows:

Various parties have expressed concern regarding the changes in economic conditions since BAE conducted its analysis. BAE acknowledged in its report that even in 2008, it was clear that the economy was entering a recessionary period. For example, in the section of its report discussing the potential for urban decay, BAE stated:

At the time of BAE's research, market conditions and overall projections for increases in population over the next several years indicated that in the long term, space would be re-tenanted as demand for retail and commercial services continued to grow. However, changes in the overall economic picture related to the foreclosure crisis and rising energy costs subsequent to BAE's original analysis indicate slowing or delayed area growth. [page 38]

Furthermore, BAE provided an updated memorandum in June 2009 addressing potential changes in local market conditions relating to the recession which was well underway by that time. This memorandum was provided as an Appendix 4.5 to the DEIR. This memorandum concluded that the recession would mean that it will take longer for the market to recoup the sales "lost" to the new development, but that no new urban decay impacts would result. In summary, the DEIR has already considered the potential impacts of the changed economic conditions with respect to urban decay impacts, including the potential for longer-term closures for existing competitive retail space.

3. Clarify number of jobs broken down by full and part time at existing Walmart and expected at new Walmart

Council requested information as to the breakdown of types of jobs at the existing Walmart, by full- and part-time, and the assumptions for the number of jobs at the proposed facility, broken down in the same way, and the net numbers that would result with the closing of the existing and opening of the new stores.

With respect to the number of new jobs that the project will provide, the Draft EIR explains that the project would result in approximately 205 new jobs, of which 85 would be provided by the new Walmart store and 120 would be provided by the remainder of the shopping center. In addition, the project would provide many short term construction jobs.

With respect to the breakdown of full and part time jobs at the new Walmart store, Walmart has responded to this item as follows:

"More than 60 percent of Walmart associates in California Walmart facilities are full-time. Walmart associates receive competitive wages and benefits. In California, Walmart's full-time average hourly wage as of April 2011 is \$13.18. Walmart is proud to offer both full and part-time associates affordable health and dental coverage, 401k plans, business performance-related bonuses and other incentives."

In response to staff's inquiry as to the current breakdown of full and part time jobs at the existing store, Walmart has indicated that this information is proprietary.

4. Sale/leasing of existing Walmart Store

Council requested a more detailed proposal for sales and leasing of the existing site which would enable Council to ensure that this would occur in a timely and satisfactory manner.

Walmart has indicated that they will provide a more detailed proposal prior to the City Council meeting.

5. Timing and phasing of balance of new center

Council requested more information as to the timing and phasing of the balance of the Mitchell Ranch Center.

Regency Centers was the original project applicant. At the end of 2009, Regency Centers decided not to continue to pursue the project. Walmart was committed to pursuing a store at this location, so it purchased the site from Regency Centers and continued to process Regency's application.

Walmart has indicated that the timing and phasing of the remainder of the center will depend upon a number of factors, including market conditions. Walmart will not market the site until Walmart has obtained final approval, including final resolution of all appeals and litigation, of all project entitlements. As soon as is appropriate, Walmart's in house team of experts will work together to expedite finding tenants or buyers for the site. Walmart typically creates a marketing package, markets the site on its website, and engages a regional broker. Walmart notes that they have already received calls from a broker expressing interest in the site; however, Walmart was not able to consider serious offers because Walmart does not have the entitlements in place.

In addition to these marketing efforts, the conditions of approval require Walmart to provide landscaping, parking lot paving, drive and access aisles, and other hardscape for the entire site, and to complete street and traffic improvements, in conjunction with development of the Walmart store. This will make the site even more attractive to potential buyers or tenants and will further motivate Walmart to fill the space as quickly as possible to avoid carrying the cost of these improvements. Also, this will ensure an attractive site during the interim prior to occupancy of the remaining uses.

6. Ceres Redevelopment Agency

Council directed that staff respond to issues raised by Citizens for Ceres regarding redevelopment as related to the economic analysis of the proposed project, specifically including conclusions regarding urban decay.

The issue of "blight" under redevelopment law versus the issue of "urban decay" under CEQA was previously addressed by PMC in their memo dated March 21, 2011, attached to the Planning Commission agenda of April 4, 2011 at pp. 38-42 of that agenda packet. In short, the concept of "blight" is not the same as the concept of "urban decay," and the location of the City's redevelopment area is irrelevant to the analysis of urban decay impacts under CEQA.

City of Ceres has had a redevelopment agency since 1991 and has amended the redevelopment plan and redevelopment area from time to time, most recently in 2002. At the time the City redevelopment agency created the redevelopment project area, the redevelopment agency was required to make specific findings regarding "blight." For example, at the time the redevelopment project area was created, irregularly shaped parcels alone could qualify as blight. The proposed project site is within the city's redevelopment district, and some of the improvements proposed by the redevelopment district are near the proposed project. These improvements include modifications to Service and Mitchell roads. Among the goals of the agency is the elimination of blight. The City has adopted a property maintenance ordinance and conducts an annual cleanup as part of this effort.

It is important, however, to make a distinction between the definition of "blight" used for redevelopment purposes and the definition of "urban decay" for CEQA purposes. "Blight" is not synonymous with "urban decay." "Blight" is a legal term under redevelopment law and is not related to "urban decay" conditions. The California Court of Appeal has specifically addressed this issue, explaining that "some of

the parties use the term 'urban blight,' assuming that it is interchangeable with 'urban decay.' This is incorrect. 'Blight' is a term with specialized meaning that has not been shown to be applicable." (*Bakersfield Citizens for Local Control v. City of Bakersfield*, 124 Cal. App. 4th 1184, 1204 n.4 (2004).)

The Draft EIR analyzed the potential for the proposed project to result in "urban decay." As noted in the EIR, the proposed project could result in the closure of the existing Walmart store. "Urban decay" in this context would be physical deterioration of the building, such as broken windows, graffiti, incidences of vandalism, etc. While the City has a property maintenance ordinance addressing these types of issues (Ceres Municipal Code 9.40), the concern of the City was that the ordinance might not be adequate for City staff to deal with such a large building. As such, mitigation measure MM 4.5.1 is intended to ensure that the City has adequate resources to address graffiti, broken windows, maintenance, or excessive property cleanup at the existing Walmart site if the owner neglects the property. The project, as mitigated, addresses any direct impact that could be considered urban decay. The City's property management ordinance addresses the indirect impacts of urban decay that might occur elsewhere in the community. The project is therefore consistent with the goals of the redevelopment plan for the city.

## 7. Urban Decay Mitigation Measure

Citizens for Ceres commented that Mitigation Measure 4.5.1 should address impacts from other closed anchor stores. They also commented that this mitigation measure is ineffective and improperly defers mitigation.

The Draft EIR analyzes the project's impact on other retailers, including but not limited to Food 4 Less, Save Mart, and Richland Market. The Draft EIR concludes that one grocery store may close; however, even if a grocery store were to close, the vacant building would not experience urban decay. Therefore, no mitigation is required to mitigate impacts on other retailers.

The Draft EIR further explains that it is possible that the only building that will become vacant as a result of the project is the existing Walmart store. As explained above, while the City has a property maintenance ordinance (Ceres Municipal Code 9.40), the concern of the City was that the ordinance might not be adequate for City staff to deal with such a large building. As such, mitigation measure MM 4.5.1 is intended to ensure that the City has adequate resources to address graffiti, broken windows, maintenance, or excessive property cleanup at the existing Walmart site if the owner neglects the property.

This mitigation measure requires the property owner to enter into a supplemental maintenance agreement with the City to ensure property maintenance until the site is reoccupied and whereby the City will be compensated for abatement of visual indications of urban decay on the property, if the property owner fails to adequately maintain the site in good condition and abate visual indications of urban decay.

This mitigation would enable the City to more effectively enforce the provisions of Municipal Code Chapter 9.40, further minimizing the potential for urban decay to occur as a result of Walmart vacating the structure. Implementation of this mitigation measure would reduce the impact to less than significant. Contrary to claims by Citizens for Ceres, there is no requirement that the mitigation measure "ensure the same synergistic level of operation that currently occurs at the intersections."

Also contrary to the claims by Citizens for Ceres, this mitigation measure does not improperly defer mitigation simply because it requires the City and property owner to enter into an agreement subsequent to project approval.

## C. Site Design

The Council requested that staff provide additional analysis regarding scenarios relating to site design and site access, including the effects of eliminating all access to Don Pedro Road or eliminating auto (customer) access to Don Pedro Road, but allowing truck delivery access, and an analysis of the effects of site redesign to rotate the Walmart store to face Mitchell Road.

For the following discussion it is important to note that the City's General Plan, the Mitchell Road Specific Plan and the EIR traffic analysis all assumed a regional commercial land use on this site and vehicular access from adjacent streets, including Don Pedro Road. Consistent with the General Plan and Specific Plan, the proposed site plan has access on three sides, two of which (Service and Mitchell Roads) will be major roadways with controlled access (a center median restricting turn movements) at a later date. Surrounding a regional commercial site with multiple avenues of access helps disperse traffic, and provide visibility. It is important to understand that limiting access likely would result in a site redesign, which is not supported by an actual application.

With a redesign eliminating access onto Don Pedro, a primary concern of staff will be whether the remaining driveways, and parking lot configuration, would be adequate to ensure that traffic did not back up onto either Service or Mitchell Road. As shown in Table 2 below, queuing on Mitchell Road will result in substantial on-site queuing during the peak hour. It is likely that this queuing will result in motorists having to wait to gain access to the parking lot. Under certain circumstances this might result in obstruction of the Mitchell Road intersection, thereby affecting the level of service at this location. Similarly, the traffic analysis may need to be revised to a different distribution of trips which might affect other intersections. Finally, in order to accommodate the redesign, the street design for both Mitchell and Service Roads would need to be evaluated to determine if additional turn lane(s) might be needed, and if there were sufficient area to implement the new design(s).

### 1. Effect of eliminating access to Don Pedro Road

The City's traffic consultant, Fehr & Peers, has provided the following discussion of the traffic implications of any design that limits or eliminates access to Don Pedro Road:

The Project site has been designed to provide truck access from Don Pedro Road at two driveways. Other vehicles would also be permitted unrestricted entry to the site from Don Pedro Road under the current Project layout. While the driveways on Don Pedro would operate acceptably from a vehicular point of view, the addition of Project traffic on Don Pedro Road would result in significant and unavoidable impacts, as disclosed in the EIR, to Don Pedro Road in the vicinity of the site, even with implementation of targeted traffic calming devices.

Operation of the main driveway on Mitchell Road and the operations of the Don Pedro Road/Mitchell Road intersection were re-evaluated assuming no access to the site from Don Pedro Road. Intersection levels of service are presented in Table 1 and vehicle queues are presented in Table 2 for the various peak hours analyzed for the Existing Plus Project condition. Operations under the proposed access strategy, as documented in the EIR, are also summarized below.

As shown in Table 1, operation of the Don Pedro Road/Mitchell Road intersection would improve with the elimination of access from Don Pedro Road. Operations of the main driveway on Mitchell Road would worsen, but the driveway is still projected to operate at acceptable service levels even if the Don Pedro Road driveways were eliminated.

Although the intersections along Mitchell Road would operate at acceptable service levels with elimination of driveways on Don Pedro Road, southbound vehicle queues from the Mitchell Road driveway would spill back through the Don Pedro Road intersection in the weekday evening peak hour.

Internal vehicle queues would also significantly increase during the weekday evening and Saturday afternoon peak hours, spilling back beyond the available storage and periodically blocking access to the drive aisles. *This situation would impede internal vehicular circulation as exiting vehicles would block entry to drive aisles for circulating vehicles and vehicles entering the site.* Additional pedestrian/vehicle conflicts are also expected to occur along the main entry road. Access to Shops 4 would also be severely constrained without vehicular access from Don Pedro, as customer and delivery vehicles would need to circulate around the Walmart building to exit the site, potentially creating additional conflicts between delivery trucks and vehicles.

Elimination of delivery vehicle access from Don Pedro Road would force Walmart delivery vehicles to enter the site from other driveways. Delivery vehicles for the other pads were already assumed to enter/exit the site from other driveways. Under this access configuration, it is recommended that Walmart delivery vehicles enter the site from the westernmost Service Road driveway and exit the site from the signalized entrance on Mitchell Road. Deliveries should occur during off-peak times to the greatest extent possible to minimize conflicts with passenger vehicles and pedestrians.

Reconfiguration of the parking area and drive-through pharmacy in the northwestern corner of the site would likely be required to accommodate delivery truck turning movements. In order for delivery trucks to access the rear of the building from the westernmost Service Road driveway, and exit from the signalized entrance on Mitchell Road, a redesign of the site would be necessary in order to create truck turn-around areas behind the building, in order for large delivery trucks to access the loading docks and exit via the Mitchell Road entrance. The current site configuration cannot accommodate the required radius for the delivery truck to maneuver a 360 degree turn.

**TABLE 1**  
**PEAK HOUR INTERSECTION OPERATIONS**

Driveway	Traffic Control	Peak Hour	Existing With Project Conditions (Proposed Project)		Existing With Project Conditions (No Don Pedro Access)	
			Delay	LOS	Delay	LOS
Don Pedro Road/ Driveway 1	SSSC	AM PM SAT	3 (9) 4 (9) 6 (9)	A (A) A (A) A (A)	--	--
Don Pedro Road/ Driveway 2	SSSC	AM PM SAT	0 (1) 3 (10) 4 (9)	A (A) A (A) A (A)	--	--
Mitchell Road/Don Pedro Road	Signal	AM PM SAT	7 11 10	A B A	5 6 7	A A A
Mitchell Road/ Driveway 1	Signal	AM PM SAT	7 17 22	A B C	8 21 26	A C C

Note: Delay for intersection average (worst movement) at SSSC intersections.

Source: Fehr & Peers, 2011.

**TABLE 2**  
**PEAK HOUR QUEUING**

Intersection	Movement	Proposed Vehicle Storage	Existing With Project Conditions (Proposed Project)		Existing With Project Conditions (No Don Pedro Access)	
			PM	SAT	PM	SAT
Don Pedro Road/ Driveway 1	Westbound left Northbound	0 50	0 25	0 25	--	--
Don Pedro Road/ Driveway 2	Westbound left Northbound	0 50	0 25	0 25	--	--
Mitchell Road/ Don Pedro Road	Northbound left	150	100	100	50	100
	Northbound thru	500	225	175	150	100
	Southbound thru	550	225	400	325	375
	Eastbound	170	125	150	50	50
Mitchell Road/ Driveway 1	Northbound left	275	200	250	200	250
	Southbound thru	500	400	400	<b>550</b>	425
	Eastbound left	190	150	<b>200</b>	<b>250</b>	<b>325</b>
	Eastbound right	190	150	200	150	175

Note: 95th percentile queue in feet as calculated by Synchro 6.0.

Source: Fehr & Peers, 2009.



## 2. Truck-Only Don Pedro Access

The proposed project has two driveways onto Don Pedro Road, both of which would provide truck access to the rear of Walmart. The easternmost driveway (#2) also provides vehicle access to the Shops 4 pad site. Limiting the driveways to truck-only access would not change the intersection level of service or reduce the traffic queue results at the driveways. Most likely, a physical barrier to passenger car access would be necessary to prevent customers from using the driveways. If placed along Don Pedro Road, such gates could increase noise and result in temporary blockages of the roadway while trucks idle to wait for the gates to open for truck passage. A more manageable method might be to have the gates at the corners of the buildings to restrict passenger vehicle access. This approach would allow trucks to freely enter and exit the site but prohibit passenger vehicle traffic access to the parking area. This configuration would result in very poor access to the Shops 4 pad site and likely require a redesign of the Shops 4 building as the current site design only allows one-way vehicular traffic along the east side of the garden center and to access Shops 4. If gates are required, they would need to be installed in driveways and be designed to ensure they could be opened in case of an emergency.

## 3. Alternative 2

This approach relies on a complete redesign of the project to rotate the building so that it faces Mitchell Road rather than Service Road. This rotation would place the loading docks along the western property boundary, reducing the potential for noise at residences along Don Pedro Road. The property is roughly rectangular in shape, with the current configuration emphasizing the longer dimension between Don Pedro Road and Service Road. Major 1 has a very large building footprint, and the applicant has indicated that the building does not “fit” if it is rotated to face Mitchell Road.

With this alternative, impacts to residences across Don Pedro Road would magnify since the truck loading activity behind the Walmart store would be more clearly visible to nearby residences than it is in the current configuration. In addition, the noise impacts, while slightly diminished from the perspective of residences across Don Pedro Road, would increase from the perspective of neighbors to the west. And, because delivery trucks would still enter the Project site from Don Pedro Road, noise impacts would only be relatively reduced, not avoided or even substantially lessened.

## D. Health Risk Assessment

Citizens for Ceres claimed that the EIR’s air quality analysis is materially flawed because the San Joaquin Valley Air Pollution Control District commented that the Health Risk Assessment is technically flawed. Prior to the April 4, 2011, Planning Commission Meeting, the City prepared a detailed response to SJVAPCD's comment letter. The City has received no further correspondence from the Air District on this issue. While we believe we have satisfied the Air District's concerns, to the extent a disagreement still remains, please note that there are disagreements among experts and CEQA does not require decision-makers to reconcile any disputes. Rather decision-makers are vested with the ability to choose among conflicting expert opinion as long as their choice regarding whose opinion to accept is based on substantial evidence. Moreover, decision makers are not obligated to follow any directives, recommendation or suggestions presented in comments on the Draft or Final EIR, and they can certify the Final EIR without needing to resolve disagreements among experts.

## E. Miscellaneous Issues

### 1. Prohibition of use of storage containers for on-site storage

Council noted the use of storage containers left on site at the current Walmart store and wanted to be explicit that this would not occur at the new store. Walmart representatives noted that the proposed design is not conducive to and would not allow for such use. Staff proposes the following additional condition in response to this Council concern:

Add to Conditional Use Permit conditions, Section G (Operational Requirements)

7. The placement of storage or shipping containers on the exterior of the site for more than 24 hours is expressly prohibited, except as necessary for building construction.
2. Clarify the claimed percentage of support for the application

Council requested clarification of the data source and methodology for the claim that two-thirds of Ceres voters would be supportive of the proposed project.

Walmart has provided the following in response to this issue:

On behalf of Walmart, Voter/Consumer Research conducted a survey earlier this year of 301 registered voters in Ceres, California. Voter/Consumer Research is one of the nation's most well-respected polling firms. For this poll, respondents were selected at random with controls on regional and gender distribution to ensure totals proportionate to the population as a whole. All interviews were conducted via telephone by trained interviewers from Voter / Consumer Research in August, 2010. The survey's margin of error is +/- 5.7%.

- Voters in Ceres have a very favorable image of Walmart.
  - 8 out of 10 voters (81%) have a favorable view of Walmart, with over half (53%) VERY favorable.
- Awareness of Walmart's proposal to relocate and build a new store is high with 87% of voters aware of the proposal.
  - Voters overwhelmingly support the proposal; 66% support the project with over half (51%) STRONGLY in support.

3. Clarify features that distinguish the approach to landscaping at this project from the existing store.

In response to expressed concern with the maintenance of landscaping at the existing Walmart store, Council requested clarification on factors that would distinguish the new shopping center from the existing store as to landscaping design and maintenance.

The existing Walmart store was approved in the early 1990's and landscaping was installed pursuant to the standards then in effect. The corner of Mitchell Road and Hatch Road includes multiple separate parcels for Walmart, Payless Shoe Source, and McDonalds, each with separate responsibility for landscape maintenance. CUP General Condition 17 provides that when a building permit is issued for the new Walmart, that Walmart enter into a supplemental maintenance agreement secured by a deposit of \$25,000 to ensure continuing maintenance of the site including landscaping.

The proposed Mitchell Ranch Shopping Center is proposed with enhanced landscaping, including substantial peripheral landscaping strips along the boundary streets as well as parking lot trees to create shading of at least 50% of the parking area (the tree planting plan is calculated to shade 55% of the parking area). Trees are required to be planted at a minimum ratio of one tree per every 8 parking spaces.

This ratio would require 151 trees; as proposed 370 total trees are provided on site. Landscaping accounts for 13% of the entire site. An irrigation system is integral to the landscape plan and will draw its water source from an on-site well so that potable water need not be used for this use.

4. Solid Waste, response to issues raised in Letter submitted by Brett Jolley

While the Draft EIR does note that the Fink Road landfill is scheduled for closing in 2021, the Draft EIR also notes that the County is pursuing an interim measure of extending the life of the landfill by using the roadway that currently divides cells LF1 and LF2. The County filed a Notice of Determination for a Mitigated Negative Declaration for this aspect of the landfill expansion on February 8, 2010. Staff contacted Jami Aggers of the Stanislaus County Environmental Health Department and learned that the environmental work for the expansion has been completed, and that the permitting process is well under way. Further, the County is actively pursuing the Canyon Fill landfill with a potential for 80 years of capacity. While these permits are not currently in place, the tipping fees provide a funding mechanism for the County to pursue the permits for these or other locations, and there is at least 10 years remaining in the current Fink Road landfill.

The Draft EIR evaluates the capacity and longevity of the Fink Road landfill beginning on page 4.12 34. As noted in the Draft EIR, the landfill currently has a permitted daily capacity of 1,500 tons per day and currently receives approximately 409 tons per day. The proposed project would generate 2.97 tons per day, which represents 0.72 percent of the current daily total and 0.19 percent of the permitted daily total. As noted in the Draft EIR, both the County and the applicant have active recycling programs; however, the Draft EIR assumed that none of the waste was diverted from the landfill in order to provide a conservative analysis.

The CalRecycle website reports that the Fink Road landfill is currently at 31 percent of its total permitted capacity of 10,000,000 cubic yards. In preparation of the Draft EIR, the County was contacted and their comments and information were used to write the solid waste analysis in Section 4.12 of the Draft EIR. The County was also sent copies of the Notice of Preparation and Draft EIR but did not comment on either document. With an existing funding source (tipping fees) and over ten years to gain permits for expansion of landfill capacity in Stanislaus County, the City can reasonably assume that both short- and long-term solid waste impacts are less than significant.

PLA is an acronym for polylactic acid, a material and process used to make packaging that is biodegradable in many instances. The product can either be composted or landfilled, depending on the availability of composting managed by the waste hauler. As Stanislaus County does not have a centralized composting program, the material would be landfilled. Staff reviewed a 2007 report titled Performance Evaluation of Environmental Degradable Plastic Packaging and Disposal Food Service Ware – Final Report, written by the California State University Chico Research Foundation under contract with the California Integrated Waste Management Board (<http://www.calrecycle.ca.gov/publications/Plastics/43208001.pdf> ). The research results are summarized below:

The following results are based on the experimental conditions described in this report:

1. All of the products tested, except those that degrade in sunlight or oxygen, disintegrated satisfactorily in commercial composting operations within 180 days. Specifically, a minimum of 60 percent of the organic carbon converted to carbon dioxide by the end of the test period.
2. For all products, the measured amounts of lead and cadmium in finished compost were less than 1 percent of maximum allowable levels.

3. The polylactic acid (PLA) straws, polyhydroxy alkanoate (PHA) bags, Ecoflex bags, sugar cane plates, and cornstarch-based trash bags released no toxic materials into the compost and successfully supported the growth of tomato seedlings after ten days.
4. The PLA lids, PHA bags, Ecoflex bags, Husky bags, and cornstarch-based trash bags degraded completely in the enclosed in-vessel composting facility. However, oxodegradable and UV-degradable bags, low-density polyethylene (LDPE) plastic bags, sugar cane lids, and Kraft paper did not degrade.
5. The PHA bags experienced some disintegration in ocean water; all the other products did not disintegrate at all.
6. Biodegradable plastics and plastics that degrade in oxygen or sunlight reduce the quality and impair the mechanical properties of finished products manufactured with recycled content.

The primary concern with PLA is that consumers will not recognize that the product is not polyethylene terephthalate (PET) and will subsequently recycle them incorrectly. This would in theory reduce revenues to recycling programs and contaminate the pool of recycled plastics. This is only a concern for PET bottles as other uses of PLA (tableware and food packaging) are easily recognized and sorted appropriately. However, to the consumer, PLA water bottles are clear and visually indistinguishable from clear PET water bottles.

PET is labeled with a “1” and, along with HDPE which is labeled with a “2”, is one of the most frequently recycled plastics. PLA is labeled with a “7”, which corresponds to “other” plastics which include polycarbonates, car parts, baby bottles, water cooler bottles, etc. Page 5 of the *Citizen's Guide to Recycling in Stanislaus County* published by the Stanislaus County Department of Environmental Resources and maintained on their website, instructs Ceres residents to:

“Place the following recyclables co-mingled into blue recycling cart: California Redemption Value (CRV) beverage containers, glass bottles and jars, plastic bottles and containers numbered 1-7 (please remove lids), aluminum and tin cans, paper, newspaper, magazines, telephone books, cardboard, chipboard(cereal boxes) and brown paper bags...”

As noted in the *Guide*, all curbside recycling is to be placed into a single blue recycling cart to be sorted later, removing the consumer from the sorting process. Certainly consumers will need to be more vigilant at recycling centers where they may be required to sort plastics into appropriately labeled bins, however staff believes that the majority of the recycling effort occurs at the curbside in the City of Ceres and that consumers who independently take their recycling to centers can be advised at those centers about the need to recycle 7 plastics differently from other plastics. Since this process is already in place, it is presumed that continuing education at the recycling centers(s) would address any concerns over PLA in the waste stream. Since, as noted in the text, plastics coated with 7 are already collected as part of the waste stream and therefore no additional analysis in the EIR is necessary.

Overall, the comment on plastic refers to actions by the end-use consumer of products, which are both speculative and beyond the applicant and the City to regulate. The products themselves are available for sale throughout the state and are not unique to Walmart. As noted above, the materials actually biodegrade in a variety of environments. The actions of the end-use consumer of PLA, or indeed of any of the product and packaging sold at this Walmart or any other store in Ceres, is beyond the scope of this EIR.

There is nothing unique about the proposed project that would affect the County's existing recycling process or utilize an inordinate amount of recycling capacity. The County's recycling program is part of the overall solid waste management program, and funded through tipping fees. The recycling process accommodates changes in population.

5. Architectural enhancements.

The Planning Commission imposed a condition that would require Walmart to add stone-like material to the elevations of the store, to the satisfaction of staff. Walmart has provided a perspective drawing to show what the front elevation would look like with the stone. That rendering, depicting a portion of the facade with the use of stone-look cladding on certain features, is attached.

Because the applicant has provided a rendering that staff believes illustrates the requirements of the condition as imposed by the Planning Commission, staff recommends the following revision to CUP Condition of Approval C (7):

The Developer shall provide elevations for Major 1, 2, 3, and 4 and all Shops buildings consistent with the plans submitted by BRR Architects dated September 7, 2010 and the rendering of the front elevation by BRR Architects dated April 20, 2011 for Major 1 and plans submitted by Greenberg Farrow dated November 22, 2010 for Majors 2, 3, 4 and all Shops. The front and Mitchell Road elevations for Major 1 shall incorporate stone on such features as columns, entry features, pop-out features, wainscoting below fenestration, and other points of emphasis, to the satisfaction of the Planning/Building Division Manager. Staff notes that this treatment would be expected to extend to the pillars surrounding the Garden Center and wrap to the Mitchell Road-facing elevation as appropriate.

F. Response to issues raised in correspondence from Mr. Brett Jolley City's Special Counsel, Ed Gruzmacher, has provided the following information:

Question: At the previous City Council meeting, the question was raised whether the Planning Commission's findings concerning the project's impacts on streets, highways, and the adjacent neighborhoods were sufficient to support the approval of the vesting tentative subdivision map ("VTSM") and the conditional use permit ("CUP") necessary for the project.

Short Answer: Yes, the Planning Commission's findings were made according to state law and the City's Municipal Code and are supported by substantial evidence in the record.

Detailed Response: The City's Municipal Code, which is based on the applicable provisions of state law, details certain findings that must be made.

Subdivisions must be consistent with the General Plan and any applicable specific or area plans. The Planning Commission found that the project is consistent with both the General Plan and the Mitchell Road Corridor Specific Plan. The site is designated and zoned for a regional commercial use such as the project. Moreover, as set forth in the EIR, the project is consistent with the policies of both the General Plan and the Mitchell Road Corridor Specific Plan.

Chapter 17.12 of the City's Municipal Code also contains certain design requirements for the approval of Subdivision Maps. Section 17.12.010 requires that the "street and highway design" of a subdivision "shall conform in width, section and alignment to the general plan, the select system of roads and specific plans adopted by the City Council. Rights of way shall be dedicated, where required, to conform to these

plans.” Here, the VTSM approved by the Planning Commission does not involve the construction of any new roads. Instead, certain improvements will be made to surrounding streets and highway facilities in order to mitigate the project’s impacts. The street improvements are also consistent with the General Plan and, as set forth in the conditions of approval to the VTSM, necessary rights of way are required to be dedicated (see, for example, condition C36.)

Chapter 18.50 of the City’s Municipal Code pertains to the approval of CUPs. Section 18.50.200 requires that the Planning Commission make certain findings before approving a CUP. These findings were made in the Planning Commission resolution approving the CUP. Nevertheless, the question has been raised whether certain findings are adequately supported. Specifically, section 18.50.200 requires that the Commission find:

- A. That the site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Title to adjust the use with land and uses in the neighborhood;
- B. That the site for the proposed use related to streets and highways is adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
- C. That the proposed use will have no adverse effect on abutting property or the permitted use thereof;
- D. That the conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare.

Each of the Planning Commission’s findings are supported by substantial evidence in the record.

First, with regards to the size and shape of the site, the property is of an appropriate size and shape to accommodate a regional commercial use, and necessary walls and fences, parking, loading and landscaping.

The second requirement is that the *site* for the proposed use related to streets and highways is adequate in width and pavement type to carry the quantity and kind of traffic generated by the project. As noted above, the project will not create any new streets internally to the project. As described in the EIR, streets adjacent to the project are of adequate width and pavement type to carry the quantity and kind of traffic generated by the project, as mitigated. With regards to the EIR’s conclusion that the project would result in a significant and unavoidable impact on Don Pedro, this conclusion was not reached on the basis of the width or the pavement type of Don Pedro, but rather on the influx of new traffic within the neighborhood. This impact is mitigated through the requirement to construct traffic calming on Don Pedro. However, traffic calming will not include the increase of street width or changing of pavement type to allow for a larger number of vehicles, but rather certain improvements that will discourage through traffic from using Don Pedro. As such, the Planning Commission appropriately found that the second required finding for a CUP was satisfied.

Third, the Municipal Code requires that the proposed use have no adverse effect on the abutting property or the permitted use thereof. The proposed commercial center is not incompatible with the adjacent neighborhoods, churches and commercial uses. As noted in the EIR, the project will not generate any new aesthetics, noise, or odor impacts or otherwise impact adjacent properties in a way that would be incompatible with the existing uses on those properties. The EIR does identify an impact resulting from the increase in traffic on Don Pedro. This impact will be mitigated by the traffic calming measures required in the EIR. However, because the mitigation will not be in place at the time the project begins to

generate traffic, CEQA requires that the City find this impact significant and unavoidable. There is nothing in the City's code, however, that would require the City to prohibit a project on this basis. The increase of traffic on Don Pedro would not render the adjacent residential neighborhood incompatible for use as a residential neighborhood.

Finally, the CUP contains a number of conditions of approval. These are, as the Planning Commission found, necessary to protect the public health, safety, and welfare.

In sum, the Planning Commission made all of the necessary findings for both the VTSM and the CUP and those findings are supported by substantial evidence in the record.

## **II. REASONS FOR RECOMMENDATION:**

At its February 22, and April 4, 2011 meetings, the Planning Commission considered the project and took action by a 3-1 vote (Commissioner Kline – No, Commissioner Smith – absent) in favor of approving the Conditional Use Permit and Vesting Tentative Subdivision Map and Certifying the Environmental Impact Report for the project. The Commission's action was based on complete review of the merits of the project and the full record of testimony and materials, and specifically included the following reasons for override of significant environmental impacts:

1. The Project Would Generate Sales Tax Revenue For the City.
2. The Project Would Increase the City's Employment Base and Create Diverse Employment Opportunities for City Residents.
3. The Project Would Provide Buffers and Transitions between Commercial Uses and Adjacent Residential Uses.
4. The Project Would Provide an Attractive Gateway Development to the City.
5. The Project Would Feature Numerous Energy Conserving Measures.
6. The Project Would Provide Attractive Landscaping Providing Amenities Onsite and as Viewed From Adjacent Streets.
7. The Project Would Fulfill a General Plan Goal of Creating a Regional Commercial Center that Provides Quality Goods and Services.
8. The Project Would Increase Retail Activity in the Project Area.
9. The Project Would Be a Good Member of the Community.
10. The Project Would Contribute to the Physical Identity of the Area and Result in Improvements to a Major Corridor.

The Commission noted that the General Plan and Mitchell Road Corridor Specific Plan designations for this project site are Regional Commercial. The proposed project is a regional commercial project and is thus consistent with the General Plan and Mitchell Road Corridor Specific Plan land use designations.

## **III. POLICY ALTERNATIVES:**

1. Deny the appeal and approve the project with modifications.
2. Grant the appeal, thereby denying the project.

**IV. FISCAL IMPACTS:**

There is no fiscal impact associated with this recommendation. The appellant has paid the necessary appeal fees to process the appeal before the City Council.

**V. PUBLIC PARTICIPATION:**

At the City Council meeting of May 23, 2011, this item was continued to the meeting date of July 11, 2011. It was announced by the Mayor at that meeting the date, time and location of the continued meeting. No further noticing was provided or required for the July 11, 2011 meeting.

**VI. COMMITTEE RECOMMENDATION:**

April 4, 2011, Planning Commission approval by a 3-1 vote (Commissioner Kline – No, Commissioner Smith – absent)

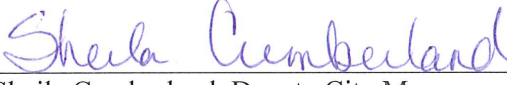
**VII. ENVIRONMENTAL REVIEW:**

On April 4, 2011, the Planning Commission certified the Environmental Impact Report, SCH # 2007092011, for the project, making findings as set forth in Resolution PC 11-03. A detailed discussion of the environmental impacts of the project, the mitigation measures, the alternatives, and the statement of overriding considerations are discussed in Resolution PC 11-03 and its attachments, as well as in the Planning Commission staff reports, which have been provided for the Council's review. Should the Council wish to deny the appeal, the Council will need to independently consider the Environmental Impact Report, mitigation measures, alternatives, and the statement of overriding considerations and certify that these documents comply with CEQA. Council may do so by adopting City Council Resolution 2011-\_\_\_\_ certifying the Environmental Impact Report for the project and making findings regarding the same; adopting a Mitigation and Monitoring Program, and adopting a Statement of Overriding Considerations.

**VIII. STEPS FOLLOWING ACTION:**

The applicant is required to comply with all conditions of approval associated with the Commission approval of the project.

Prepared by:   
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Submitted by:   
Sheila Cumberland, Deputy City Manager

Attachments:



## Pages

22 – 27	Fehr & Peers memo regarding traffic impacts – dated June 17, 2011
28 – 29	BAE memo regarding economic/urban decay issues – dated June 7, 2011
30	Architectural Perspective with stone elements

## Materials presented to City Council at meeting of May 23, 2011

31 – 37	Conceptual Intersection Improvements
38	Sheppard Mullin letter – dated May 19, 2011
39 – 55	Walmart City Council Powerpoint Presentation
56 – 137	Citizens for Ceres City Council Packet
138 – 212	Brett Jolley letter – dated May 23, 2011
213 – 242	Food-4-Less letter – dated May 23, 2011
243	Lee Brittell exhibit
244	James Vinyard letter – dated May 23, 2011

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## MEMORANDUM

Date: June 17, 2011  
 To: Mark Teague, PMC  
 From: Kathrin Tellez

**Subject:** *Mitchell Ranch – Transportation Impact Analysis Information*

WC07-2467

Fehr & Peers has prepared this memorandum to address concerns raised by City Council members at the May 23 meeting. The responses below are based on information contained in the Transportation Impact Study (TIS), which was used as the basis for the Draft Environmental Impact Report (DEIR), for the proposed Mitchell Ranch project (Project) in Ceres.

The following presents information regarding alternative mitigation measures, freeway operations, the affects of driveway restrictions on Don Pedro Road, traffic flow on Mitchell Road with additional signalized intersections, and consideration of the proposed school on Roeding Road.

### ***Mitigation at Mitchell Road/Service Road Intersection***

The mitigation measure at the Mitchell Road/Service Road intersection identified in the DEIR is:

- Construct a second eastbound left-turn lane on Service Road to Mitchell Road
- Extending the northbound left-turn lane to provide at least 325 feet of vehicle storage
- Modify the traffic signal to provide protected east-west left-turn phasing
- Evaluate the traffic signal timing six months subsequent to the issuance of the final certificate of occupancy for the Walmart portion of the project to ensure optimal traffic flows through the intersection based on conditions at that time

The improvements detailed above would result in level of service D or better operations for the weekday morning and evening peak hours, and the Saturday afternoon peak hour, reducing the impact to a less-than-significant level.

Concerns regarding the adequacy of the proposed mitigation measure at the Mitchell Road/Service Road intersection were discussed, and Council members suggested the provision of a second northbound left-turn lane from Mitchell Road to Service Road be considered.

During the preparation of the DEIR other intersection mitigation measures were considered, but rejected due to inadequacy in mitigating the impact or physical constraints. The addition of a second northbound left-turn lane was considered but was ultimately not selected as that improvement would require construction of two receiving lanes on Service Road. While two receiving lanes could be constructed, there is inadequate distance between the Mitchell Road/Service Road and Mitchell Road/El Camino Avenue intersections to transition to a single lane before El Camino Avenue and the bridge over SR 99. The second northbound left-turn was

not required to achieve an acceptable service level, but was considered to alleviate potential vehicle queue spillback from the left-turn pocket to the travel way. Therefore, it was ultimately recommended that the northbound left-turn lane be extended to better accommodate peak queues.

The mitigation measure identified in the DEIR was selected for a number of reasons, including:

- Improves the intersection operations to LOS D, reducing the significant impact to a less-than-significant level
- Minimizes the effects of vehicle queue spillback from turn pockets
- Constructability within the ultimate right-of-way required for the interchange improvement project

### ***Freeway Operations***

Peak period vehicle counts were collected for the analysis periods at the SR 99/Mitchell Road ramp terminal intersections to determine freeway ramp traffic volumes and intersection operations. Counts at the ramps were collected in September and October 2007 when area schools were in session. Mainline freeway traffic volumes were obtained from Caltrans for use in evaluating the freeway mainline. Fehr & Peers staff observed interchange and freeway mainline operating conditions.

Analysis results and field observations indicate that the ramp terminal intersections of SR 99 and Mitchell Road, especially the southbound ramps, operate poorly in the existing condition without the addition of project traffic. However, vehicle queues were not observed to extend back to the freeway and block mainline travel during the time periods analyzed in the TIS. With the addition of Project traffic, vehicle queues are projected to increase but would still be maintained within the off-ramp area as presently existing.

Operations of the freeway mainline are not expected to degrade from their current condition with development of the Project and Project-specific freeway mainline mitigations were not identified.

The addition of Project traffic would worsen the operation of the SR 99/Mitchell Road interchange; mitigation measures conditioned on the Project would improve the peak hour operations of the interchange and improvements at the Southbound SR 99 On/Off-Ramp/Mitchell Road intersection would improve conditions for existing vehicles traveling through the area by signaling the intersection and providing additional capacity for vehicles entering the freeway. Coordination of the traffic signals on the Mitchell Road corridor would also provide additional benefits to travel flow through the area. The mitigation measure identified in the DEIR for the SR 99 interchange area would:

- Improves the intersection operations to LOS D, reducing the significant impact to a less-than-significant level
- Minimizes the effects of vehicle queue spillback from turn pockets
- Constructability within available right-of-way

### ***Operations of Mitchell Road with Additional Traffic Signals***

With development of the Project, a traffic signal would be installed at the Don Pedro Road/Mitchell Road intersection and a signalized driveway would be constructed on Mitchell Road approximately 500 feet south of Don Pedro Road. The existing signalized Mitchell Road/Service Road intersection is located approximately 700 feet south of the proposed driveway, resulting in three signalized intersections within approximately 1,300 feet.

The TIS and DEIR show that the three closely spaced intersections are projected to operate at **acceptable service levels** (LOS D or better) with the Project and roadway improvements that would be constructed with the Project (or as feasible mitigation) in both the existing and cumulative condition (without and with the new Service Road/Mitchell Road interchange).

The intersections serving the Project site have been designed to provide **adequate vehicle storage** for vehicles turning from Mitchell Road to the Project site and Don Pedro Road. As the traffic signals would be interconnected and coordinated, traffic flow is expected to be maintained on Mitchell Road; however, it is expected that periodically during the weekday evening and Saturday peak hours (1 to 2 times in the peak hour), southbound vehicle queues could extend back from the Project driveway on Mitchell Road to Don Pedro Road. The resulting queues are not expected to interfere with operations of the Don Pedro/Mitchell Road intersection or other movements and vehicle queues are expected to clear quickly as the intersections are projected to operate acceptably over the course of the peak periods analyzed for this Project.

### ***Limited or No Don Pedro Access***

The Project site has been designed to provide truck access from Don Pedro Road at two driveways. Other vehicles would also be permitted unrestricted entry to the site from Don Pedro Road under the current Project layout. While the driveways on Don Pedro would operate acceptably from a vehicular point of view, the addition of Project traffic on Don Pedro Road would result in significant and unavoidable impacts, as disclosed in the EIR, to Don Pedro Road in the vicinity of the site, even with implementation of targeted traffic calming devices.

Operation of the main driveway on Mitchell Road and the operations of the Don Pedro Road/Mitchell Road intersection were re-evaluated assuming no access to the site from Don Pedro Road. Intersection levels of service are presented in Table 1 and vehicle queues are presented in Table 2 for the various peak hours analyzed for the Existing Plus Project condition. Operations under the proposed access strategy, as documented in the EIR, are also summarized below.

As shown in Table 1, operation of the Don Pedro Road/Mitchell Road intersection would improve with the elimination of access from Don Pedro Road. Operations of the main driveway on Mitchell Road would worsen, but the driveway is still projected to operate at acceptable service levels even if the Don Pedro Road driveways were eliminated.

Although the intersections along Mitchell Road would operate at acceptable service levels with elimination of driveways on Don Pedro Road, southbound vehicle queues from the Mitchell Road driveway would spill back though the Don Pedro Road intersection in the weekday evening peak hour.

Internal vehicle queues would also significantly increase during the weekday evening and Saturday afternoon peak hours, spilling back beyond the available storage and periodically blocking access to the drive aisles. *This situation would impede internal vehicular circulation as exiting vehicles would block entry to drive aisles for circulating vehicles and vehicles entering the site.* Additional pedestrian/vehicle conflicts are also expected to occur along the main entry road.

Access to Shops 4 would also be severely constrained without vehicular access from Don Pedro, as customer and delivery vehicles would need to circulate around the Walmart building to exit the site, potentially creating additional conflicts between delivery trucks and vehicles.

TABLE 1 PEAK HOUR INTERSECTION OPERATIONS						
Driveway	Traffic Control <sup>1</sup>	Peak Hour	Existing With Project Conditions (Proposed Project)		Existing With Project Conditions (No Don Pedro Access)	
			Delay <sup>2</sup>	LOS <sup>2</sup>	Delay	LOS
Don Pedro Road/ Driveway 1	SSSC	AM PM SAT	3 (9) 4 (9) 6 (9)	A (A) A (A) A (A)	--	--
Don Pedro Road/ Driveway 2	SSSC	AM PM SAT	0 (1) 3 (10) 4 (9)	A (A) A (A) A (A)	--	--
Mitchell Road/Don Pedro Road	Signal	AM PM SAT	7 11 10	A B A	5 6 7	A A A
Mitchell Road/ Driveway 1	Signal	AM PM SAT	7 17 22	A B C	8 21 26	A C C
Notes: 1. SSSC = Side-street stop-controlled intersection; Signal = Signalized intersection 2. Delay/LOS for intersection average (worst movement) at SSSC intersections. Source: Fehr & Peers, 2011.						

Elimination of delivery vehicle access from Don Pedro Road would force Walmart delivery vehicles to enter the site from other driveways. Delivery vehicles for the other pads were already assumed to enter/exit the site from other driveways. Under this access configuration, it is recommended that Walmart delivery vehicles enter the site from the westernmost Service Road driveway and exit the site from the signalized entrance on Mitchell Road. Deliveries should occur during off-peak times to the greatest extent possible to minimize conflicts with passenger vehicles and pedestrians. Reconfiguration of the parking area and drive-through pharmacy in the northwestern corner of the site would likely be required to accommodate delivery truck turning movements.

TABLE 2 PEAK HOUR QUEUING						
Intersection	Movement	Proposed Vehicle Storage (feet)	Existing With Project Conditions (Proposed Project)		Existing With Project Conditions (No Don Pedro Access)	
			PM	SAT	PM	SAT
Don Pedro Road/ Driveway 1	Westbound left Northbound	0 50	0 25	0 25	--	--
Don Pedro Road/ Driveway 2	Westbound left Northbound	0 50	0 25	0 25	--	--
Mitchell Road/ Don Pedro Road	Northbound left	150	100	100	50	100
	Northbound thru	500	225	175	150	100
	Southbound thru	550	225	400	325	375
Mitchell Road/ Driveway 1	Eastbound	170	125	150	50	50
	Northbound left	275	200	250	200	250
	Southbound thru	500	400	400	<b>550</b>	425
	Eastbound left	190	150	<b>200</b>	<b>250</b>	<b>325</b>
	Eastbound right	190	150	200	150	175
Note: 95th percentile queue in feet as calculated by Synchro 6.0; 25 feet equates to approximately 1 vehicle. Source: Fehr & Peers, 2009.						

### ***Proposed Elementary School***

At the time the TIS for the proposed Project was prepared, the Lucas Elementary school had not yet been contemplated by the School District and the City was unaware of plans to locate a new school in this area. As proposed, based on a traffic study completed by KD Anderson & Associates, Inc in June 2009, a new school would be constructed between Roeding Road and Don Pedro Road, and an extension of Rose Avenue connecting those two roadways would be constructed to facilitate school circulation.

The school is expected to generate approximately 1,740 daily vehicle trips, including 695 trips in the morning peak hour and 425 trips in the afternoon peak hour around school bell times. The traffic study prepared for the school estimates that approximately 12 percent of traffic, or 210 daily, 83 AM peak hour and 51 afternoon peak hour trips, from the school would arrive to the school via Don Pedro Road to the east and would potentially travel along the Mitchell Ranch Center Project frontage.

The school would generate most of its traffic during the morning peak hour, when school begins, and in the early afternoon. The Mitchell Ranch Center would generate the most traffic during the evening commute period, as people stop by the store on their way home from work, and on Saturdays. Considering the minimal amount of overlap in peak trip generation between the School and the proposed Project, the excess off-peak capacity provided by the mitigation measures that would be constructed as part of the proposed Project, would improve vehicular access to the school, and the roadway system is expected to be able to accommodate traffic from both projects.

The proposed Project is also conditioned to prepare and implement a traffic calming plan for Don Pedro Road subsequent to the completion of the proposed Walmart portion of the Project, based on the actual additional traffic flow on Don Pedro Road generated by the Walmart portion of the Project. The traffic calming plan is to be completed 6 months following the opening (issuance of certificate of occupancy) of Walmart. The final traffic calming plan will consider the potential vehicular and pedestrian related traffic from the proposed school.

Please contact us with any questions or comments.



## DRAFT Memorandum

**To:** Mark Teague

**From:** Raymond Kennedy  
Vice President

**Date:** June 7, 2011

**Re:** Response to Comments on Ceres Walmart EIR

---

BAE has been asked to respond to two comments received at the City Council hearing of May 23, 2011. Following is our draft response to these comments.

### ***Walmart Sales per Square Foot Assumption Discrepancy***

This issue was raised in correspondence provided by Bob Guterrez, Government Affairs Director for Food4Less. To quote from that letter, in italics:

*Economic Impact flaws: According to Bay Area Economics (BAE) study for Ceres, the average retail floor space figure that was used to calculate the projected success of Wal-Mart in the proposed center claims sales per square foot at \$575.00 with a projected rate of \$90.9 Million of general merchandise. Comparatively, in Atascadero where a proposed center is currently undergoing an EIR review the sales figure per square foot by BAE was listed at \$428.00 and referred to as a "national average" (Walmart sales per square foot average \$428 nationally [as shown in Table 10] Source: Atascadero DEIR page 47 & 39, attached).<sup>1</sup>*

- a. 158,139 Sq. Ft of general merchandise by Wal-Mart floor space average of \$428 = \$67.6 million*
- b. Difference based on BAE and Wal-Mart national average: (-\$23.3million)*
- c. This would also have an affect on project tax revenue and considering the Atascadero Report was complete in 2010 rather than 2008. I would recommend a re-evaluation of the figures provided.*

BAE attempts to use the best available information at the time of analysis to assess the project-specific impacts for a particular project. In the case of Ceres, there is an existing store with a track

---

<sup>1</sup> This memo does not include the attachment which was from the DEIR for the Del Rio Specific Plan in Atascadero.



record of sales performance. As noted in BAE's report found in the Appendices to the Draft EIR

Based on site visits and available sales data, the combined sales for these two stores are approximately \$95 to \$100 million annually [referring to Kmart and Wal-Mart]. The Wal-Mart store performs considerably better than the Kmart, and *well above Wal-Mart national averages* (emphasis added). Because of its location, the Wal-Mart is well-situated to draw shoppers from the southwestern portion of nearby Modesto, being closer to much of this area than the Modesto Wal-Mart and other region-serving retail concentrated along State Highway 99. [page 22].

The methodology for the specific estimate for the proposed Ceres Walmart Supercenter is discussed in further detail in Table 11 on page 28 of BAE's report. In short, the existing store is a strong performer, and thus the new store in Ceres would continue to be a strong performer with sales levels above national averages for Walmart.

In Atascadero, there is no existing store upon which to base estimates for sales at a new store. Therefore, BAE used the national average sales per square foot data as calculated from the most recently available Walmart Annual Report. In the absence of an existing store to benchmark to, this national sales average constitutes a reasonable assertion regarding sales in Atascadero.

It is also worth noting that with respect to urban decay, the use of the national per square foot averages as a sales benchmark would have indicated lesser impacts in Ceres. If the new store performed at national sales per square foot averages for Walmart, potential impacts on other retailers in Ceres would be lower than what was indicated by BAE's analysis.

### **Currency of BAE Economic Findings**

Various parties have expressed concern regarding the changes in economic conditions since BAE conducted its analysis. BAE acknowledged in its report that even in 2008, it was clear that the economy was entering a recessionary period. For example, in the section of its report discussing the potential for urban decay, BAE stated

At the time of BAE's research market conditions and overall projections for increases in population over the next several years indicated that in the long term, space would be re-tenanted as demand for retail and commercial services continued to grow. However, changes in the overall economic picture related to the foreclosure crisis and rising energy costs subsequent to BAE's original analysis indicate slowing or delayed area growth. [page 38]

Furthermore, BAE provided an update memorandum in June 2009 addressing potential changes in local market conditions relating to the recession which was well underway by that time. This memorandum was provided as an Appendix 4.5 to the DEIR. In summary, the DEIR has already considered the potential impacts of the changed economic conditions with respect to urban decay impacts, including the potential for longer-term closures for existing competitive retail space.





B | R | R  
architecture

April 20, 2011

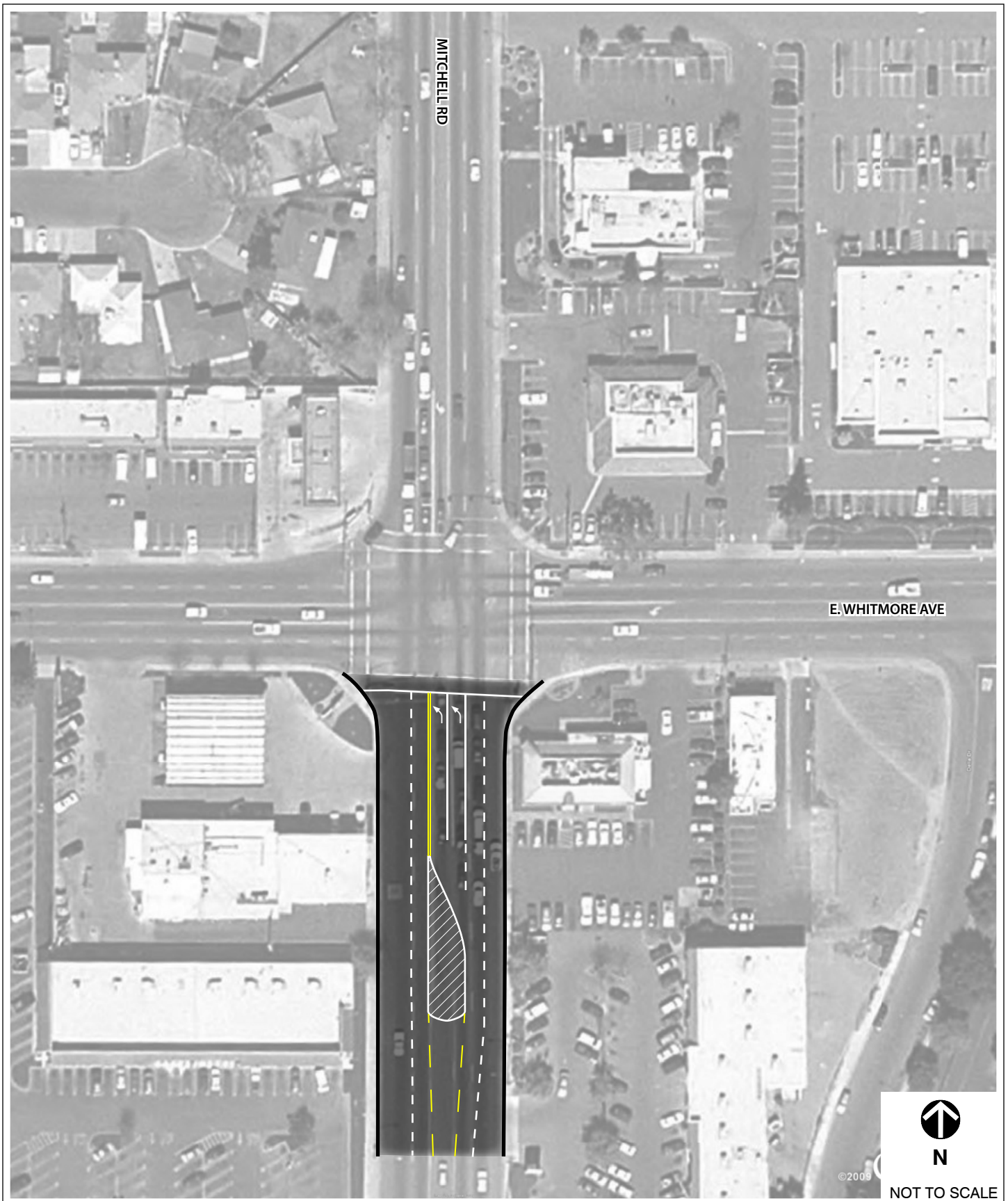
Ceres, CA #1983 - New Store

Market & Pharmacy Entrance

2

**DESIGN REPRESENTATION ONLY - NOT FOR CONSTRUCTION** The building images shown are a representation of the current design intent only. The building images may not reflect variations in color, tone, hue, tint, shading, ambient light intensity, materials, texture, contrast, font style, construction variations required by building codes or inspectors, material availability or final design detailing.



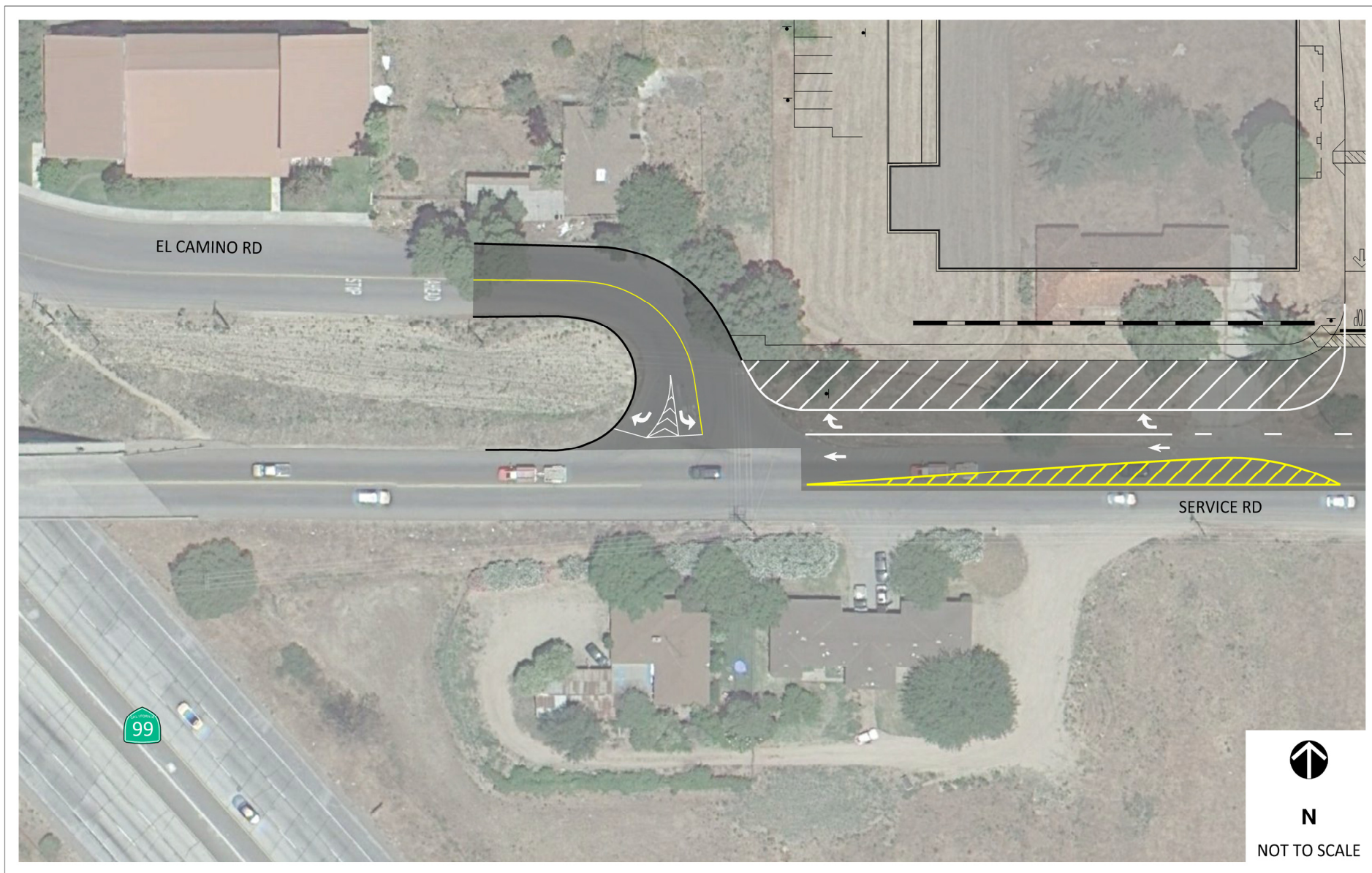




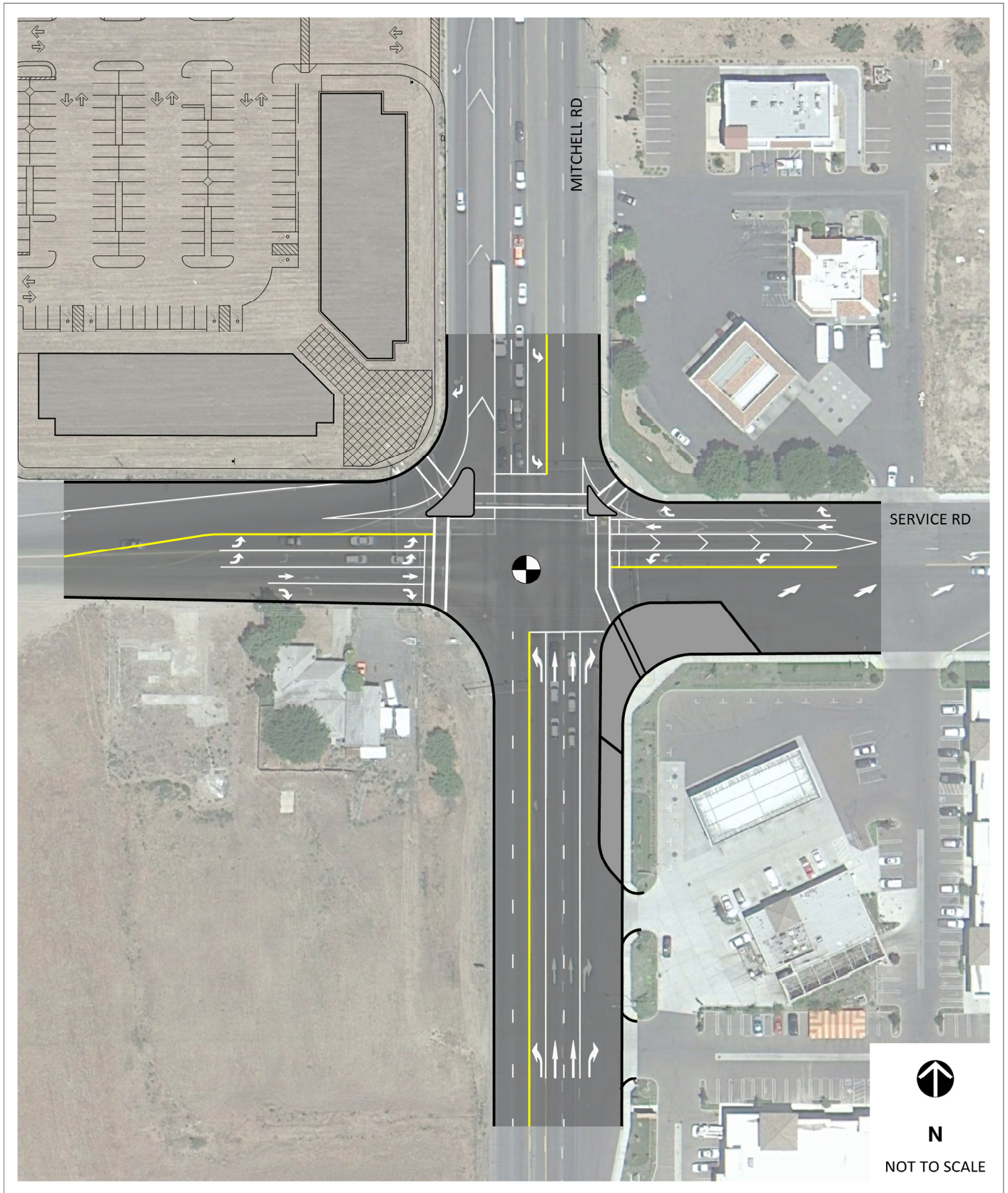




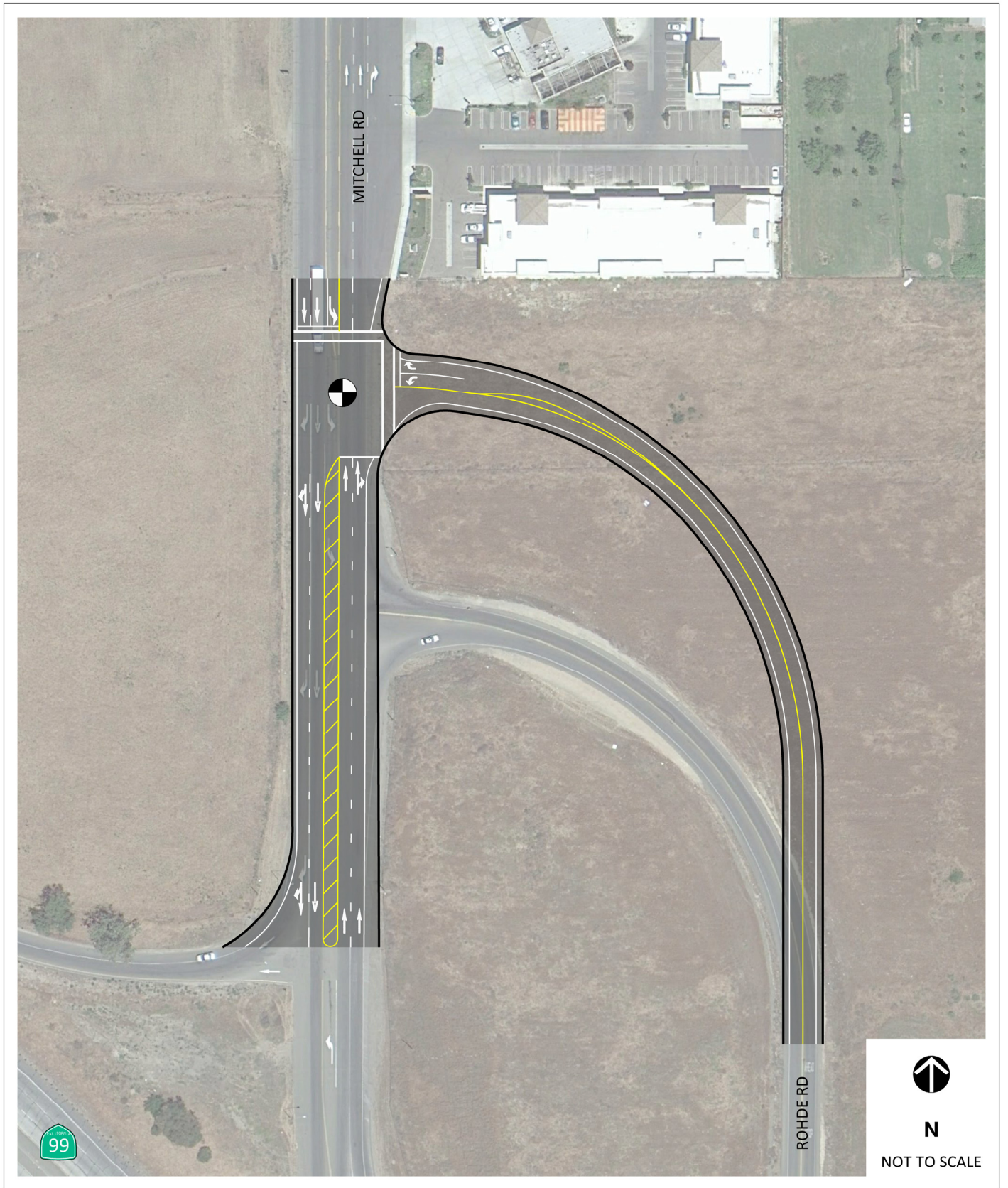




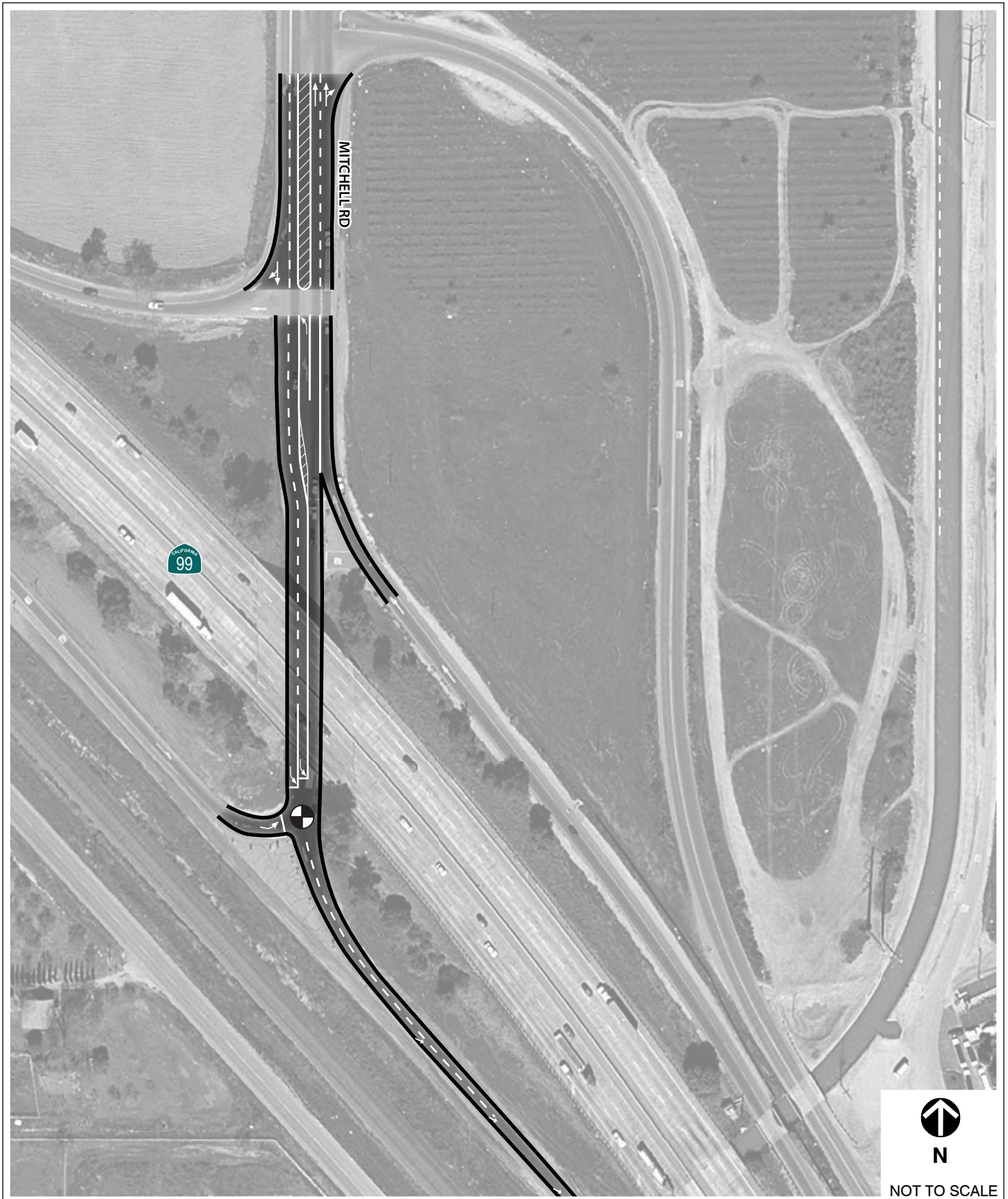














17th Floor | Four Embarcadero Center | San Francisco, CA 94111-4109  
415-434-9100 office | 415-434-3947 fax | [www.sheppardmullin.com](http://www.sheppardmullin.com)

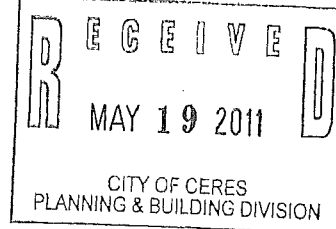
Writer's Direct Line: 415-774-2948  
[eanderson@sheppardmullin.com](mailto:eanderson@sheppardmullin.com)

May 19, 2011

*VIA E-MAIL*

Mayor Vierra and  
City Councilmembers  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Our File Number: 15CM-130366



Re: Mitchell Ranch Center Project: Conditions of Approval

Dear Mayor Vierra and City Councilmembers:

On behalf of our client, Wal-Mart Stores, Inc. ("Walmart"), we are submitting this letter regarding the conditions of approval presented in Planning Commission Resolution No. 11-04, approving the Conditional Use Permit for the Mitchell Ranch Center project ("Project"). Our client is in agreement with all of the conditions with the exception of Condition G1 regarding the restriction on delivery hours. **Such a condition is not warranted in this case and we request that the City Council delete it.**

The Environmental Impact Report for the Project analyzed the noise impacts of 24-hour deliveries on sleep disturbance. The noise analysis concludes that slow-moving trucks arriving at the site on Don Pedro or Service will generate noise levels at the nearby residential uses that are below the threshold of significance and, therefore, nighttime deliveries will have a less than significant noise impact. Accordingly, a delivery hour restriction is not necessary. Furthermore, a restriction on delivery hours may have unintended consequences. If the City Council restricts delivery hours, then more trucks will need to access the site during peak times of day.

If the City Council does not agree that a restriction on delivery hours is not necessary, then we request a compromise that would limit delivery hours from 11 pm - 5 am.

Thank you in advance for your consideration of this matter.

Sincerely,

Elizabeth S. Anderson

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

# Mitchell Ranch Center





# Project Team



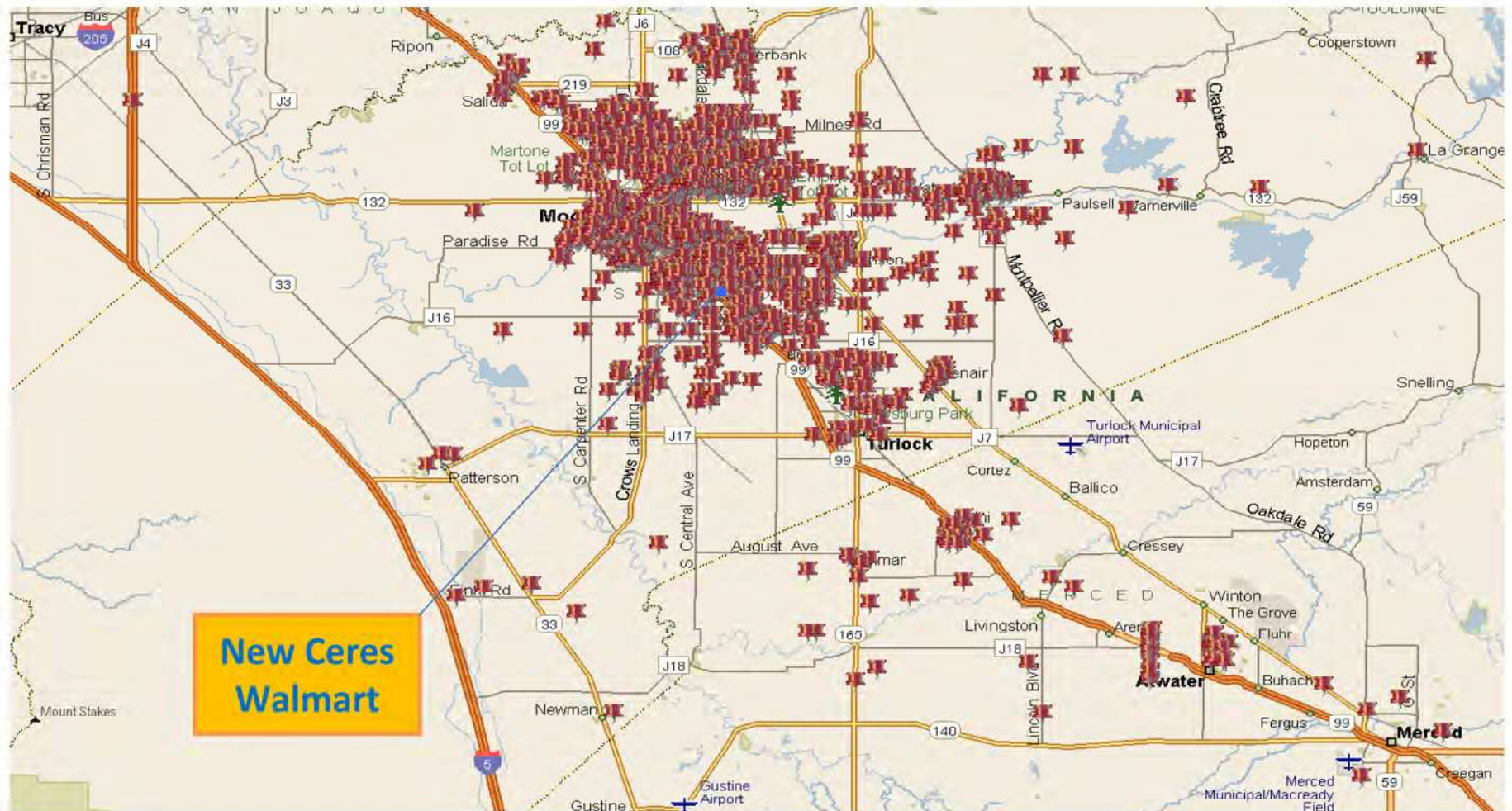
Amelia Neufeld, Walmart  
Senior Manager of Public Affairs

Chad Haller, BRR  
Project Architect

Howard Hardin, GreenbergFarrow  
Project Engineer

Elizabeth Anderson, Sheppard Mullin  
Project Land Use Attorney

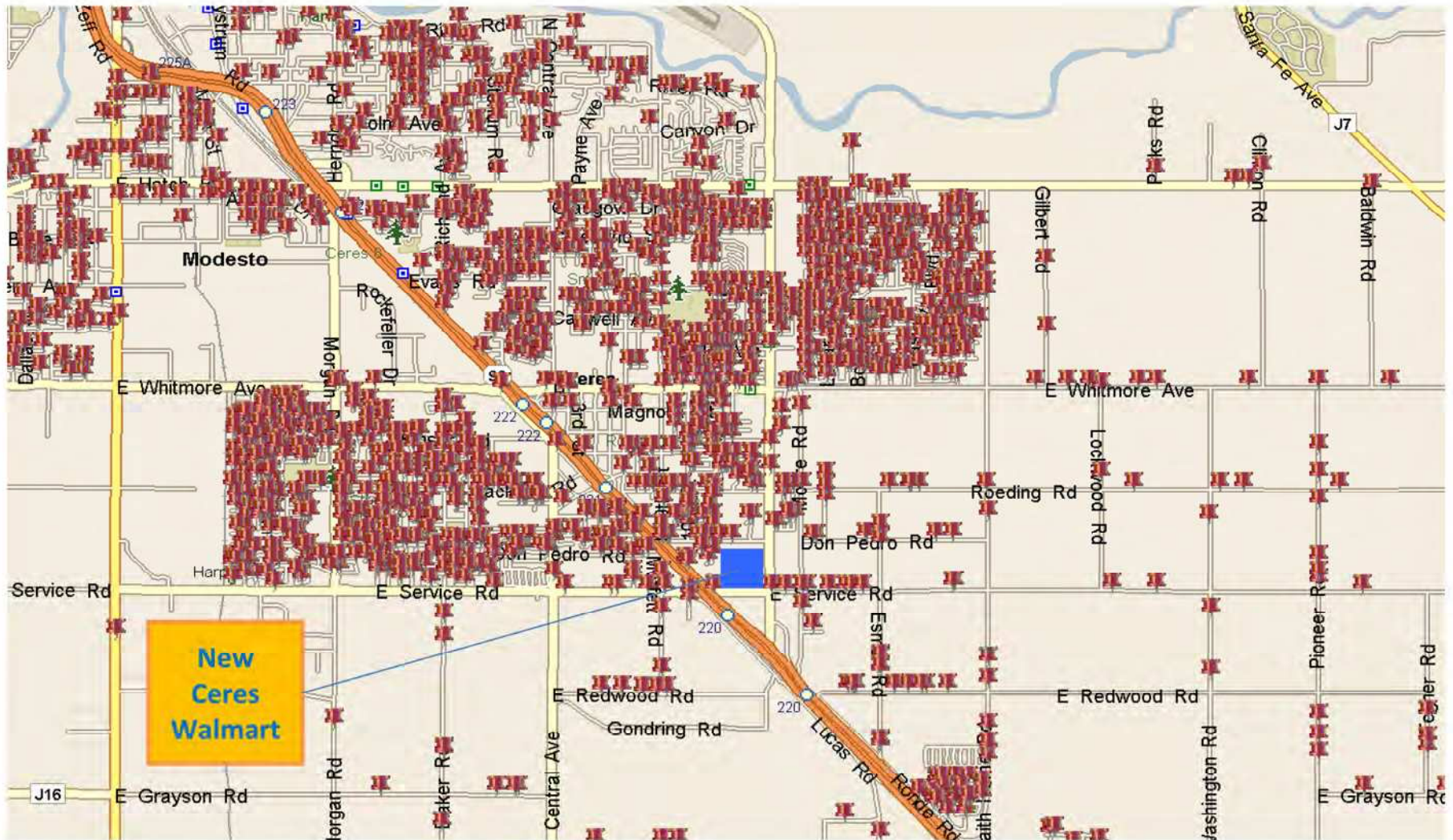
# The Benefits of Walmart are Recognized by Over 10,000 Area Supporters!



**Walmart** 



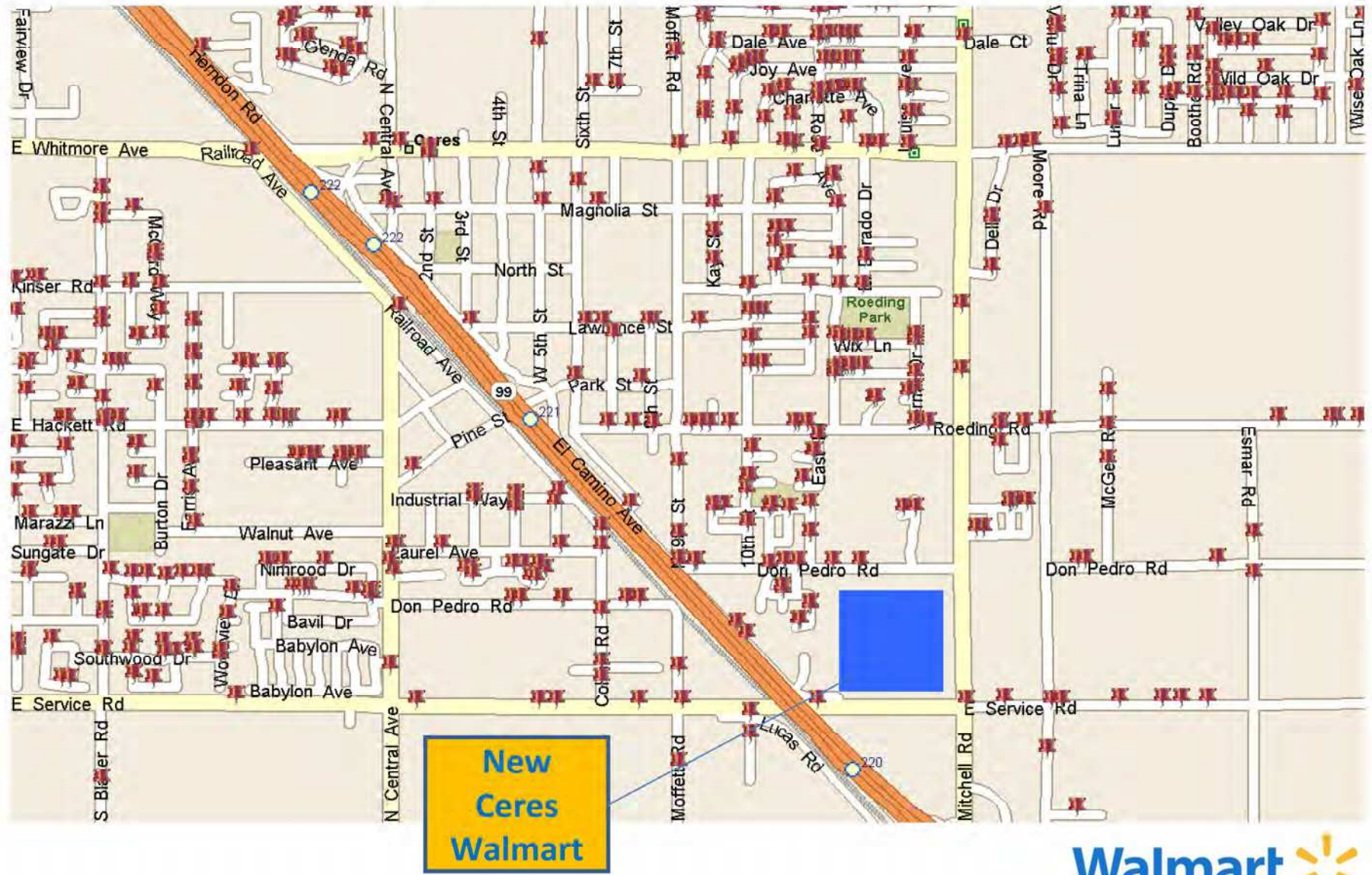
# Ceres Supporter Map – City View



Walmart 



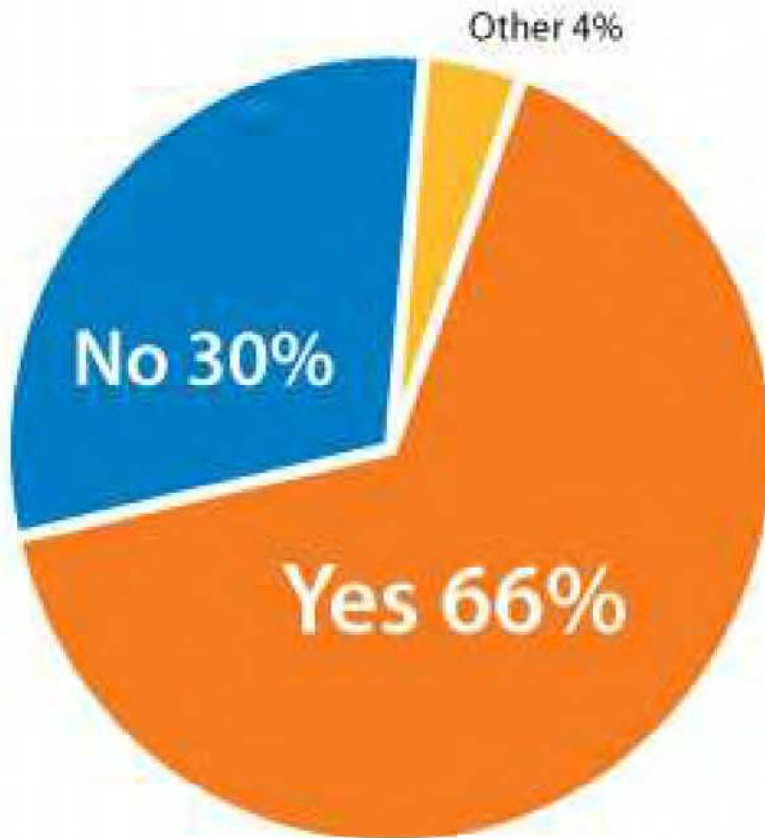
# Ceres Supporter Map – Neighborhood View



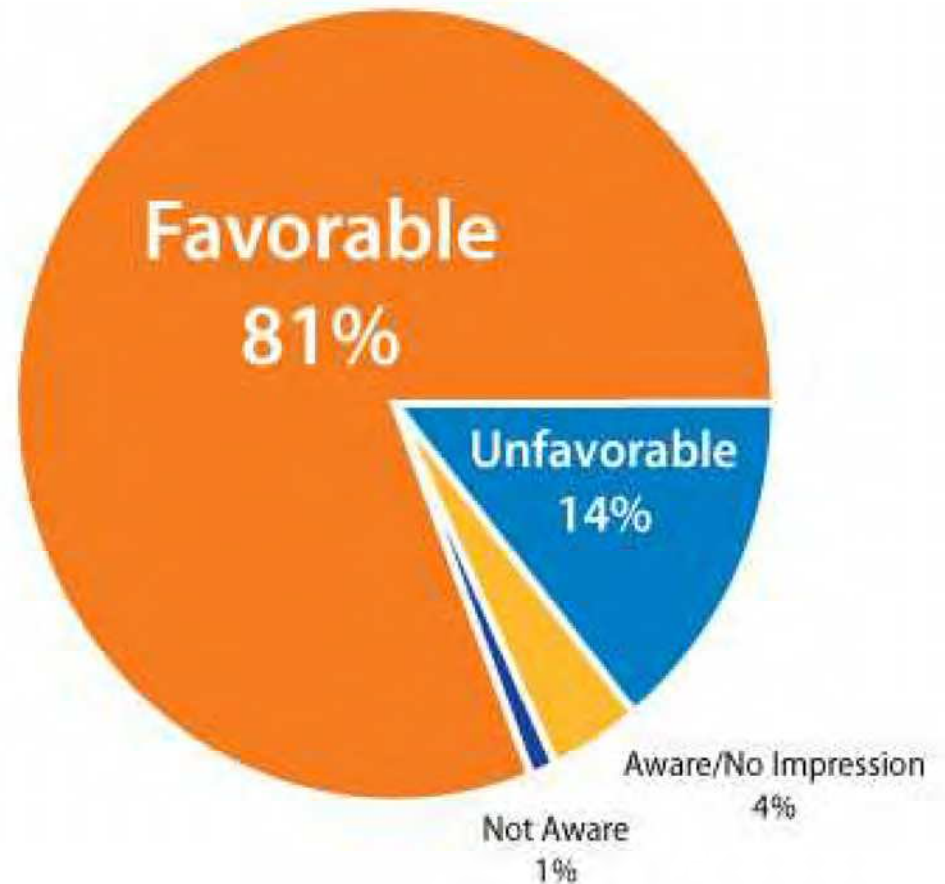
Walmart

## Public Opinion Survey of Ceres Voters

### Support the Walmart Project?



### Impression of Walmart?



Voter/Consumer Research Public Opinion Survey of 301 registered voters in Ceres. August 10-12, 2010. Survey's margin of error is +/- 5.7%.



# Potential Uses











## Walmart – Atwater, CA



## Walmart Sustainability Goals



Be supplied 100 percent by  
renewable energy



Create zero waste



Sell products that sustain  
people and the environment

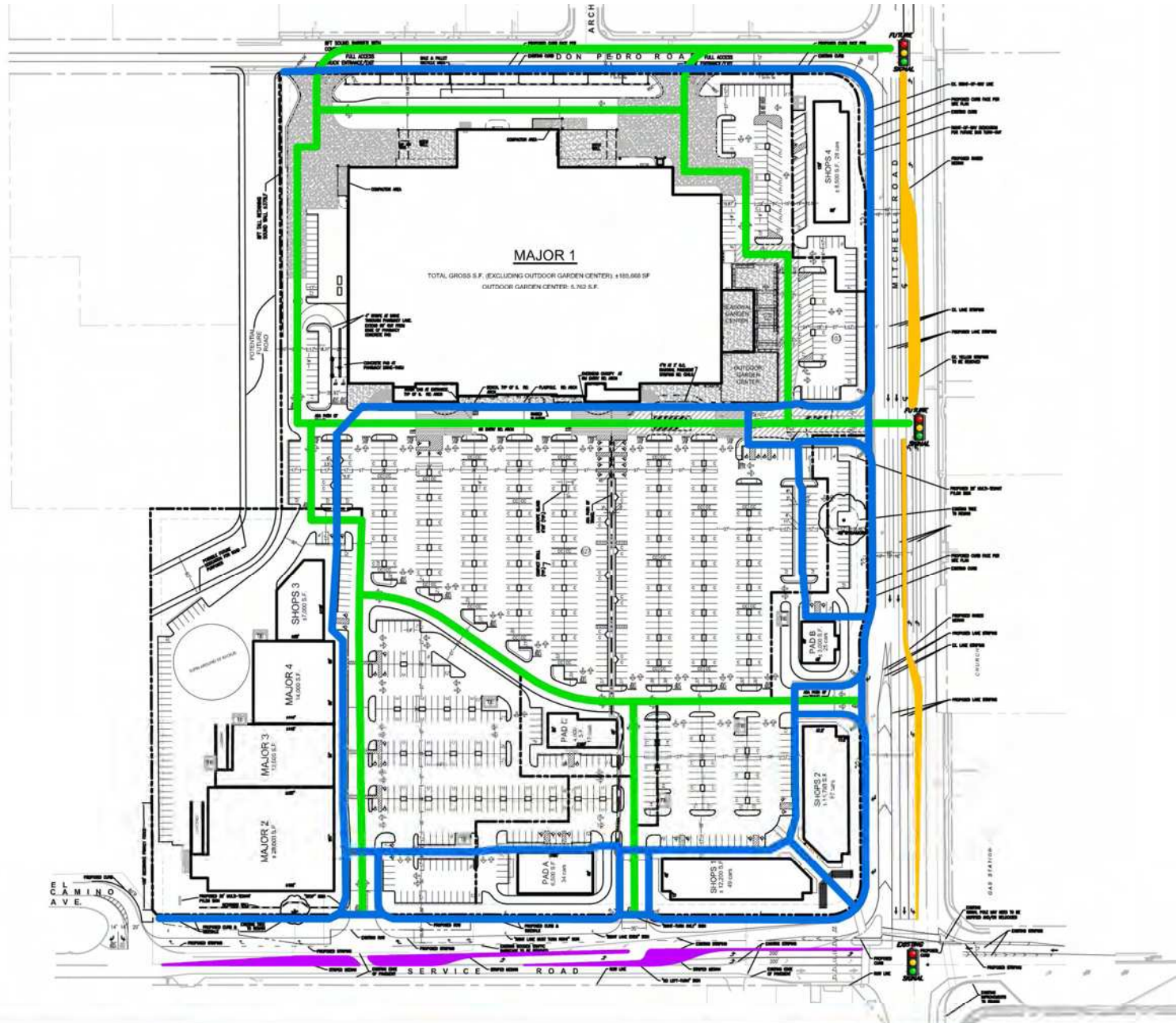












**GreenbergFarrow**

1920 Main St., Suite 1150  
Irvine, CA 92614  
t. 949 296 0450 f. 949 296 0479

**LEGEND**

- RAISED MEDIAN
- STRIPED MEDIAN
- SITE ACCESS



- PEDESTRIAN ACCESS
- TRAFFIC SIGNALS



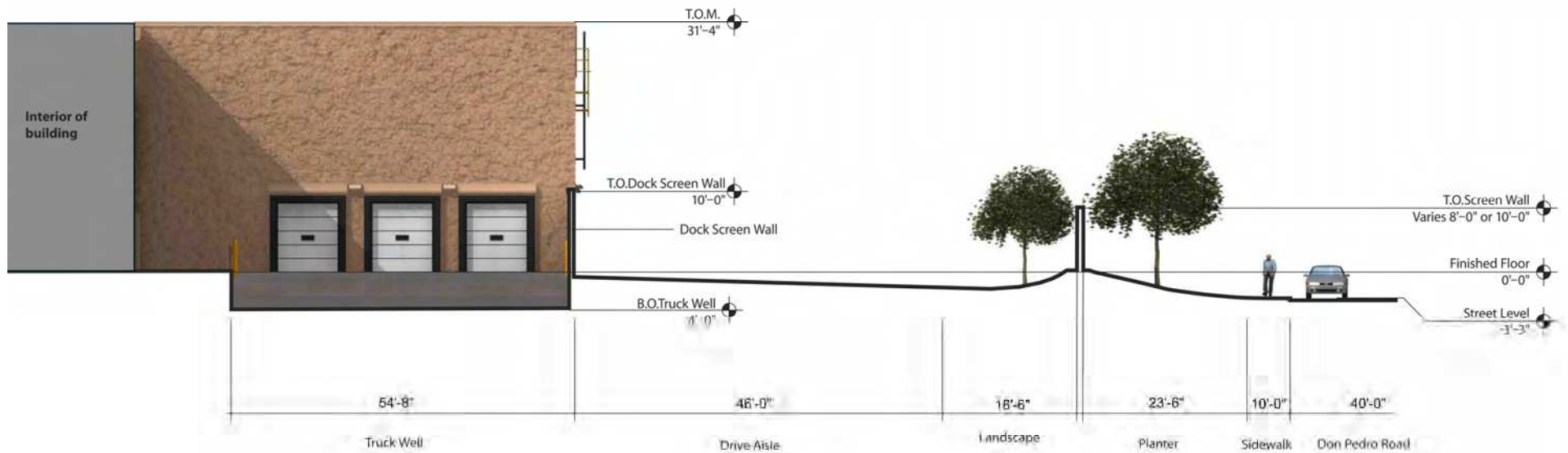
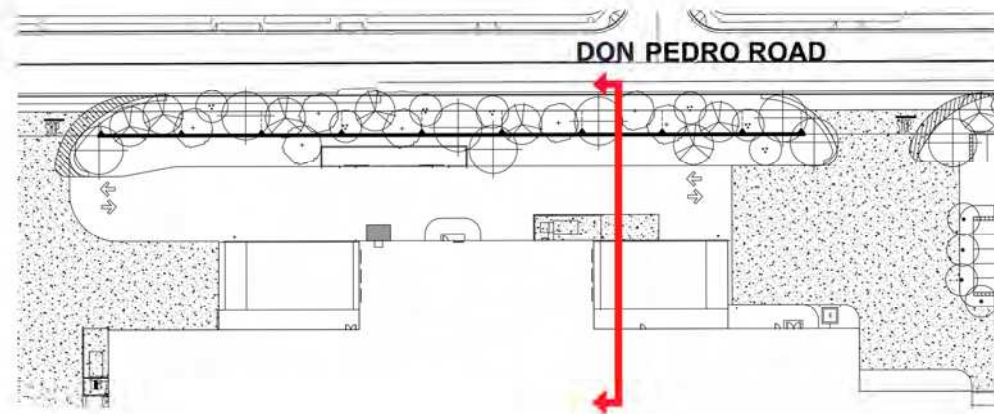
**MITCHELL RANCH CENTER**  
SITE ACCESS & PEDESTRIAN CIRCULATION  
[www.CeresWalmartCAN.com](http://www.CeresWalmartCAN.com)

NOT TO SCALE  
02.17.11









Thank you





# INFORMATION GUIDE FOR THE CERES CITY COUNCIL

## IMPACTS OF THE PROPOSED MITCHELL RANCH CENTER



PREPARED BY:  
**CITIZENS FOR CERES**

---

***MAY 2011***



# **TABLE OF CONTENTS**

- 1. INTRODUCTION: CITIZENS FOR CERES**
- 2. APPEAL LETTER**
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  - Walmart Can Do Better**
  - Can Our Gateway Be More?**
- 4. REDEVELOPMENT AND RELATED BLIGHT, DETERIORATION, DECAY AND OTHER ECONOMIC AND PHYSICAL IMPACTS**
- 5. SCOPE OF COUNCIL REVIEW AND POWER TO DENY PROJECT**
- 6. PROPOSED RESOLUTION DENYING PROJECT**
- 7. SELECT MEDIA/LETTERS TO EDITOR**



# SECTION 1

## INTRODUCTION: CITIZENS FOR CERES





## INTRODUCTION: CITIZENS FOR CERES



Citizens for Ceres is a group of local residents and community leaders who want our decision makers to plan for the benefit of our long-term future and to help Ceres be *great* when making environmental and land use decisions.

We firmly believe allowing Walmart to abandon its existing store and to construct an auto-oriented Supercenter, nearly 200,000 sq. ft. in size, at our community's "gateway," will cause unnecessary and long-term psychological, economic, and physical harm to this community that we all love. We want our existing Ceres Walmart to stay right where it is (although it wouldn't hurt for them to improve their landscaping and update their façade) and we want to see a truly regional-draw, pedestrian friendly lifestyle center located at the project site.

We ask the City Council to undertake an independent review of this Project, and to hold Walmart accountable. We believe that if the City Council performs its due diligence, it will deny the proposed development. Walmart needs this project more than Ceres does. Our community deserves better than what we have been offered.



## SECTION 2

### APPEAL LETTER

**This section includes the Citizens for Ceres' appeal letter signed by no fewer than 95 members. Community opposition to this project is strong and should not be ignored.**



**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Received  
APR 14 2011  
City of Ceres

April 14, 2011

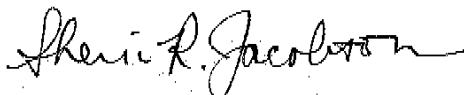
Re: Appeal to the Ceres City Council

Dear Cindy Heidorn,

The *Citizens for Ceres* group, which consists of voters, taxpayers, property owners, merchants, and residents of Ceres, formally appeals the Ceres Planning Commission's April 4, 2011 decisions to certify the environmental impact report, adopt findings, and approved a Conditional Use Permit and Vesting Tentative Subdivision Map for the Mitchell Ranch Center with Wal-Mart as its only specified tenant (these decisions include adopting resolutions 11-03, 11-04, and 11-05) and requests a hearing de novo before the Ceres City Council.

This letter and the \$507 filing fee that accompanies it satisfy the conditions for such an appeal whereby our City Council will hear our concerns that were ignored by the Planning Commission, when the Commission approved the project. The appeal will be based on evidence presented in the record of proceedings, including evidence presented to the Planning Commission during the public hearings, as well as such other information and evidence as we or others may present to the City Council.

Sincerely,



Sherri R. Jacobson  
Group Spokesperson

Enclosure: Eight pages with signatures from members who respectfully request an appeal to the Ceres City Council.

FROM :

FAX NO. :

Apr. 15 2011 03:34PM P3

## **CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Received

APR 14 2011

City of Ceres

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member	Signature
Marsha <del>B</del> Harris	Marsha Harris
Janet Huerta	Janet Huerta
Henryk Wolski	Henryk Wolski
Debbie Wolski	Debbie Wolski
Fred Martinez	Fred Martinez
Maria Barajas	Maria Barajas
LEE BRITTELL	Lee Brittell
Florence Cardenas	Florence Cardenas
Nesue "Tony" A. Cardenas	Nesue Cardenas
Billy & Shasi Farmer	Billy & Shasi Farmer
Richard & Chris Designori	Richard & Chris Designori
Anthony Dutra	Anthony L. Dutra
Carol Dutra	
Robert Guinn	Linda Guinn

**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Received

APR 14 2011

City of Ceres

Received

A 4 1

City of Ceres

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member

Signature

Mabel Porter	Mabel Porter
James R. Vineyard	James R. Vineyard
NARINDER SANDHU	Narinder Sandhu
Angela Amant	Angela Amant
Carlos Vizcaino	Carlos Vizcaino
EARAND STANSLAW	Earand Stanslaw
Joye Sato	Joye Sato
NIRMAL SINGH	Nirmal Singh
Deana Rushon	Deana Rushon
HAMMID ALGASLI	Hammid Algassli
Rocky Fisher	Rocky Fisher
ALIF KHAN	Alif Khan
Ben Reed	Ben Reed
Heather Reed	Heather Reed



**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Received

APR 14 2011

City of Ceres

Cindy Heidorn, City Clerk  
 City of Ceres  
 2720 Second Street  
 Ceres, CA 95307

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 an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member	Signature
JON OTTERSBACH	[Signature]
GERALDINE M. OTTERSBACH	[Signature]
Betsy Berryhill	[Signature]
Roch Crowder	[Signature]
GARY M CROWDER	[Signature]
Trina Perez Berryhill	[Signature]
Linda Bea Schuckman-Yori	[Signature]
Phillip m yori	[Signature]
Fred M Yori	[Signature]
Mitchell M Yori	[Signature]
Gary Marchi	[Signature]
Lisa Shaneck	[Signature]
Kenya England	[Signature]
DEAN SHAI BI	[Signature]

**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

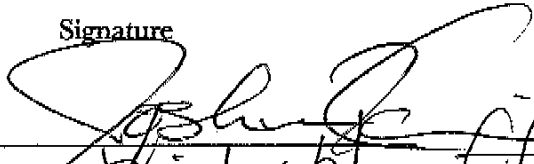
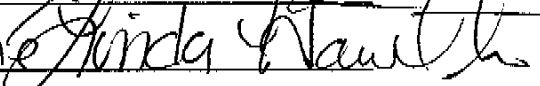
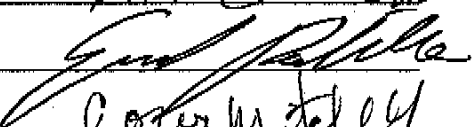


Received

APR 14 2011

City of Ceres

Cindy Heidorn, City Clerk  
 City of Ceres  
 2720 Second Street  
 Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
 an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member	Signature
Joshua Kaser	
Linda Hawthorne	
Beverly Byrum	Beverly Byrum
Louie K. Saldaña	Sonia K. Saldaña
Jimmy Liu	JIMMY LIU
DANIEL CALDERA	Daniel Caldera
Karl Curran	Karl Curran
Emanuel Padilla	
Corey Mitchell	Corey Mitchell
Anthony Bradford	Anthony Bradford
Ben Liu	LIU BEN
John Wong	JOHN WONG
Jeremy Rogers	
William Jenkins	

**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Received  
APR 14 2011  
City of Ceres

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member

Signature

Arnold K. Raby	Arnold K. Raby
Enequina MITCHELL	Enequina Mitchell
Andy Azevedo Jr.	Andy Azevedo Jr.
ANDY AZEVEDO SR.	Andy Azevedo Sr.
Brian Wood	Brian Wood
Stephanie Osorio	Stephanie Osorio
Keith Thomas	Keith Thomas
DEANIS GARCIA	Deanis Garcia
Gress Helm	Gress Helm
Joe Ruston	Joe Ruston
Albert Puentes	Albert Puentes
Rosalinda Puentes	Rosalinda Puentes
Thaila Gomez	Thaila Gomez
RONALD PETERSON	Ronald Peterson

FROM :

FAX NO. :

Apr. 15 2011 03:37PM P8

## ***CITIZENS FOR CERES***

P.O. BOX 2523, CERES, CA 95307

Received  
APR 14 2011  
City of Ceres

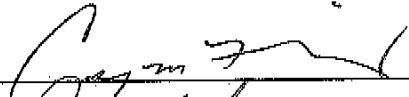
Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member

Signature

CASEY Fleming



Bob Gertner



MOO Dano

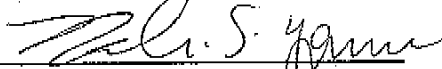
BROUGHTON MATTHEW

Anita Cabellas

Anita Cabellas

Lawrence Martinez

Nahren Youpan



Betha DeLeon

Betha DeLeon

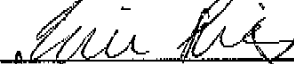
REGINALD Burnette

Reginald Burnette

Marlene Burnette

Marlene Burnette

ERIK RUIZ



Jeanne Armatis

Jeanne Armatis

1039

**CITIZENS FOR CERES**

P.O. BOX 2523, CERES, CA 95307

Received

APR 14 2011

City of Ceres

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member	Signature
Jackie Germann	Jackie Germann
Wendel Trinkler Jr	Wendel Trinkler Jr
Heide Trinkler	Heide Trinkler
ANDY GERMAN	Andy German
Rosie Simas	Rosie Simas
Robb D. Simas	Robb D. Simas
JONATHAN EVANS	Jonathan Evans
RICK RUSHTON	Rick Rushton

FROM :

FAX NO. :

Apr. 15 2011 03:38PM P10

## ***CITIZENS FOR CERES***

P.O. BOX 2523, CERES, CA 95307

Cindy Heidorn, City Clerk  
City of Ceres  
2720 Second Street  
Ceres, CA 95307

Received  
APR 14 2011  
City of Ceres

Below are signatures of *Citizens for Ceres* members who respectfully request  
an appeal to the Ceres City Council, regarding Mitchell Ranch Center.

Name of Member

Signature

Michiko Eschke

Michiko Eschke

Jeannette Rudel

Jeannette Rudel





# SECTION 3

## WRONG PROJECT FOR CERES' GATEWAY



## **WRONG PROJECT FOR CERES' GATEWAY**

**The Mitchell Ranch Center site will serve as the Southern Gateway to Ceres for decades to come.**

**The overarching question that must be addressed as part of the Council's decision-making process, is whether Walmart's proposal is the appropriate gateway project for our community.**

**Do we want Ceres' name to be associated with this ubiquitous, cookie-cutter, auto-oriented, big-box development and look like any other Central Valley town along Highway 99? Or, do we want our gateway to be enticing, aesthetically pleasing, smart, environmentally progressive, sophisticated, and reflective of our rich agricultural history and our desire to keep our close-knit community ties?**

**We have a choice to look like "everytown" USA, or a choice to create a monument to Ceres that sets ourselves apart, promotes future business, and complements the rest of the city.**





## **WE DON'T NEED COOKIE-CUTTER ARCHITECTURE**

In short, Walmart tells us their project brings upscale “contemporary” architecture to the community. In reality, what they are really presenting is their standard, unremarkable design, currently being employed throughout the State.

Attached are photos and renderings of the proposed store and five approved or proposed Valley Walmart projects bearing nearly identical architecture to the “contemporary” look proposed for our gateway:

- Kerman
- Southeast Fresno
- North Fresno
- Atwater
- Elk Grove
- Folsom

Is this how we want to define Ceres?



# Architecture of Proposed Ceres Walmart Supercenter

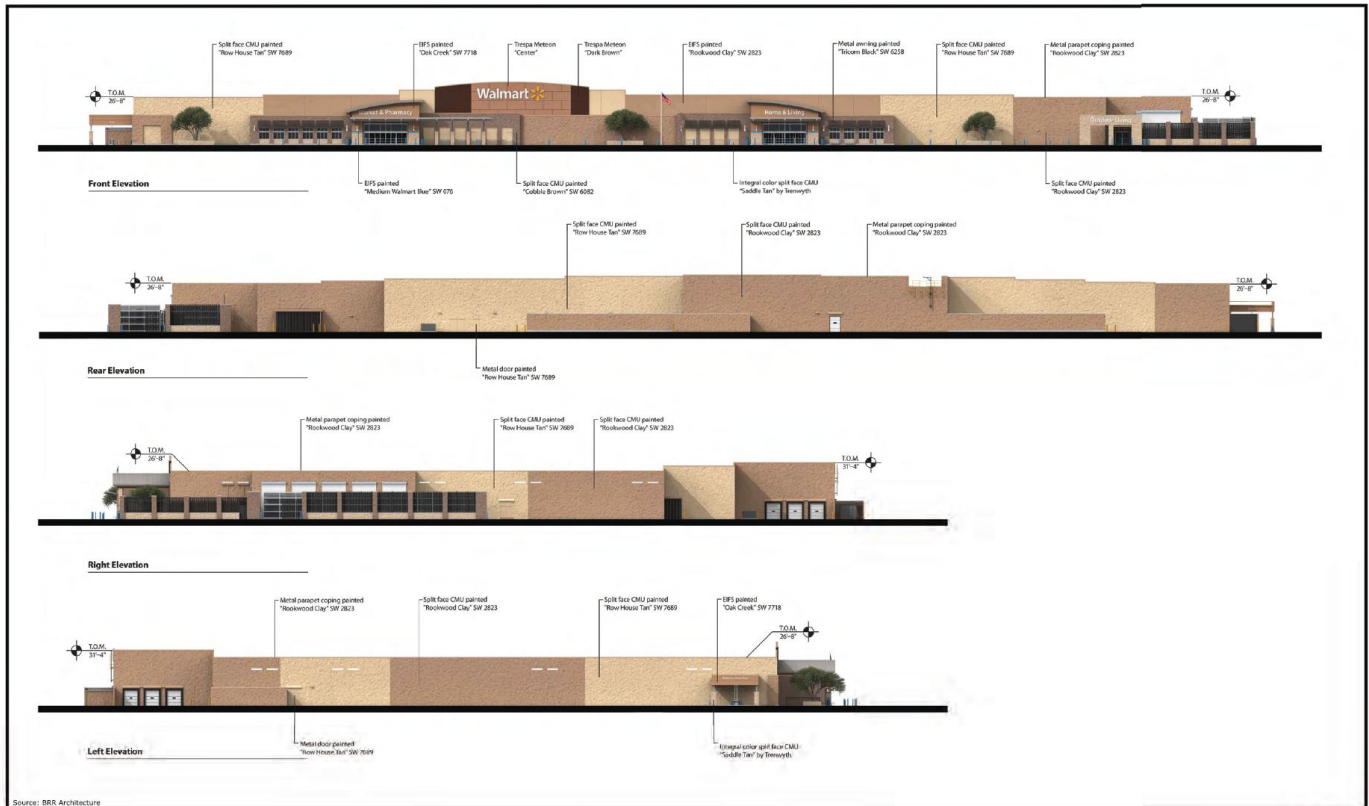


Figure 4.1-8  
Proposed Elevations: Major I  
PMC

4.1-17



## Architecture of Kerman Walmart Supercenter



## Architecture of Southeast Fresno Walmart Supercenter





## Architecture of North Fresno Walmart Supercenter



## Architecture of Atwater Walmart Supercenter





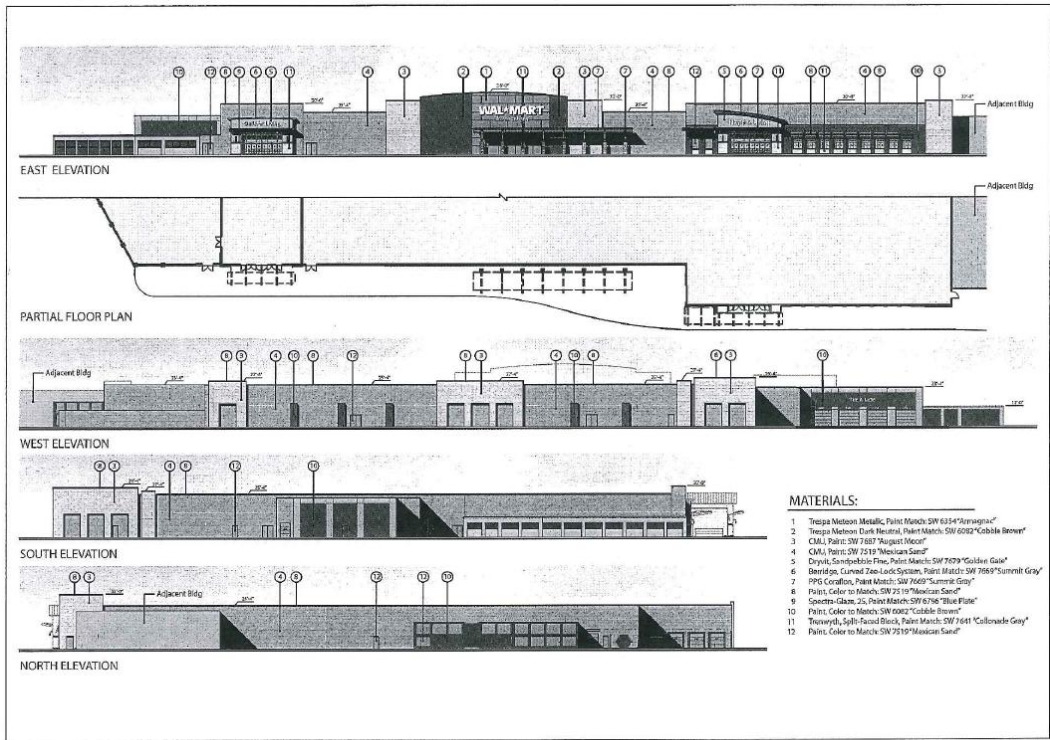
# Elk Grove Walmart Architecture



ENTRY PERSPECTIVE

Architectural renderings are subject to the approval of the City of Elk Grove

# Folsom Walmart Architecture



SOURCE: Perkowitz & Ruth Architects, 2008

Proposed Wal-Mart Expansion  
Figure 4

## **WALMART CAN DO BETTER**

The Planning Commission expressed concern about the cookie-cutter design and continued its hearing so that Walmart could provide additional architectural options for consideration – including designs it had proposed or used in other communities. Unfortunately, Walmart did not comply with the Planning Commissioner’s request. Instead, Walmart insisted that the Planning Commission consider only the existing “contemporary” design and did not provide other options (beyond modifying the faux-stone veneer).

Remarkably, Walmart does have several other store designs readily available. A quick internet search reveals that when a community demands more of Walmart than the bare minimum, Walmart will provide more upscale designs.

A few upscale Walmart design examples include:

- Chicago, IL
- Washington, DC
- American Canyon, CA (Napa)
- Hood River, OR
- Poway, CA (San Diego)
- Woodland Park, CO

If Walmart wants to be at Ceres’ gateway, among other things, it should provide top-notch architectural options to the community.



## Chicago Walmart Rendering



## Washington D.C. Walmart Rendering



## American Canyon, CA Walmart Supercenter



## Hood River, OR Walmart Supercenter





## Jacksonville, FL Walmart Supercenter



## Poway, CA Walmart Rendering



## Can Our Gateway Be More?

When it comes to regional shopping centers there are many kinds to consider.

Of course there are “**big-box**” **superstores** like the supercenter which focus on car-oriented “one stop shopping” but there are certainly other choices. These stores are usually free-standing and occasionally have pads for a fuel station and/or fast food.

For example, traditional **indoor shopping malls** like Vintage Faire in Modesto cluster numerous large and small (usually chain) retailers in a single location with several large department store anchors with the intent of patrons parking in a single location and traversing the mall on foot. These malls typically have sit-down restaurants inside and around the perimeter.

There are also so-called “**power centers**” which usually combine numerous big box retailers in a single center. These are very vehicle-oriented and typically see patrons driving from store to store in the center. These developments typically have some fast food restaurants within the development. An example of this can be seen at Monte Vista Crossing in Turlock or Park West Plaza in Stockton.

**Outlet malls** typically include several stores retailing their own name-brand clothing/items at discount prices. The goods are often either outlet-specific, prior season, or “second” quality items. Such outlet malls are typically spaced 50+ miles apart and draw shoppers from long distances by car. They sometimes cover multiple quadrants of a single intersection. Examples include the Tracy Outlet Mall, Folsom Premium Outlets, and Gilroy Premium Outlets.

Finally, and what we believe would be most fitting for Ceres, is the **lifestyle center** concept. Lifestyle centers are the anti-big-box – bringing together multiple small and mid-sized specialty retailers and restaurants (both local and chain) in a pedestrian-oriented setting. Lifestyle centers are adept at capturing retail leakage and drawing customers. They provide variety, facilitate socialization and encourage walking. They typically include several sit-down restaurants. This is a traditional concept that is now being adapted for 21 century living. A traditional example of this Palo Alto’s Town & Country Village. More modern examples include Simi Valley’s Town Center and Stockton’s Stone Creek Village discussed on the following pages.





## Simi Valley Town Center



Pedestrian-oriented lifestyle center and gathering place.





## STONE CREEK VILLAGE (STOCKTON)

- Built in 2007 as rehabilitation of aged and decaying Kmart shopping center.



- Developer's surveys revealed Stockton not losing business in low-end/discount merchandise (already available in town) but in higher end/specialty goods.
- Developer worked with City to put together premier shopping destination which includes numerous specialty stores and restaurants:

### Retailers

- REI (outdoor store)
- Jos. A. Bank (men's clothing)
- Ann Taylor Loft (women's clothing)
- Coldwater Creek (women's clothing)
- Roger Dunn Golf (local upscale golf store)
- Talbot's (women's clothing)
- J. Jill (women's clothing)
- Peck's Jewelers (local upscale jeweler)
- Gymboree (children's clothing)
- Regalo Bello (local home décor)
- Salon Avanti (local hair salon)
- Hands On (education supply store)

### Restaurants

- BJ's Brewhouse (sit-down restaurant)
- Mimi's Café (sit-down restaurant)
- De Vega Bros (sit-down restaurant)
- Peet's Coffee & Tea
- Rubio's baja grill
- Boudin SF
- Five Guys Burgers
- Nubi frozen yogurt

[Compare to Stockton's Walmart Supercenter which includes only fast food (McDonald's) and fueling (Chevron) pads]

## ***STONE CREEK VILLAGE***



***“Our surveys and studies indicated that the retail sales leakage that was occurring in this city was not at the mass-merchandising level – it’s at the top end. The people who are going outside of the City to shop at retailers who are not represented here currently and generally are at the upper end of the spectrum.”***

*-Jay Allen, developer of Stone Creek Village addressing the Stockton City Council on August 14, 2007 in support of Ordinance No. 018-07 CS, which prohibits superstores.*





## STONE CREEK VILLAGE



*“The largest roadblock we have faced with every single retailer we have talked to is their perception of the city...The uniform response is ‘Stockton is a Walmart city. We don’t belong there.’ And we have had to work very hard in order to show them demographically that this community is not what they think it is. That they do have the potential to be successful here.”*

*-Jay Allen, Stone Creek Village developer, addressing the Stockton City Council on August 14, 2007.*





## ***STONE CREEK VILLAGE***



***“Drive around this community and look at all the large square foot stores that have close over the last 10 years. In every instance, save [the Kmart replaced by Stone Creek Village] it has always been replaced with a lesser use. In every situation. And I think that’s typical of what occurs everywhere. Assessed value goes down. Property taxes go down. Retail sales go down depending upon the type of tenant...”***

***-Jay Allen, Stone Creek Village developer, addressing the Stockton City Council on August 14, 2007.***



**SECTION 4**  
**REDEVELOPMENT AND RELATED**  
**BLIGHT, DETERIORATION, DECAY AND**  
**OTHER ECONOMIC AND PHYSICAL**  
**IMPACTS**



## **REDEVELOPMENT AND RELATED BLIGHT, DETERIORATION, DECAY AND OTHER ECONOMIC AND PHYSICAL IMPACTS**

The EIR concludes that the Project has the potential to cause significant urban decay and physical deterioration impacts resulting from the closure of competing businesses, as well as increased retail vacancies from the relocation of the existing Walmart store located at Hatch Rd. and Mitchell Avenue to the Project site but concludes that Mitigation Measure 4.5.1 will reduce the impact of urban decay and physical deterioration to a level of less than significant.

### **Vacant Grocery Stores**

Mitigation Measure 4.5.1 only addresses physical deterioration impacts from the vacant Walmart store and does not address impacts from other closed anchor stores such as the Food-4-Less supermarket located across the street from the vacant Walmart store, Save Mart, and Richland Market which the EIR identifies as “most at risk” of closure resulting from the Project. The closure of one or more of these grocery stores would be significant, not only in terms of creating vacancies, but also in terms of eliminating close and convenient shopping opportunities for established neighborhoods near these supermarket anchor stores.

### **Deferred Mitigation**

The mitigation measure is ineffective and improperly defers formulation until after the project is approved by requiring Walmart to come back to the Council for approval at a later date.

### **Retail Synergy**

In order to effectively mitigate impacts the mitigation measures must, at a minimum, ensure the same synergistic level of operation that currently occurs at the intersection and such mitigation measure(s) must be included in the EIR.

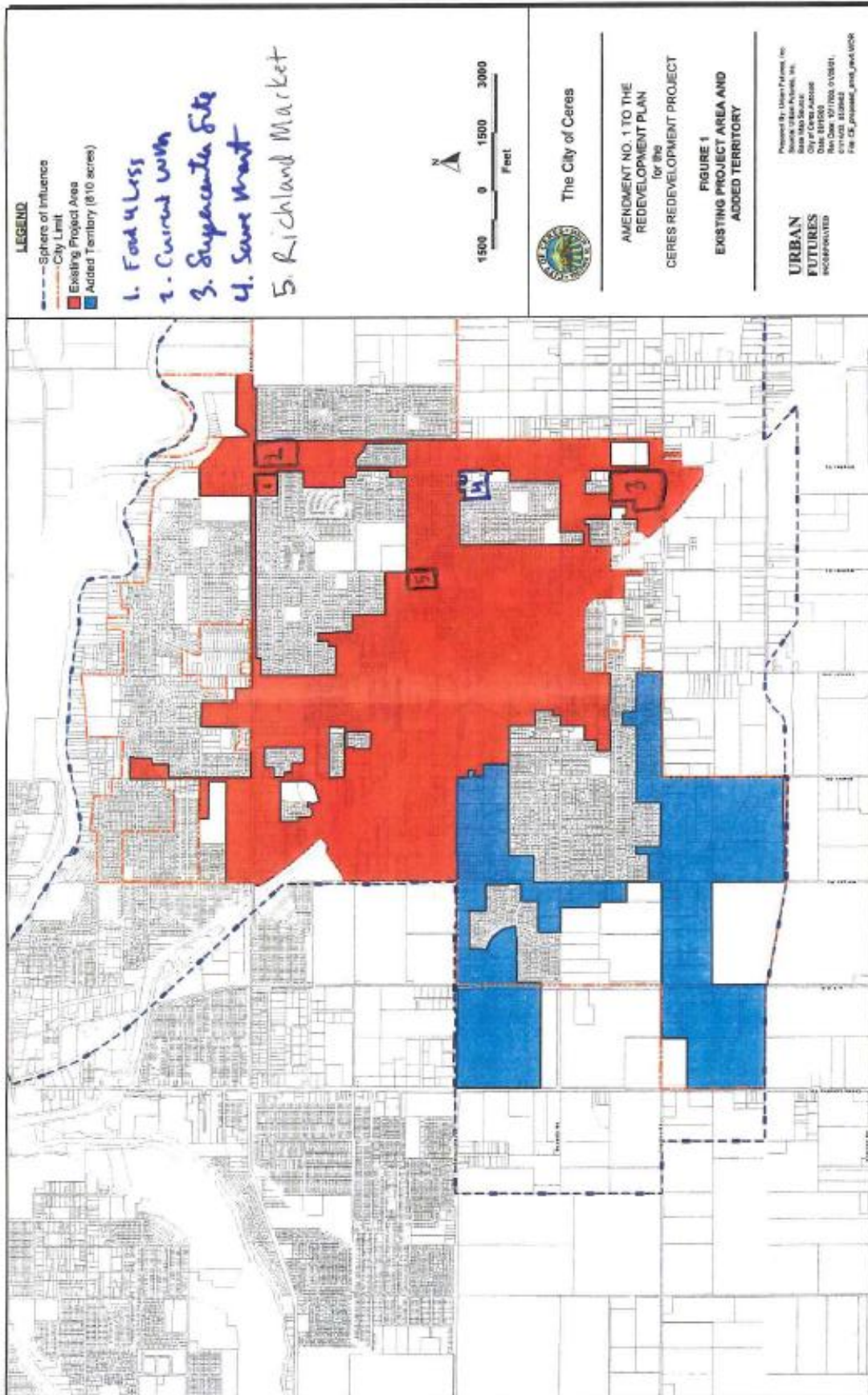
### **EIR Ignores Redevelopment and Blight**

Most surprisingly, the EIR fails to address the Project’s impacts on existing blight identified by the Ceres Redevelopment Agency.

Chapter 4.5 of the EIR is called “Economics and Blight” yet completely fails to disclose the fact that Ceres has adopted two Redevelopment areas totaling several hundred acres (see following page).

In establishing these redevelopment areas the City Council acting as the City’s Redevelopment Agency found that the areas suffered from both physical and economic blight as defined by the Health and Safety Code.

Of course, physical blight includes deterioration and urban decay and is substantially similar to these physical impacts. Therefore, any environmental impact analysis of blight or decay must identify and consider blighted areas that may be impacts by the Project. The existing Walmart store, the existing Food-4-Less store, and the existing Richland Market all sit in the existing blighted Redevelopment area. Yet the EIR omits any discussion of blight and redevelopment efforts. The analysis is simply incomplete.







**SECTION 5**  
**SCOPE OF COUNCIL REVIEW AND**  
**POWER TO DENY PROJECT**



## **THE POLICE POWER**

The City regulates planning and zoning decisions under its police power. Article XI, §7 of the California Constitution confers police power upon the cities to enact and enforce planning and zoning provisions. The United States Supreme Court holds zoning regulations do not violate the U.S. Constitution. *Village of Euclid v. Ambler Realty Co.* (1926) 272 U.S. 365.

## **DE NOVO REVIEW**

The City Council considers the appeal “de novo.” The Council does not review the Planning Commission’s decision for correctness but instead considers the Project and EIR on their merits. The Council receives new written and oral testimony from the parties and the public and must affirmatively adopt all required findings prior to approving the Project. *Vedanta Society of So. California v. California Quartet, Ltd.* (2000) 84 Cal. App. 4th 517.

## **CEQA FINDINGS**

Regardless of the merits, benefits, or desirability of a project, a public agency must comply with CEQA prior to approving a project.

### **EIR Certification**

*Prior to approving a project for which an EIR has been prepared, the City Council must certify in writing that (1) the EIR has been completed in compliance with CEQA, (2) the EIR has been presented to and reviewed by the City Council, and (3) the EIR reflects the independent judgment and analysis of the City Council (CEQA Guidelines §15090). The inability to make these findings prevents the Council from certifying the EIR or approving the project.*

- *Example: If an EIR omits analysis of an obvious physical condition in a community which will be impacted by a project, such as blight, it has not been completed in compliance with CEQA.*



### **Environmental Impacts**

*The City Council must also adopt findings regarding the significance of each of the Project's environmental impacts and the effectiveness of each proposed mitigation measure (CEQA Guidelines §15091). The inability to make these findings prevents the lead agency from approving the project.*

- *Example: If the Council disagrees with the EIR's conclusions that the Project's potential to close one or more anchor stores in the community is not-significant and need not be mitigated by the project proponent, it cannot make findings that the impacts are sufficiently mitigated.*

### **Overriding Considerations**

*Where the Project will result in significant and unavoidable impacts, the City Council cannot approve the Project unless it approves in writing findings specific economic, social, or legal benefits of the project outweigh its environmental impacts (CEQA Guidelines §15093). This is called the "Statement of Overriding Considerations" and these findings must be supported by substantial evidence. *Sierra Club v. Contra Costa Co.* (1992) 10 Cal.App.4th 1212.*

*"There is a sort of grand design in CEQA: Projects which significantly affect the environment can go forward, but only after the elected decision makers have their noses rubbed in those environmental effects, and vote to go forward anyway." *Woodward Park Homeowners Association v. City of Fresno* (2007) 150 Cal.App.4th 683.*

*If the City Council disagrees that one or more of the alleged benefits of the Project (as articulated by the consultants) justify approving the Project, the City Council cannot adopt the statement of overriding considerations. Likewise, if the Project's alleged overriding considerations/benefits are not supported by substantial evidence, the City Council cannot adopt the statement of overriding considerations.*

- *Example: If the City Council disagrees that the Project will be an attractive gateway development or believes that the Project is unlikely to provide a net increase in sales tax*

*revenues or jobs, the overriding considerations cannot be made.*

**CEQA Findings Not Necessary to Deny Project**

*A City need not complete or certify an EIR for a project with the City denies. Las Lomas Land Co., LLC v. City of Los Angeles (2009) 177 Cal. App. 4th 837.*

**LAND USE FINDINGS**

The mere fact that the Project site has a commercial zoning designation does not mean that this Project is authorized by right. Rather, through its municipal code, the City Council has determined that the Project is subject to additional review through a conditional use permit process.

**Use Permit Findings**

*Ceres Municipal Code §18.50.200 sets forth specific findings that the City Council must make prior to approving the Project's conditional use permit.*

- *That the site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Title to adjust the use with land and uses in the neighborhood;*
- *That the site for the proposed use related to streets and highways is adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*
- *That the proposed use will have no adverse effect on abutting property or the permitted use thereof;*
- *That the conditions stated in the decision are deemed necessary to protect the public health, safety and general welfare.*

*A majority of the City Council must make all of these findings in order to approve the Project.*

## **SUBDIVISION MAP FINDINGS**

The Project also includes a vesting tentative subdivision map, regulated by the state Subdivision Map Act. Pursuant to section 66474 of the Government Code, the City Council must deny Walmart's vesting tentative subdivision map under any of the following applicable situations:

- Project is inconsistent with the General Plan
- Site is not physically suitable for the proposed development
- The site is not suitable for the proposed density of development.
- The Project will cause substantial environmental damage
- The Project will cause serious impacts to public health

Any single situation presented above necessitates the City Council deny the Project.

## SECTION 6

### PROPOSED RESOLUTION





RECORDING REQUEST  
BY: CITY OF CERES

When Recorded mail to

City of Ceres  
Planning Division  
2220 Magnolia  
Street Ceres, CA  
95307

**D R A F T**  
**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CERES REJECTING  
CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT AND DENYING  
THE MITCHELL RANCH CENTER PROJECT**

APPLICANT/  
PROPERTY OWNER: Walmart Real Estate Business  
Trust ATTN: Real Estate  
Manager  
2001 SE 10<sup>th</sup> Street  
Bentonville, AR 72716

APPLICANT'S  
REPRESENTATIVE: Greenberg Farrow  
ATTN: Howard Hardin  
1920 Main St., Suite  
1150 Irvine, CA 92614

SITE LOCATION: 2872 Don Pedro Road, 3901 Mitchell Road, 2827, 2829  
and 2873 Services Road, Ceres, CA, 95307

APN'S: 053-012-068 and 053-013-016, -017, -018, and -019

**WHEREAS**, the Mitchell Ranch center project proposes to develop a retail center that is approximately 299,830 square feet, anchored by an approximately 191,430 square foot Walmart store, including an approximately 5,762 square foot garden center, and ten other commercial buildings tenanted by junior anchor stores, small-scale retail stores and sit-down and fast-food restaurants ("Project"). The project site is located within the City at the northwest corner of the intersection of Mitchell Road and Service Road and consists of five parcels (APNs 053-012-068 and 053-013-01.6 through -019) totaling 26.3 acres. The project approvals include a conditional use permit ("CUP") and a vesting tentative subdivision map ("VTSM") that would recombine the existing parcels into seven new parcels; and

**WHEREAS**, the City prepared an Initial Study for the Project consistent with CEQA Guidelines section 15063 and determined that an Environmental Impact Report (hereafter "EIR") was required in order to analyze significant impacts associated with the project; and

**WHEREAS**, in accordance with Sections 15063 and 15082 of the CEQA Guidelines, the City prepared an Initial Study and Notice of Preparation ("NOP") of an Environmental Impact Report and filed them with the Office of Planning and Research ("OPR") on September 5, 2007. The Initial Study and NOP were circulated to the public, local and state agencies, and other interested parties to solicit comments on the project; and

**WHEREAS**, based on the Initial Study and responses to the Notice of Preparation, the City prepared a Draft EIR and circulated the for a 45 day public review period on May 19, 2010. Copies of the Draft EIR were available at the City offices and the local public library. In addition, the Draft EIR was made available on the City's website and Project information was made available in PDF format or on CD by request; and

**WHEREAS**, a formal Notice of Completion ("NOC") of the Draft EIR was prepared and circulated on May 19, 2010, as required by CEQA. The NOC was circulated to responsible agencies, adjacent property owners and interested parties, including any person who filed a written request for such a notice; and

**WHEREAS**, the public comment period for the Draft EIR ran from May 19, 2010 through July 6, 2010; and

**WHEREAS**, the City received numerous comment letters from the public and public agencies during the public review period. The City prepared a Final EIR dated November 2010, containing written responses to comments received during the public review period; and

**WHEREAS**, the Final EIR was released to the public and public agencies at least ten days prior to the Planning Commission hearing on the Project; and

**WHEREAS**, a Staff Report, dated February 22, 2011, and incorporated herein by reference, described the project and the environmental issues raised by the EIR for and the Project for the Planning Commission; and

**WHEREAS**, the Planning Commission reviewed the Staff Report, and the EIR and related public oral and written comments at a noticed public hearing on February 22, 2011, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at the close of that February 22, 2011 public hearing, the Planning Commission voted unanimously to continue the matter to April 4, 2011; and

**WHEREAS**, a supplemental Staff Report, dated April 4, 2011, and incorporated herein by reference, included further discussions on Design and Aesthetics, Security, Traffic, Hours of Delivery, Economics and Blight, Re-tenanting vacant buildings, Site Design as Related to Don Pedro Road, Trash Pickup and revised conditions of approval for the Project; and

**WHEREAS**, the Planning Commission reviewed the supplemental Staff Report and received public oral and written comments at the continued public hearing on April 4, 2011, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at the close of that April 4, 2011 public hearing the Planning Commission

voted 3-1 to certify the EIR, adopt findings, and approve the Project; and

**WHEREAS**, Citizens for Ceres timely appealed the Planning Commission's decision on April 14, 2011 ("Appeal"); and

**WHEREAS**, on May 23, 2011 the City Council conducted a hearing on the Project and received oral and written comments on the Project; and

**WHEREAS**, the properties affected by this resolution are located at: 2872 Don Pedro Road, 3901 Mitchell Road, 2827, 2829 and 2873 Services Road, Ceres, CA, 95307; and,

**WHEREAS**, properties affected by this resolution are described as: The land referred to herein is situated in the State of California, County of Stanislaus, City of Ceres.

Parcel 1: APN: 053-012-068 — Parcel "B" in the City of Ceres, County of Stanislaus, State of California, as shown on the certain Parcel Map filed June 7, 1977 in Volume 25 of Parcel Maps at Page 36, Stanislaus County Records.

Parcel 2: APN: 053-013-016 — Parcel "B" in the City of Ceres, County of Stanislaus, State of California, as shown on the certain Parcel Map filed April 16, 1968 in Volume 5 of Parcel Maps at Page 51, Stanislaus County Records.

Parcel 3: APN: 053-013-018 — The East 82 feet of the South half of Lot 39 of Smyrna Park Tract, in the City of Ceres, County of Stanislaus, State of California, according to the Official Map thereof, filed in the office of the recorder of Stanislaus County, California, on February 21, 1903 in Volume 1 of Maps, at Page 79 (measured from the North line of Service Road running along the South boundary of said Lot 39). Excepting therefrom that portion conveyed to the State of California by Deed recorded December 17, 1962 in Book 1817 Page 315 of Official records, described as follows: Beginning at a point that lies North 89° 52' 43" West 739.84 feet and North <sup>00</sup> 07' 17" East, 18.04 feet from a 1-inch iron pipe set in the ground to mark the Section corner common to Sections 13, 14, 23 and 24, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, said point also being the intersection of the Northerly right of way line of Service Road (a county road 40 feet in width) and the Easterly line of that certain parcel of land as described in Deed to Durwood H. Simms, et ux, dated September 10, 1935 and recorded September 12, 1935 in Volume 569 of Official Records, page 372 Stanislaus County records; thence along said Easterly line North 0° 10' West 11.25 feet; thence leaving said Easterly line South 89° 57' 33" East, 82.00 feet to the Westerly line of that certain parcel of land as described in Decree Terminating Joint Tenancy to A.L. Cooper recorded February 26, 1945 as Instrument No. 3362, Stanislaus County Records; thence along said Westerly line South 0° 10' East, 11.15 feet to the Northerly right of way line of aforementioned Service Road; thence along said Northerly line South 89° 58' 08" West, 82.00 feet to the point of beginning.



Parcel 4: APN 053-013-017— All that portion of Lot 39 of Smyrna Park Tract, in the City of Ceres, County of Stanislaus, State of California, according to the Map thereof as filed in Volume 1 of Maps, at page 79, Stanislaus County Records in Section 14, Township 4 South, Range 9 East, Mount Diablo Base and Meridian, described as follows: Commencing at the Southeast corner of said Section 14, thence South 89° 58' 08" West along the South line of said Section 14, a distance of 862.31 feet; thence North 0° 01' 52" West, a distance of 31.38 feet to the North right-of-way line of the land conveyed to the State of California by Deed recorded June 8, 1960 in Volume 1617 Page 322, Official Records of Stanislaus County as instrument No. 16253 and the true point of beginning of this description; thence continuing North 0° 00' 52" West, a distance of 152.62 feet; thence South 89° 58' 08" West parallel to and 184 feet North of the South line of said Section 14 a distance of 133.00 feet; thence South 0° 01' 52" East, a distance of 139.63 feet to the North line of said State of California property; thence South 81° 57' 24" East along said North line, a distance of 92.24 feet; thence continuing along said North line, South 89° 59' 15" East, a distance of 41.69 feet to the point of beginning.

Parcel 5: APN 053-013-019 — Lot 40 of Smyrna Park Tract, in the City of Ceres, County of Stanislaus, State of California, according to the map thereof filed for record in the office of the County Recorder of Stanislaus County on February 21, 1903 in Volume 1 of Maps, at Page 79. Excepting therefrom all that portion described in Deed to the County of Stanislaus recorded September 25, 1957 in Volume 1446 Page 520, as Document No. 24477, Stanislaus County Records. Also excepting therefrom all that portion described in Deed to the State of California recorded January 18, 1960 in Volume 1614 page 22, as Document No. 14427, Stanislaus County Records. Also excepting therefrom all that portion of land described in that document filed for record October 19, 2004, as Document No. 172534, Stanislaus County Records.

**NOW, THEREFORE, BE IT RESOLVED** that the foregoing recitals are true and correct and made a part of this resolution.

**BE IT FURTHER RESOLVED** that the City Council grants the Appeal and finds as follows:

## **SECTION 1. EIR INADEQUACY**

A. The City Council has considered the full record before it, which may include but is not limited to such things as the staff reports, testimony by staff and the public, and other materials and evidence submitted or provided to the Commission.

B. Pursuant to Section 15090 of the CEQA Guidelines, prior to approving the Project, the City Council must certify that (1) The Final EIR has been completed in compliance with CEQA; (2) The Final EIR has been presented to the decision-making body and that the decision making body reviewed and considered the information contained in the Final EIR; and (3) The Final EIR reflects the City Council's independent judgment and analysis. The City Council finds that it cannot certify the EIR because the EIR has not been adequately prepared in compliance with the requirements of CEQA and because the information in the EIR does not reflect the City Council's independent judgment and analysis. Specifically:

**1. Urban Decay and Blight Impacts.** The City Council finds that the EIR's urban decay analysis is materially flawed in that it understates and omits the Project's economic and resulting physical impacts on existing Ceres' businesses by adding approximately 299,930 square feet of intense new regional retail uses to the southern portion of Ceres near SR 99.

The EIR concludes that the Project has the potential to cause significant urban decay and physical deterioration impacts resulting from the closure of competing businesses, as well as increased retail vacancies from the relocation of the existing Walmart store located at E. Whitmore Rd. and Mitchell Avenue to the Project site. The EIR further concludes that Mitigation Measure 4.5.1 will reduce the impact of urban decay and physical deterioration to a level of less than significant. This mitigation measure requires Walmart to pay a building monitoring fee related to the vacated Walmart store, but to also required the property owner to enter a maintenance agreement with the City to ensure that the property owner will: (1) remove graffiti from the vacant Walmart store; (2) repair broken windows and exterior structural elements at the vacant Walmart store, (3) maintain existing landscaping at the vacant Walmart store; and (4) remove litter from the vacant Walmart store property.

The City Council finds that the Project will cause or contribute to significant urban decay, physical deterioration, and/or blight in Ceres and the EIR is incomplete and does not adequately disclose and propose mitigation for significant urban decay/blight/ physical deterioration impacts as follows:

- Mitigation Measure 4.5.1 only addresses physical deterioration impacts from the vacant Walmart store and does not address impacts from other closed anchor stores such a the Food-4-Less supermarket located across the street from the vacant Walmart store and Richland Market which the EIR identifies as "most at risk" of closure resulting from the Project. The Commission finds that the closure of one or both the Food-4-Less and Richland Market is likely to result from this project and such closure would be significant, not only in terms of creating vacancies, but also in terms of eliminating close and convenient shopping opportunities for established neighborhoods near these supermarket anchor stores.
- The City Council also finds that the mitigation measure is ineffective and improperly defers formulation until after the Project is approved. In order to effectively mitigate impacts the mitigation measures must, at a minimum, ensure the same synergistic level of operation that currently occurs at the intersection and such mitigation measure(s) must be included in the EIR.
- The City Council also finds that the EIR fails to address the Project's impacts on existing blight identified by the Ceres Redevelopment Agency. Chapter 4.5 of the EIR is called "Economics and Blight" yet wholly fails to disclose the fact that Ceres has adopted two Redevelopment areas totaling several hundred acres. In establishing these areas the City's Redevelopment Agency found that the areas suffered

from both physical and economic blight as defined by the Health and Safety Code. The City Council finds that physical blight includes deterioration and urban decay and is substantially similar to these physical impacts. Therefore, any environmental impact analysis of blight or decay must identify and consider blighted areas that may be impacts by the Project. In this case the existing Walmart store, the existing Food-4-Less store, and the existing Richland Market all sit in the existing blighted Redevelopment area. Yet the EIR omits any discussion of blight and redevelopment efforts from the environmental setting for the Economics and Blight chapter or from the analysis of this impact. This omission prevents the EIR from serving its role as an information document and the EIR's Economics and Blight chapter must be revised and recirculated to include this information before it could be certified. Nor are the consultants' responses included in the staff reports sufficient. The information is not contained in the EIR, is conclusory and argumentative, and fails to provide a good faith analysis of this Project's physical impacts to existing blighted areas.

- Omitting this information from the EIR prevents informed decision making and public participation. This information must be included in the EIR to ensure a good faith attempt at fully disclosing the Project's impacts. Accordingly, the City Council finds that the EIR has not been completed in compliance with CEQA and does not reflect the City Council's independent judgment.

**2. Air Pollution and Related Health Effects.** The City Council finds that the EIR's air quality analysis is materially flawed in that it fails to adequately disclose and correlate the Project's air pollution impacts to resulting respiratory health effects.

The EIR prepared by Pacific Municipal Consultants includes a health risk assessment (HRA). In its comments on the EIR the San Joaquin Valley Air Pollution Control District stated that the HRA was inadequate and therefore did not provide substantial evidence to determine that impacts to sensitive receptors would be less than significant. The Final EIR's response to this comment (Response I-7) stated that PMC would provide additional information to the District supporting the health risk assessment. On February 28, 2011 the District submitted comments to the City acknowledging receipt of additional information from PMC but stating that "the HRA is technically flawed and, as such, does not adequately characterize project-related health impacts."

Based on the Air District's conclusion that the EIR prepared by PMC does not adequately address the significance of pollution-related health impacts, the City Council finds that the EIR is inadequate for certification.

Additionally, the City Council finds that the EIR does not correlate or quantify the Project's significant air quality effects to resulting human respiratory health impacts such as asthma. This fails to satisfy the requirements of Section 15126.2(a).

## SECTION 2. OVERRIDING CONSIDERATIONS NOT PRESENT

A. The City Council cannot make the findings of overriding considerations regarding the Project's significant and unavoidable impacts to Air Pollution, Agricultural Lands, and Transportation. Pursuant to Section 15093 of the CEQA Guidelines, before an agency can approve a project "which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record." The Final EIR concludes the Project will cause or contribute to significant and unavoidable Air Pollution, Agricultural Lands, and Transportation impacts requiring the City Council to adopt a statement of overriding considerations before approving the Project. The City Council cannot make findings that relocating the existing Walmart store to the Project site for the total development of 299,930 sq. ft. retail space which will immediately cause the vacancy of over 130,000 sq. ft. of retail space at the site of the current Walmart store and will result in the closure of one or more anchor stores in existing shopping centers, in an area that is already over-served by grocery stores and supermarkets outweighs these unavoidable adverse impacts. The Statement of Overriding Considerations must find that specific "economic, legal, social, technological or other benefits" of the Project outweigh the significant and unavoidable impacts and must be based upon substantial evidence. The City Council finds that none of the Project's suggested benefits overrides the Project's significant and unavoidable environmental impacts.

1. *Increased Sales Tax Revenue.* The City Council finds that the assumption that the Project will increase the City's sales tax revenues is not supported by substantial evidence. The existing Ceres Walmart store which would be abandoned for the new Walmart store that anchors the Project is approximately 130,000 sq. ft. in size. The new Walmart store will be approximately 190,000 sq.ft. in size and will contain approximately 60,000 sq. ft. dedicated to "supermarket" type uses. Therefore, the non-supermarket, general retail component of the new Walmart store will be approximately the same size as the existing Walmart store. Supermarket type uses will largely include grocery items. Grocery items are primarily non-taxable items and therefore would not generate sales tax revenues. According to Page 4.5-13 of the Draft EIR, the new Walmart store is expected to generate \$90 million in general merchandise sales annually – which is lower than the existing Ceres Walmart store. As the EIR states, "Though the existing Walmart is performing at higher levels on a per-square-foot basis [than the proposed new Walmart], the new larger store, because of its greater distance from Modesto, will likely lose some of the existing store's customer base to the existing and proposed Walmarts in Modesto. **This leakage will limit the potential of the proposed store to perform at the per-square-foot levels currently achieved by the existing Walmart in Ceres.**" Therefore, the City Council finds that the Project's anchor store will actually increase sales leakage to Modesto, will include roughly the same general merchandise sales area that is expected to generate less sales/sq. ft. than the existing Walmart store, and will include approximately 60,000 sq. ft. dedicated to largely non-taxable merchandise. In addition, development of the remaining approximately 110,000 sq. ft. of planned retail pads at the Project site is highly speculative and may not come to fruition for years, if at all. The City Council further finds that the closure of the existing Ceres Walmart store and other competing anchor stores will further reduce sales tax revenues from other existing retailers which rely on those existing anchor stores to generate customer traffic. The City Council finds that



substantial evidence does not support concluding the Project will increase or otherwise positively affect Ceres' sales tax revenues.

2. *Increased and Diversified Employment Base.* As with sales tax revenues, the City Council finds increased employment from proposed the 110,000 sq. ft. outlet development – for which no tenants are identified and no construction dates are proposed – too speculative to consider as a benefit. Focusing on the Walmart anchor store, the applicant suggests that the Project will create additional employment opportunities by adding 85 new full and part time jobs to Ceres. The City Council finds this gross estimate does not override the Project's impacts. Aside from being nothing more than a number suggested by the applicant, the applicant's proposed overriding consideration also fails to account for the 100+ jobs that will be lost as a result of competing anchor stores closing (as assumed in the EIR) or downsizing the workforce. As noted at page 29 of a report prepared by the San Diego County Taxpayers' Association entitled, "The Potential Economic and Fiscal Impacts of Supercenters in San Diego: A Critical Analysis", 1.5 full time jobs will be lost for every part time job created by a new supercenter. Assuming all 85 new jobs assumed by Walmart were part time, Ceres could expect to lose 127 existing jobs from this Project's anchor store for a net loss of 42 jobs. Based on the foregoing information, the City Council finds that substantial evidence supports the conclusion that the Supercenter will result in the net loss of employment opportunities in Ceres.

3. *Buffers and Transitions between Neighboring Developments.* The City Council finds this benefit is not supported by substantial evidence as the Project will have significant impacts to residents along Don Pedro Avenue under its proposed configuration. Walmart rejected the requests of Don Pedro residents to reconfigure the site plan as infeasible. The City Council further finds that this proposed benefit is actually a design element intended to mitigate impacts from the Project that do not currently exist. Stated slightly differently, there is no need for this buffer if the Project does not develop and therefore this proposed overriding consideration provides no net benefit to the community.

4. *Attractive Gateway Development.* The City Council finds that the Project's scale and design are too large and too common to reflect an attractive gateway to the City of Ceres. The project's architectural elements are identical to those for similar Walmart stores proposed or built in other Central Valley communities such as Kerman, Atwater, Fresno, Elk Grove, and Folsom. As the Gateway to Ceres, the Mitchell Ranch project should be unique and not simply a "cookie cutter" chain. Walmart has incorporated more upscale and unique designs into Stores in other communities such as Craftsman style architecture in the Napa County town of American Canyon and mission style architecture in California stores outside of the Central Valley. Nor is the Project pedestrian-friendly as are modern "lifestyle centers".

5. *Energy Conservation Features.* The City Council finds that the Project's energy conservation features are not an overriding benefit as, even with the incorporation of all proposed energy saving features the Project will still consume significantly more energy than the Project site currently consumes in its vacant state. Nor has the Project incorporated active solar panels as Walmart has done with its stores in other communities.

6. *Attractive Landscaping.* The City Council finds that Walmart has been negligent in maintaining the landscaping at its current Ceres store – which was built to the same standards proposed for this Project. This negligence results in unattractive and dying landscaping that is an eyesore to the current Walmart store. Accordingly, the City Council cannot find that Walmart’s installation of landscaping at the Project will provide any benefit to the community.

7. *Quality Goods and Services in a Regional Center.* The City Council finds that Walmart already operates a 130,000+ sq. ft. store in Ceres that sells general merchandise. This Project will result in approximately 60,000 sq. ft. of additional grocery sales area. No evidence in the record indicates the Project will provide any additional goods and services not already available in Ceres. Moreover, the EIR concludes that the new Project will increase sales leakage to Modesto and will not perform as well on a per. sq. ft. basis. Moreover, evidence shows and the Council finds that Ceres’ retail leakage is not occurring at the mass-merchandising/discount store or grocery level, but rather to specialty good and more upscale goods. This Project does not prevent this leakage. Accordingly the City Council finds that this Project will not provide additional goods or services to the community or the region not already available in the City.

8. *Increased Retail Activity.* The City Council finds the Project will likely decrease retail activity in Ceres based on anticipated reduced sales per sq. ft. and increased sales leakage to Modesto. The City Council cannot find that the assumed increased retail activity at the Project site is a benefit to the community at all, let alone a benefit that outweighs the Project’s unavoidable environmental impacts.

9. *Good Member of the Community.* The record contains substantial testimony from Walmart and local organizations regarding Walmart’s charitable donations. The record also contains testimony from local organizations regarding charitable contributions from other businesses in the community such as Food-4-Less, Save Mart, and Richland Markets. No evidence suggests Walmart’s charitable contributions will increase if the Project moves forward or will cease if Walmart stays at its current location. Yet substantial evidence reveals that the Project is likely to close one or more existing stores that also support the Ceres community with charitable contributions. Accordingly, the City Council finds that the Project is likely to decrease the amount of charitable contributions to the community.

10. *Contribution to Needed Infrastructure.* The City Council finds that all mitigation measures and Project conditions, including mitigation fees, improved circulation, sidewalks, gutters and curbs, etc. have a nexus to the Project’s environmental impacts and that the level of mitigation is proportional to the intensity of the impact. Because of this, the City Council further finds that Project can and will only be required to contribute to infrastructure necessary for the Project and without the Project, this infrastructure is unnecessary. Therefore the City Council finds that the Project’s contribution to infrastructure would not provide a public benefit that would outweigh the significant and unavoidable environmental impacts of this Project.

### **SECTION 3: DECISION TO NOT CERTIFY FINAL EIR**

Having independently considered the Final EIR prepared by PMC, the City Council hereby refuses to certify that the Final EIR for the Project reflects the City Council's independent judgment or has been prepared and completed in compliance with the requirements of CEQA. The Final EIR does not adequately disclose all of the Project's significant and potentially-significant environmental impacts and does not provide an adequate discussion of mitigation measures to reduce the project's significant and potentially significant impacts.

### **SECTION 4: DECISION TO DENY THE PROJECT**

Because the City Council finds the Final EIR is inadequate for certification and the Project's potential benefits do not outweigh its significant and unavoidable impacts, the City Council hereby DENIES the Mitchell Ranch Center Project application including Conditional Use Permit (07-32 CUP) and Vesting Tentative Subdivision Map (07-32 VTSM).

**I HEREBY CERTIFY** that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Ceres at a regular meeting of said City Council held on the 23<sup>rd</sup> day of May 2011, by the following vote:

**VOTE upon the foregoing resolution was as follows:**

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINING:**

**ATTEST:**

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**CITY CLERK**

**SECTION 7**  
**SELECT MEDIA/LETTERS TO EDITOR**





 [Print This Article](#)

Posted on Fri, May. 20, 2011

## Commission ignores questions

*last updated: May 19, 2011 09:16:25 PM*

I appreciate the cogent points made in your editorial "Stage set for final Wal-Mart decision" (May 17). I am a passionate member of the Ceres community and have been attending the Mitchell Ranch Center meetings since the scoping meetings began in September 2007. I do not want to see Ceres falter because of any land-use decision.

The community was in disbelief when the Planning Commissioners at the April hearings gave Wal-Mart a pass and didn't require it to address some of the commission's concerns, requests and issues that were discussed at the February hearing. For example, Wal-Mart did not respond to or address:

- The impact of increased traffic on Mitchell and Service roads.
- The request for additional information on how the supercenter project will affect existing stores in Ceres.
- The question of how many jobs in Ceres would be lost should Wal-Mart cause the closure of other stores.
- Traffic calming measures for Don Pedro Road.

I am hopeful the City Council will read your editorial, address your concerns as well as the community concerns already on the record.

**GERI M. OTTERSBACH**

Ceres

 [Print This Article](#)

Posted on Mon, May. 16, 2011

## Stage set for final Wal-Mart decision

*last updated: May 16, 2011 09:01:03 PM*

For a long time, Ceres has had plans for a regional shopping center along Mitchell Road north of the Highway 99 interchange.

We fully expected there to be some degree of opposition to developing the site, no matter what stores were involved.

But, not surprisingly, the fact that Wal-Mart wants to build a supercenter there has sparked heated controversy.

Four years after the required environmental impact studies began, the final EIR goes to the Ceres City Council on Monday. The Ceres Planning Commission earlier approved it, but citizens' appealed that decision.

The supercenter would be the anchor of Mitchell Ranch Center, a 26-acre development west of Mitchell Road, between Don Pedro and Service roads. The zoning is not in dispute; it's the size of the store — 191,000 square feet — and the fact that it is Wal-Mart, a company that has legions of customers worldwide but also many detractors who dislike its aggressive — same say cutthroat — style of retailing.

Ceres' four council members don't have to decide whether Wal-Mart is a force for good or evil, only whether the proposed supercenter is a plus for the community.

We see five key issues:

- First, people who live nearby are fearful of a major intrusion of noise and traffic from a store that will operate 24-7. Large trucks will be coming and going day and night. Although the company proposes an eight-foot wall along part of Don Pedro Road, the neighbors' concerns are justified. The city should strive to ease the disruption they surely face.
- Second, Wal-Mart proponents argue this is all about "jobs, jobs, jobs." While we surely understand the importance of jobs in this economy, this store likely won't open for 18 to 24 months. An estimated 85 jobs would be created by this new store but the company doesn't say what percentage of those, if any, would be full-time positions.

Furthermore, Wal-Mart's new supermarket likely will hurt and possibly even result in closure of one of the five other supermarkets in Ceres. If that occurs, there would be little if any net gain in jobs for the community.

- Third, the bigger lure for city leaders is increasing its sales tax revenue. A supercenter in south Ceres likely would draw shoppers from Keyes, which has no supermarket, and from Turlock, which has banned superstores through its strict zoning laws. And, the supercenter could pull back some Ceres residents who now are going to Turlock to shop.

Sales tax is important to all local communities, because they collect a portion of the revenue. It's arguably even more important in Ceres, whose sales tax rate is 8.875 percent — versus 8.375 elsewhere in Stanislaus County — with 0.5 percent going to public safety.

- Fourth, we're surprised that there isn't more concern about the increase in traffic on Mitchell Road and the Highway 99 interchange. As part of the required mitigation, Wal-Mart would contribute to some new signals and turn lanes, but in the big scope of things, it is not being asked to do much. Eventually, when this shopping center is complete and there are two hotels at the Ceres Gateway Center immediately to the south, we can foresee major traffic problems at the Mitchell interchange.

- Fifth, our greatest concern is that once it opens the supercenter, Wal-Mart plans to close its 15-year-old store at Mitchell and Hatch roads. As a condition of approval for the new store, city staff is proposing that the council will have to OK a sales plan for the old building. Frankly, that's not much of a condition.

Wal-Mart won't want to sell it to a competitor, and it's hard to imagine anyone else who would want an aging big box. Ceres needs to impose tough demands on Wal-Mart to keep up the old site.

Every community has its own character — and its own attitude toward Wal-Mart supercenters.

Proponents say that the Mitchell Ranch Center would be an inviting gateway at the south entrance to Ceres. And we fully understand that the city wants its residents to spend their money at home.

But the council needs to insist that Wal-Mart minimize the negative impact on neighbors, address the significant traffic concerns and ensure that its old store doesn't become an eyesore at the north end of the city.

**What do you think? If you want to share your views on this editorial, leave your comment at the end of the editorial. Or, click on "Submit Letters" to create a letter to the editor.**



 [Print This Article](#)

Posted on Sat, May. 14, 2011

## Tough love for Wal-Mart

*last updated: May 14, 2011 07:36:58 PM*

Hooray to those residents in Ceres who paid the filing fees and appealed the Wal-Mart Supercenter project to the City Council. I hope your concerns get heard loud and clear because the Ceres community should expect more than the bare minimum from any new development.

For too long Ceres settled for scraps. Ceres should continue with creating a healthy community that others want to join or emulate. A tough-love step toward doing that would include denying Wal-Mart's request to build a supercenter at a new location.

**HEATHER RUSSELL**

Ceres

 [Print This Article](#)

Posted on Wed, May. 11, 2011

## Wal-Mart Supercenter opponents cite wages and cutthroat attitude

*last updated: May 10, 2011 06:36:37 PM*

I surely hope that the residents of Ceres are successful in their attempt to stop the Wal-Mart Supercenter from going in. I made a decision to not shop there anymore after I saw their latest TV commercial. The one where the customer points out that a particular item is 20 cents cheaper at a competitor and Big Wally matches that price. So the customer takes it.

Two things: As a former small-business owner, I don't want those customers. Really? 20 cents? I would tell her — have fun spending \$2 in gas to go drive to that competitor and save your 20 cents.

The second is, that tells you all you need to know about Wal-Mart: We'll cut anybody's throat to get every last 20 cents worth of business! Hey, everyone loves a good deal but if we buy into this, then eventually there will only be one choice left — them. This mean-spirited attitude makes me say no to Wal-Mart in any way, shape or form.

**DAVID K. FORD**  
Modesto

### Hold out for better jobs

The common wisdom in America is that big business is good for our economy. But one wonders how Wal-Mart CEOs sleep at night while they move more jobs offshore to cut costs, thereby increasing profits for shareholders, while the majority of the U.S. retail jobs they offer are at a wage that is below the poverty line.

Wal-Mart has come to Ceres promising new jobs, but has not provided a breakdown of jobs and wages. Since it is common knowledge that Wal-Mart jobs are mostly temporary and low-paying, how will outsiders view Ceres based on this one aspect?

Can we as a community respect ourselves and our leaders if we ignore our city's policy of seeking development of new business that provides wage-earner jobs so residents do not have to commute outside of Ceres for work? I think it will be a step backward if we do not use our land, infrastructure and own laws to maintain a higher level of living standard.

**JOSHUA KAIN**  
Ceres

 [Print This Article](#)

Posted on Wed, May. 11, 2011

## **These jobs are not a solution**

*last updated: May 10, 2011 06:37:46 PM*

Wal-Mart supporters reportedly wore "JOBS" buttons at Planning Commission hearings. I understand why people want jobs, but I cannot figure out how Wal-Mart has the audacity to suggest they offer adequate jobs.

We haven't done enough as a nation or as a community to foster worker education, skill or confidence to know more Wal-Mart jobs is not the ticket out of our unemployment or underemployment problem. Generations of people to feel lucky they have jobs even when those jobs keep them impoverished. I hope the City Council recognizes Wal-Mart's jobs offering as self-defeating.

**EMANUEL PADILLA**

Ceres

 [Print This Article](#)

Posted on Thu, May. 05, 2011

## Try being a better neighbor

*last updated: May 04, 2011 06:15:09 PM*

I am originally from Los Angeles, and I came to Ceres with my husband to raise a family and be a part of this fine community where you know your neighbors and can feel safe.

I live near the existing Wal-Mart, and as a homeowner in Ceres, I think that Wal-Mart's attacks on anyone are sad and desperate. Many Citizens for Ceres members are Wal-Mart customers, so when Wal-Mart attacks any member they are also attacking their current customers — who Wal-Mart says they want to serve.

I think Wal-Mart should work on being a good Ceres neighbor, instead of just saying they are a good neighbor. If Wal-Mart abandons the existing Ceres Wal-Mart store, and since they refuse to rent or lease it to competitors, Wal-Mart will be creating blight in my area. How is that being a good neighbor?

If all the pro-supercenter people haven't taken the time to read the Environmental Impact Report, they had better set aside the time. The EIR isn't complete. If you don't wake up, you will be supporting a proposal that isn't worth the paper the studies were written on.

**ROSALINDA PUENTES**

Ceres

 [Print This Article](#)

Posted on Thu, May. 05, 2011

## Ceres of little use to Wal-Mart

*last updated: May 04, 2011 06:16:26 PM*

The news of Citizens For Ceres appeal of the "cookie-cutter" Wal-Mart Supercenter is great. I agree that the supercenter, the only building currently scheduled to be built, is unnecessary and really ugly to boot.

It is pathetic Ceres doesn't have any assurances from Wal-Mart that the other proposed shopping center pads will ever be constructed. For Wal-Mart to propose a shopping center, but only chirp that they will be the anchor tenant in Phase 1 of construction, raises eyebrows. It tells me Wal-Mart could not find even one other tenant during the past four years, as they compiled the environmental impact report!

Wal-Mart did not show the Planning Commission other special store designs that Wal-Mart has provided in other towns, even after Commissioner Laurie Smith requested to see other building elevations. Ceres is deserving of more! We must only be useful to Wal-Mart when they can tell shareholders: "We got another California town to build a supercenter while doing as little as possible."

Ceres City Council, just vote "no" on the project.

**ANDY AZEVEDO JR.**

Ceres



 [Print This Article](#)

Posted on Thu, May. 05, 2011

## **Uphold law: Vote no on project**

*last updated: May 04, 2011 06:17:09 PM*

I was glad that the appeal of the Wal-Mart Supercenter was signed by 95 people. The Ceres council should uphold the law and not allow the Wal-Mart Supercenter project to move forward.

The project has been controversial from day one. The controversy started when the environmental studies were not completed before the demolition and displacement of the fox on the proposed site. Also at issue is the fact that the city of Ceres isn't requiring that the Highway 99 interchange be completed before the Wal-Mart Supercenter is built. Additionally, the decision to go forward with the project is problematic because the Ceres Planning Commission ignored Ceres' wage-earner job policy.

As the largest retailer and private employer in America, no other company has had such a profound, negative impact upon our economy and labor markets as Wal-Mart. It is time for Wal-Mart to face the fact that citizens are growing in opposition to its plan to abandon their regular Wal-Mart stores in towns across the United States, so they can build supercenters. Ceres should vote "no" on Wal-Mart's Supercenter proposal.

**JAMES R. VINYARD**

Ceres



Wednesday, April 20, 2011

## Letters to the Editor published April 20, 2011

Wednesday, April 20, 2011

\* \* \* \* \*

Editor misstated the facts

Editor, Ceres Courier,

I attended both public hearings (on Feb. 22 and on April 4, 2011) for the Mitchell Ranch Center, Walmart Supercenter. The Courier editor, Jeff Benziger, has misspoken about the facts concerning members of Citizens for Ceres in his April 13 article, "Merits of project reflected in 3-1 commission vote." Benziger states, "In Ceres' case, Jolley often uses the name of Jacobsen as a member although names of other members has not been disclosed."

At those hearings, others announced they were members of Citizens for Ceres, as I myself did. At the first meeting, Mr. Jolley mentioned that members' comments were already on the written record and that some would speak to the commission, which we did. The names of members who spoke can be checked out when the city of Ceres releases the Planning Commission's written records for those meetings. Additionally, since the article was published, 95 people signed the appeal letter, as I did.

You needs to run a retraction.

James R. Vinyard,

Ceres

\* \* \* \* \*

Opposition group not supported by unions

Editor, Ceres Courier,

You asked readers to let you know how we felt...I barely know where to begin with my response. Your article seemed to be more of a personal attack on Commissioner Kline, Sherri Jacobson and Brett Jolley instead of an objective report on the pros and cons of the project ... but I guess that's why it was in the opinion section.

As the editor of the local paper I would think you would be interested in truly understanding why there is resistance to the proposed project and report facts. Had you taken time to do research or maybe taken better notes while at the meetings you would have the names of many members of Citizens for Ceres as we publicly identified ourselves and we are in fact citizens of this city. Instead, you chose to deride the veracity of the group by writing that it is instead "to pretend that there is a groundswell of locally concerned citizens" and that the presumed appeal will "probably come from Jolley since his money comes from union shops."

For the record, not one penny for the appeal came from Jolley, but instead from actual citizens of Ceres just as the group name implies. I personally have been at every meeting since the first public notifications in 2007 while I believe your presence has only been at the last two planning commission meetings. I guess this might explain your warped perception of the opposition.

No one is trying to say that this land should not be developed but we have been trying to get city personnel and planning commissioners to look at the large picture and the true overall impact on the city and its future. This is the last large area of land the city has to make a statement about who we are as a city and it is imperative that we look at the overall vision and weigh the envisioned benefits against the reality of logically perceived costs.

Our fate will soon be in the hands of our City Council.

Marsha Harris,

Ceres

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#### LETTERS TO THE EDITOR POLICY

Letters to the editor will be considered for publication but must be signed with the author's name, address and telephone number. Letters should contain 250 words or less and be void of libelous statements. Letters may be sent to The Ceres Courier, P.O. Box 7, Ceres, CA 95307, or emailed to [jeffb@cerescourier.com](mailto:jeffb@cerescourier.com)



Wednesday, February 16, 2011

## Letters to the Editor published Feb. 16, 2011

Wednesday, February 16, 2011

\* \* \* \* \*

Opposed to center

Editor, Ceres Courier,

I am not in support of the Supercenter.

Traffic will be horrendous at the Mitchell Road on and offramps. It gets backed up there now off and on. It might become like the Briggsmore/99/Sisk Road mess.

Is Walmart going to pay for the widening of the on and offramps?

Our tax dollars will go up to pay for the road work. The state is broke.

It's a bad idea.

If Walmart want to be near the freeway, why not switch with Kmart?

It's good to keep Ceres a small town and have a few open spaces left without Walmart paving over it all.

I'm worried I won't have easy freeway access at Mitchell Road anymore because of Walmart backed up traffic at Service and Mitchell. It's bad there at Hatch and Mitchell.

Susan Alaya,

Ceres

\* \* \* \* \*

Supercenter approval would spell doom

Editor, Ceres Courier,

Earlier this year, after opposition, Wal-Mart withdrew its special-use permit to build near the hallowed Civil War site where Robert E. Lee first met Ulysses S. Grant on the battlefield in 1864.

It would be too good to be true, if the same thing would happen here in Ceres. Maybe the proposed supercenter site isn't near hallowed ground, but it could be prevented from being built for other reasons. The site does contain prime farmland and Walmart is not paying a premium to build on that valuable prime farmland; and according to Wal-Mart's own study, two local grocery stores would be put out of business because of the proposed Supercenter.

Along with the closing of those businesses with better paying jobs, Ceres can then expect to lose jobs associated with the grocery stores, such as jobs for suppliers, transporters, accountants, and so on. These highly-skilled and educated individuals will leave our community in search of better opportunities. Ceres will be left with more Walmart jobs that are low paying and have poor benefits for most employees.

If we let Walmart have its way, the area will surely see a drop in in the number of local community leaders, as well, a statistic that is born out by the facts. In other words, there will be fewer business association members, fewer church pastors, fewer community organization members, and so forth, a result of a community's dwindling middle-class.

Walmart can say whatever they want in their ads, we know that the demise of mom-and-pop stores like Richland Market, Save Mart, Cost Less, and Raleys leads to poverty because most Wal-Mart wages are poverty wages.

I hope to see opposition to the proposed project at the Feb. 22 Planning Commission Meeting; otherwise, more area residents will end up in the unemployment line.

Rick Rushton,

Ceres

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#### LETTERS TO THE EDITOR POLICY

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 [Print This Article](#)

Posted on Wed, Oct. 31, 2007

## Whatever we do to Ceres, make it unique

*last updated: October 31, 2007 06:15:44 AM*

Regarding Eileen Wyatt's community column "Ceres certainly needs more retail, but not more Wal-Marts" (Oct. 17, Page B-7): Having grown up in Ceres, I have seen the town's transformation. The beautifully designed Community Center is one of Ceres' pioneering transitions. It's a symbol of our community values; similar developments would benefit us.

Everyone should recognize Ceres by its personality -- without a supercenter sign on 99. Ceres shouldn't become known as another cookie-cutter town where you cannot identify the location, let alone care where you are.

Whatever we do with our land, Ceres should deliver something classy, unique to Stanislaus County, to set us apart. We could become a destination for shoppers and a place where locals hang out, too. Universal City Walk does that for Los Angeles.

**SHERRI R. JACOBSON**

Ceres

May 23, 2011

Mr. Brett S. Jolley  
Attorney-at-Law  
Herum Crabtree  
2291 West March Lane  
Suite B100  
Stockton, California 95207

Re: Ceres Mitchell Ranch Center (Walmart) Project Environmental Impact Report (EIR),  
Solid Waste Related Impacts

Dear Mr. Jolley:

I have reviewed Ceres' treatment of solid waste disposal and recycling impacts related to the Mitchell Ranch Center (Walmart) project including the City's discussion of potential solid waste related impacts in Section 4.12 (Public Services) of the May, 2010 Mitchell Ranch Center Project EIR, prepared by PMC. This letter report presents the results of my review. To facilitate your use of this letter report, I have organized it into the following sections:

- Executive Summary – This section summarizes the results of my review and my conclusions
- Introduction – This section (1) summarizes my background and qualifications in solid waste management and (2) presents a very brief discussion of solid waste facilities and the various government agencies that regulate them
- EIR Review and Discussion of Significant Impacts – This section presents the results of my review.
- Conclusions – This section presents the major conclusions of my review.

## 1.0 EXECUTIVE SUMMARY

In general, the EIR presents very little information regarding potential solid waste related impacts from the project. As discussed below, I have extensive experience in solid waste management in general, and with the type of solid waste facilities and operations that this project is likely to impact, in particular. Based on this experience, I conclude that the EIR does not present sufficient information to support any conclusion that solid waste related

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impacts from the project would be less than significant. In addition, this project will likely create additional significant unmitigated environmental impacts due to increased use of PLA "corn plastics." I have summarized the major results of my review below:

1. The EIR concludes incorrectly that that the project would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs (which is the criterion for significance stated in the EIR). Fink Road Landfill (the landfill identified in the EIR as the facility that will serve the project) has only 10 years remaining capacity, according to information presented in the EIR. This is clearly insufficient permitted capacity to meet the project's needs. Therefore, the impacts of the project are significant and must be mitigated.
2. The Mitchell Ranch Center EIR concludes incorrectly that cumulative impacts would be less than significant because that conclusion relies on an unpermitted new landfill (the Canyon Fill) to provide solid waste disposal for the project. Permitting a new landfill in a timely manner is uncertain. Stating that the Canyon Fill can be permitted, constructed and operating in ten years is not supportable. In addition, by relying on this new unpermitted Canyon Fill to provide an essential service to the project, the EIR makes this new landfill an integral part of the project, similar to a new water treatment plant needed to provide water for a new major planned community. Therefore, the EIR should identify and evaluate the impacts of permitting, constructing and operating the new landfill.
3. The EIR fails to evaluate project impacts on recycling facilities and operations. As communities achieve recycling (diversion) rates near, or above, 50%, [Information on the CalRecycle web page (Jurisdiction Diversion/Disposal Rate Summary) indicates that the regional agency of which Ceres is a member achieved a diversion rate of 61% in 2006.] recycling facilities and operations become as important as, or more important than, sanitary landfills as public services/utilities.
4. The EIR fails to evaluate, or even disclose, the use of PLA plastics in the Walmart Supercenter component of the project even though the Walmart's own marketing materials state that such products will be widely used for food packaging. CalRecycle, the California State agency responsible for encouraging and promoting recycling and enforcing recycling laws and regulations, has concluded that PLA plastics can reduce plastic recycling
5. The analysis of cumulative impacts contains insufficient information for any reasonably accurate evaluation of cumulative solid waste related, or recycling related, impacts from this project and related projects. More specifically the EIR

strangely omits any evaluation of such impacts even from the related commercial and residential projects identified in the EIR. In addition, the evaluation of cumulative impacts fails to recognize the regional nature of modern solid waste management, resulting in significantly understating the project's significant cumulative impacts.

These are the major results of my review. Please see the analysis below for a complete discussion of the results of my review.

## 2.0 INTRODUCTION

2.1 Background and Qualifications – I am a Professional Civil Engineer, licensed in California by the Board for Professional Engineers and Land Surveyors, and have over 30 years of professional experience. The majority of my experience is in the field of solid waste management, and I began my career in that field in 1979. I have worked in solid waste management for a Bay Area city, two major environmental consulting firms, a regional solid waste management company, and a nation-wide solid waste management company. As the Region Engineer for the West Region of Allied Waste (now Republic Services), I was responsible for engineering and environmental compliance for Allied facilities and operations in Washington, Oregon, California, and Arizona. (Please refer to Appendix 1 for a more complete summary of my experience and qualifications.)

2.2 Solid Waste Facilities and Regulatory Agencies – Typically, a solid waste facility (SWF) in California, especially a sanitary landfill, is heavily regulated by several government agencies. In the Central Valley, sanitary landfills must hold at least 4 major permits. These are:

- Local Land Use Permit – Issued by the City, or County, with jurisdiction over the sanitary landfill
- Solid Waste Facility Permit (SWFP) – Issued by the Local Enforcement Agency (LEA), with concurrence by CalRecycle
- Waste Discharge Requirements – Issued by the Central Valley Regional Water Quality Control Board
- Authority to Construct/Permit to Operate (ATC/PTO) – Issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD)

These permits are typically quite detailed in describing permitted design and operations of a sanitary landfill. (NOTE: Other SWFs, such as composting facilities, or recycling facilities, are subject to similar regulatory oversight. The exact nature and scope of the

oversight for these facilities depends on the specific location, design, and operation of the facilities.)

2.3 Environmental Impacts from Development Projects at Solid Waste Facilities – The SWFP is particularly relevant to considering the environmental impacts from the Mitchell Ranch Center. Regulations require the LEA to review this permit every 5 years and revise, or amend, the permit, if necessary, to incorporate any changes to the design or operation of the sanitary landfill. I have participated in numerous SWFP reviews and revisions. In many instances, development projects within the community served by a landfill have created changes in the waste stream received by the landfill, and these changes in the waste stream have necessitated changes in landfill design, or (more commonly) operations. That is, landfills such as Fink Road Landfill (the landfill that the EIR states will provide solid waste disposal capacity for the Mitchell Ranch Center project – EIR page 4.12-35) are modified, and the impact of the modifications studied, *after* local agencies have taken planning and zoning actions that modified waste disposal at the facility. Since SWFPs are usually extremely detailed in describing permitted operations, revising the SWFP is necessary to reflect these operational changes. As a discretionary action by a local government agency, the permit revision is subject to the requirements of the California Environmental Quality Act (CEQA), and the Lead Agency reviews the potential (or “actual”, since the changes have already occurred) environmental impacts associated with the changes. As part of the CEQA review, the Lead Agency frequently requires mitigation measures to reduce these impacts to less than significant levels. In my professional opinion, the evaluation of impacts and the requirement for mitigation (which indicates that impacts are significant or potentially significant), after approval and construction of the projects that create the impacts, fails to satisfy the purpose of CEQA. This inconsistency should be remedied with this project; the waste disposal impacts of major projects such as this proposed Mitchell Ranch Center must be meaningfully addressed and mitigation provided at the project environmental review stage. The only other way to avoid these impacts (and the need for mitigation) would be for the landfill to refuse to serve the new projects. Since most landfill owners/operators have an extremely strong “service ethic” with regard to the communities they serve, they typically serve the new projects and bear the environmental and financial costs of the resulting CEQA review and mitigations. However, in my experience, consultants preparing project EIRs typically lack true expertise in solid waste impacts (as is the case here) and only “check the box” with regard to total permitted airspace capacity and omit necessary discussion of a development’s true impacts on the landfill. That is the case with this EIR. In sum, failing to disclose and properly mitigate individual and cumulative solid waste impacts at the project approval stage creates significant unmitigated environmental impacts, the evaluation and mitigation of which are deferred for years until the solid waste disposal facility modifies its SWFP and prepares an EIR to address these impacts.



### 3.0 EIR REVIEW AND DISCUSSION OF SIGNIFICANT IMPACTS

3.1 Overview – In general, the EIR presents very little information regarding solid waste management in the Ceres area and potential project impacts on solid waste services. In this respect this EIR appears to be similar to other CEQA documents I have seen that have created the sort of situation described above in which development projects within the community served by a landfill create individual and cumulative significant environmental impacts at the landfill that require mitigation. In short, development is often allowed to outpace planned landfill operations. There are three topics on which the EIR does not present sufficient information to demonstrate that impacts are less than significant, as the EIR concludes. These topics are (1) recycling activities, (2) landfill capacity, and (3) cumulative impacts. I discuss each of these topics below.

3.2 Recycling Activities – As communities achieve recycling (diversion) rates near, or above, 50%, recycling facilities and operations become as important as, or more important than, sanitary landfills as providers of an essential public service. Therefore, an evaluation of a proposed project's solid waste related impacts is incomplete without evaluating impacts on recycling facilities and operations. As noted above, the regional agency of which Ceres is a member (the Stanislaus County Regional Solid Waste Planning Agency) achieved a diversion rate of 61% in 2006<sup>[1]</sup>, which indicates that only 39% of the wastes generated in the Region went to a sanitary landfill (Fink Road Landfill) for disposal. However, the EIR evaluates project impacts related to Fink Road Landfill, which receives only 39% of the Region's wastes, and fails to evaluate project impacts on recycling facilities and operations that receive 61% of the Region's waste. This failure to evaluate project impacts on providers of an essential public service renders the EIR evaluation of solid waste related impacts as clearly incomplete.

In particular, there is one component of this project with significant potential to impact recycling programs, operations, and facilities that the EIR does not evaluate and does not even disclose. In April 2006 Walmart (the anchor tenant of the Mitchell Ranch Center – EIR Page 3.0-10) announced it had replaced select produce packaging with corn-based (PLA) packaging on cut fruit, herbs, strawberries and Brussels sprouts and that the company was currently testing PLA “on everything from cake and donut boxes to bread bags; from strawberry clam shells to deli trays and salad bowls.”<sup>[2]</sup> In addition, a search of the internet for information on Walmart and PLA plastic (i.e., “Googling” “walmart and pla plastic”) reveals many articles documenting Walmart's use of PLA (produced by NatureWorks) plastic packaging for products sold in their stores. PLA, or polylactic acid, “... is a polymer derived from lactic acid, which NatureWorks derives from cornstarch.”

<sup>[3]</sup> A report prepared for the California Integrated Waste Management Board (now CalRecycle) identifies PLA plastic produced by NatureWorks as a “degradable” or “compostable” plastic.<sup>[4]</sup> Under “Conclusions and Recommendations” this report states, “However, degradable plastics could also contaminate the existing plastic recycling

stream if they are not properly collected and composted, thus reducing plastic recycling opportunities.”<sup>[5]</sup> This report also states in the same section, “The presence of degradable plastic material in regulated rigid plastic packaging containers and trash bags would make compliance with present law very difficult and, as indicated above, would reduce plastic recycling opportunities.”<sup>[6]</sup> That is, the California State agency responsible for encouraging and promoting recycling and enforcing recycling laws and regulations concludes that PLA plastics will likely result in reduced recycling opportunities for non-PLA plastics. In particular, the use of PLA plastics in the project could impair the Region’s ability to meet its Diversion/Disposal goals and comply with AB 939. The conclusion noted above that PLA plastics “...*would make compliance with present law very difficult...*” (Emphasis added) leads to the conclusion that project impacts associated with use of PLA plastics poses a serious and significant threat to solid waste recycling. This is especially evident when one considers that the EIR states on page 4.12-33 that, “...project impacts are considered significant if the project would fail to *comply with federal, state, and local statutes and regulations related to solid waste.*” (Emphasis added) However, the EIR fails to either disclose or evaluate these project impacts.

There are also potential climate change impacts and other air quality impacts associated with the project’s anticipated consumption of PLA plastics. For example, no evidence suggests that the facility(s) that receives recyclables from Ceres (NOTE: The EIR not only fails to evaluate project impacts on recycling facilities, but it fails also even to identify recycling facilities that will receive recyclables generated by the project.) has any processes or equipment to sort PLA from other plastics collected for recycling. And making such an assumption is unreasonable and irresponsible in the solid waste industry. In my professional experience most facilities do not yet have such processes in place and the EIR is obligated to address this issue. If consumers mix PLA plastics with other plastics collected for recycling, then the recycling facility will need to add new sorting and handling processes to their operations to segregate the PLA plastic from the other plastics and transport the PLA plastic to a composting facility for composting. Consumers mixing PLA and recyclable plastics is a very real scenario as the public is not educated on the distinctions between the two and well-intentioned consumers throw all plastics into their recycle bins without understanding that PLA packaging must be composted. This situation presents significant impact to the operations of local recycleries, and composting operations. These new sorting and handling processes will consume additional energy. In particular, transporting PLA plastic to a composting facility will likely require consumption of additional fossil fuels. This additional energy consumption will result in climate change impacts and other air quality impacts that are not evaluated in the EIR.

In addition, the PLA plastics associated with the project can impact composting operations. A *Smithsonian Magazine* article states, "Chris Choate, a composting expert at Norcal Waste Systems, headquartered in San Francisco, says large amounts of PLA can interfere with conventional composting because the polymer reverts into lactic acid, making the compost wetter and more acidic. 'Microbes will consume the lactic acid, but they demand a lot of oxygen, and we're having trouble providing enough,' he says. 'Right now, PLA isn't a problem,' because there's so little of it, Choate says." <sup>[7]</sup> Yet, because Walmart is such a large volume seller and uses PLA, this project (and the construction of other Supercenters in the area) will significantly increase and will likely exacerbate the problems described above – creating additional, undisclosed significant environmental impacts. Yet the EIR fails to discuss the potential impacts to composting operations and facilities associated with use of PLA plastics in the project.

I have summarized the issue of PLA plastics below:

- The proposed project includes a Walmart Supercenter as the anchor tenant.
- Walmart uses PLA plastic packaging for food (groceries) sold in their stores.
- Therefore, PLA plastics, and their significant impacts on solid waste management are clearly a major component of the proposed project.
- The EIR fails to evaluate, or even to disclose, the use of PLA plastics in the proposed project and the associated significant impacts.

Even if the project did not include PLA plastics, the EIR fails to evaluate adequately the project impacts on essential recycling facilities and operations that receive 61% of the waste generated in the Region. For example, if (1) the proposed recycling facility must install additional equipment to handle the recyclables from the project and (2) the facility must revise its ATC/PTO from SJVAPCD to install the new equipment, then (using a threshold of significance similar to that applied to sanitary landfills in the EIR, Page 4.12-33) one would conclude that the project is not served by a recycling facility with sufficient permitted capacity to accommodate recyclables generated by the project. The EIR fails (1) to identify the recycling facility (or facilities) that will process recyclables from the project and (2) to evaluate potential project impacts on this facility (these facilities).

**3.3 Landfill Capacity** – The EIR concludes, in general, that the Mitchell Ranch Center would not have significant solid waste related impacts. However, the EIR fails to support this conclusion. In presenting this conclusion, the EIR presents the following information:

1. The project would be considered to result in a significant public services impact if it would not be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. [EIR Page 4.12-33]
2. Solid waste generated in the City of Ceres is transferred to Fink Road Landfill for disposal [EIR Page 4.12-35]
3. Fink Road Landfill has a permitted maximum disposal of 1,500 tons per day (TPD), and the average daily disposal in 2007 was about 409 TPD [EIR Page 4.12-35]
4. During its operational phase, the Mitchell Ranch Center will generate an additional 2.97 tons per day of solid waste, which the EIR describes as "not... a substantial contribution to the daily capacity of this landfill." [EIR Page 4.12-35]
5. Since the project allegedly would not contribute a substantial amount to the permitted daily maximum disposal of 1,500 tons at the Fink Road Landfill, the project's impact is considered less than significant. [EIR Page 4.12-35]

At first glance, this analysis and the conclusion presented in Item 5 appear to be reasonable. However, this analysis evaluates only half of the criterion of adequate permitted landfill capacity as shown below and therefore is inadequate to conclude the impact will be less than significant:

- The conclusion presented in Item 5, that *the project would not contribute a substantial amount to the permitted daily maximum disposal, and, thus, that the project's impact is considered less than significant* addresses only half of the criterion of significance presented in Item 1, that *the project must be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs*. The criterion that the project be served by a landfill with sufficient permitted capacity encompasses both permitted *airspace* (the total amount of refuse the landfill may accept over its operating life – The conclusion in Item 5, above, ignores this.) and the permitted *daily tonnage* (the amount of refuse the landfill may receive in any one day – The conclusion in Item 5, above, address this.) The criterion *considers both airspace and daily tonnage*. The conclusion considers only daily tonnage, and *ignores airspace*. Thus, the criterion and the conclusion are not logically consistent and do not match. (The EIR does discuss permitted airspace. However, this discussion is seriously flawed as demonstrated below.)
- The EIR states that Fink Road has permitted capacity to last until 2021. (EIR Pages 4.12-28, and 4.12-35) Ten years of permitted capacity is clearly not sufficient permitted capacity to meet the needs of the proposed project. No

evidence suggests the project will or is likely to cease operations after ten years and therefore its operation past the life of Fink Road capacity must be assumed for analysis. The EIR does state that Stanislaus County is pursuing an infill expansion of the landfill. (EIR, Pages 4.12-28 and 4.12-31) However, the EIR does not indicate that the infill expansion has been *permitted*.<sup>\*</sup> The EIR also states that the County "... has reserved space on property for a future, new landfill..." and "... has begun planning for this landfill facility." However, this new landfill is also not permitted according to the EIR. Therefore, the EIR is incorrect in stating that project impacts related to solid waste are not significant. The project will not "Be served by a landfill with sufficient *permitted* (emphasis added) capacity to accommodate the project's solid waste disposal needs," and, as a result solid waste impacts *are* significant and must be mitigated by discussing alternative waste diversion scenarios or must be deemed "significant and unavoidable" if feasible mitigation measures do not exist.

In addition, it should be noted that the EIR discussion of solid waste impacts is not consistent with the information in the 2007 SWFP for Fink Road Landfill. However, the inconsistencies do not change the fact that the project will not be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.

In addition, this EIR is not consistent with at least one very similar document for a similar project in Northern California. The EIR prepared for a similar Walmart Supercenter in Milpitas indicated that the proposed Milpitas Walmart expansion would have generated 45.6 tons of additional solid waste per year and concluded that this impact was potentially significant, requiring mitigation<sup>(8)</sup>. The Mitchell Ranch Center EIR states that the Ceres project would generate 2.97 tons per day of additional solid waste [EIR page 4.12-35], or 1,084 tons per year (356 days /year x 2.97 tons/day). However, the Ceres EIR concludes that this project's solid waste related impacts are not significant, even though the Ceres Walmart project will generate two orders of magnitude more additional solid waste than the Milpitas Walmart expansion would have. This inconsistency is particularly troubling since the solid waste generated by the Milpitas Walmart expansion would have been delivered to the Newby Island Sanitary Landfill<sup>(9)</sup> which has a maximum daily limit of 4,000 tons per day<sup>(10)</sup>, while the additional solid waste generated by the Ceres project will be delivered to Fink Road Landfill which has a maximum daily limit of only 1,500 tons per day. Since generating an additional 45.6 tons of solid waste per year for delivery to a sanitary landfill with a maximum permit limit of 4,000 tons per day is a potentially significant impact, requiring mitigation, then generating an additional 1,084 tons of solid waste per year for delivery to a sanitary

<sup>\*</sup> Even if the permit expansion has been or will be granted following the EIR's analysis (a fact which is unknown to the author), such information still would not cure the EIR's material defects on this issue and other solid waste issues discussed herein.



landfill with a permit limit of only 1,500 tons per day is clearly a significant impact requiring mitigation. Therefore, the EIR is clearly incorrect in concluding that solid waste related project impacts are not significant. This impact requires mitigation.

To summarize this discussion of landfill capacity, one should note the following:

- The criterion for significance is that the project must be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs.
- Information presented above demonstrates that the Mitchell Ranch Center will not meet that criterion.
- In addition, the EIR for a very similar project in Northern California concluded that additional solid waste generation two orders of magnitude less than the additional solid waste generation for the Mitchell Ranch Center would be significant. Therefore, the additional solid waste generated by the Mitchell Ranch Center is clearly significant.
- Therefore, the project's solid waste related impacts are clearly significant and must be mitigated, which conflicts with the conclusion presented in the EIR.

**3.4 Cumulative Impacts** – An adequate evaluation of cumulative impacts is especially important with regard to a project's solid waste related impacts. This is because many solid waste facilities, especially sanitary landfills, are regional facilities. Even if a development project is individually insignificant the cumulative impacts resulting from all of the developments within the region served by the same sanitary landfill are likely to be significant. For example, a single residential subdivision may not generate sufficient additional solid waste to create a significant traffic impact at the landfill that serves the subdivision. However, the cumulative new solid waste generated by many new residential subdivisions and commercial developments within the region the landfill serves will inevitably create increased traffic impacts from waste disposal. As discussed in Section 2.3, above, this sort of impact is typically studied, with necessary mitigation measures identified and implemented, *after* local agencies have taken planning and zoning actions that created the impact. This evaluation of impacts and the requirement for mitigation (which indicates that impacts are significant or potentially significant), after approval and construction of the projects that create the impacts, fails to satisfy the purpose of CEQA.

This is precisely the situation that exists with regard to the Mitchell Ranch Center. Fink Road Landfill is a regional facility that serves not only Ceres, but also all of Stanislaus County. In addition, in 2009, Fink Road Landfill received solid waste from over 20 jurisdictions<sup>[11]</sup>, based on information obtained from the CalRecycle Disposal Reporting

System. An adequate evaluation of cumulative solid waste related impacts from the Mitchell Ranch Center must include impacts resulting from developments within this entire region.

The EIR discussion of cumulative solid waste related impacts states the following:

“Growth envisioned by the Ceres General Plan, the Stanislaus County General Plan, and the Mitchell Road Corridor specific Plan is considered reasonably foreseeable development in the project area, which includes the planned, approved, and reasonable foreseeable development projects listed in Table 4.0-1. Buildout of these plans and foreseeable development in the vicinity of the proposed project will increase demands placed on the City’s solid waste disposal and landfill facilities.”

However, the EIR fails to present a quantitative evaluation of cumulative solid waste impacts. Table 4.0-1 presents information on 16 approved/pending projects in the City of Ceres (or in unincorporated areas proposed for annexation to the City) and one project in the City of Modesto. These projects would add 1,823 new residential units and 25,955 square feet of new commercial buildings. Using a waste generation rate of 12 pounds per household (HH) per day obtained from the CalRecycle web site<sup>[12]</sup>, leads to an estimated total of 3,992 tons per year of solid waste generated *just from new residential development in Ceres and*.  $(1,823 \text{ HH} \times 12 \text{ Lb per HH per day} \times 365 \text{ days per year} = 7,984,740 \text{ Lb per year}; 7,984,740 \text{ Lb per year} / 2,000 \text{ Lb per ton} = 3,992 \text{ tons per year})$  Using a waste generation rate of 13 pounds per 1000 square feet per day for nonresidential land uses<sup>(13)</sup> leads to an estimated total of 62 tons per year of solid waste.  $(25,955 \text{ SF} \times 13 \text{ Lb per SF per day} \times 365 \text{ days per year} / 2000 \text{ Lb per ton})$  This leads to a combined increase in solid waste generation of 4,054 tons per year, from only those new developments shown on Table 4.0-1. This table fails to identify any projects in Modesto, other than one Walmart and fails to identify projects in any other portions of the region served by Fink Road Landfill. For example, the EIR fails to evaluate cumulative impacts associated with the Diablo Grande project in Stanislaus County near Patterson. This project is a major planned community including over 2,000 residential units as well as commercial activities. Nor does the EIR consider projects in the incorporated cities such as Turlock, Hughson, Newman, or Patterson. Omitting this information renders the EIR inadequate in terms of evaluating cumulative solid waste impacts. By way of example, Turlock’s website reveals 27 approved residential projects containing over 1,900 new households. These omitted projects alone reflect over 4,100 Tons Per Year of solid waste generation (applying the CalRecycle standard of 12 TPD/household) which is about four times that of the Mitchell Ranch Supercenter. My report obviously is not an EIR-level analysis, but this City must at a minimum identify related projects from all communities that will cumulatively contribute to the waste stream to determine significance. Omitting this information from the Mitchell Ranch EIR is unacceptable.

The EIR discussion of cumulative impacts also states that the proposed new Canyon Fill, "...is anticipated to provide service to the proposed Mitchell Ranch Center project in the cumulative condition after the closure of the Fink Road Landfill." (EIR, Page 4.12-37) The EIR states also that the proposed Canyon Fill will provide 20 years of capacity during the first phase and an additional 60 years of capacity beyond that." (EIR, Page 4.12-37) Building on these statements, the EIR states further on pages 4.12-37 and 4.12-38, "As the proposed project will be served by an existing landfill that has adequate capacity for at least the next 60 – 80 years...this impact is less than cumulatively considerable." This statement presents the following problems:

- First, the characterization of the Canyon Fill as "an existing landfill" is incorrect. No permits have been issued for the Canyon Fill. It is not "an existing landfill." Therefore, the conclusion that the "impact is less than cumulatively considerable" is incorrect.
- Second, since the EIR presents the Canyon Fill as essential to meet the solid waste disposal needs of the project, the Canyon Fill becomes an integral part of the project (similar to a new water treatment plant to provide water for a new major planned community), and the EIR should identify and evaluate all of the environmental impacts associated with the permitting, construction, and operation of a brand new landfill.
- Third, permitting a new landfill in a timely manner is never a foregone conclusion. In my opinion as a Professional Engineer, with over 30 years of professional experience, the majority in solid waste management, stating that a new, unpermitted landfill will, within ten years, definitely provide solid waste disposal for a proposed project is not supportable. To conclude that the solid waste disposal needs of the project will be met, the EIR must identify and evaluate existing alternatives to the Canyon Fill. Otherwise the EIR must conclude that the solid waste disposal needs of the project will not be met.

With regard to solid waste collection, the increased service demands from the project and other cumulative projects would be met through incremental increases in staff and equipment, which would be funded through fees for service.

In addition, the EIR fails to address the following cumulative solid waste related impacts:

- Impacts on Recycling Facilities and Operations – The EIR does not disclose, or discuss cumulative impacts on recycling facilities, or operations, at all.
- Climate Change (Greenhouse Gas) and Other Air Quality Impacts – Increased solid waste disposal demands from the project and other cumulative projects would be met through incremental increases in landfill staff and equipment.

However, the EIR fails to evaluate these incremental increases. For example, it fails to disclose the type and number of added equipment, the number of added employees, and the timing of these additions. Thus the EIR fails to identify, or evaluate the climate change and other air quality impacts resulting from adding staff and equipment to meet these demands. For example, Fink Road Landfill will likely have to add both equipment and equipment operators to respond to cumulative increases in solid waste generation in the area it serves. Adding equipment and operators will result in increased emissions of greenhouse gases (GHG) and other air pollutants from burning fossil fuels in both the landfill equipment and employee vehicles. In fact, the EIR fails to disclose, or discuss any of the limits, or conditions of the Fink Road permit from SJVAPCD, and potential project impacts associated with this permit. Also, solid waste collection companies and recycling companies (and government agencies that provide solid waste collection and recycling services) will increase their emissions of GHG and other air pollutants through the "incremental increases in staff and equipment," (e.g., adding trucks and drivers). The EIR has failed to evaluate this impact. The EIR cannot reasonably conclude that cumulative impacts are less than significant without evaluating these impacts on recycling facilities/operations, sanitary landfills, and solid waste collection operations.

In addition, the EIR fails to disclose, or evaluate, the climate change and other air quality impacts resulting from additional truck traffic delivering additional solid waste to Fink Road Landfill. These trucks will increase emissions of both GHG and other air pollutants (i.e., diesel emissions) at the landfill and in the area surrounding the landfill since they must all travel on the same local roads to the landfill entrance. Given the potential new solid waste generation produced by new development in the region served by the landfill, as well as this project, these cumulative impacts are very likely to be significant, and the project must mitigate its fair share.

These cumulative impacts are precisely that types of impacts that project EIRs have historically failed to disclose as described in Section 2.3, above. As described above, these impacts have historically and improperly been evaluated under CEQA *after* local agencies have taken planning and zoning actions that created the impacts at a solid waste disposal, or recycling, facility. Failing to disclose and properly mitigate cumulative solid waste impacts at the project approval stage creates significant unmitigated environmental impacts, the evaluation and mitigation of which are deferred for years until the solid waste disposal facility modifies its SWFP and prepares an EIR to address these impacts. As noted above, this fails to satisfy the objective of CEQA, and this project should not perpetuate this practice.

The EIR also ignores offsite waste generation (disposal of post-sale packaging waste such as shopping bags, TV Dinner trays, and Oreo packages). This is substantial as EIR Table 4.5-5 indicates that Supercenter general merchandise and grocery sales per square foot would be \$575. [EIR Page 4.5-14] This leads to an estimate of over \$120,000,000 all in new sales. This means the store will create waste from packaging and sale of approximately \$120 million in goods per year that will be disposed of offsite. This impact is not disclosed or mitigated and is significant.

#### 4.0 CONCLUSIONS

I have reviewed the discussion of solid waste related impacts in Section 4.12 (Public Services) of the May 2010 Mitchell Ranch Center Project EIR. My review has revealed the following:

- The Mitchell Ranch Center EIR fails to evaluate, or even disclose potential impacts resulting from use of PLA plastics in the project. As noted above, the California State agency (CalRecycle, formerly the California Integrated Waste Management Board) responsible for encouraging and promoting recycling and enforcing recycling laws and regulations has concluded that PLA plastics present the potential for “reducing plastic recycling opportunities” and can “make compliance with present law very difficult.” The project’s increased use of PLA will contribute to significant impacts related to PLA disposal and this impact is not addressed in the EIR.
- The Mitchell Ranch Center EIR fails to provide sufficient information on project impacts on recycling programs, operations, or facilities to conclude that there are no significant impacts on recycling. Given that the regional agency of which the City of Ceres is a member has achieved a diversion rate of 61% in 2006, this failure is particularly significant.
- The Mitchell Ranch Center EIR concludes incorrectly that the proposed project would be served by a sanitary landfill (Fink Road Landfill) with sufficient permitted capacity to accommodate the projects solid waste disposal needs. Therefore, the EIR’s conclusion that solid waste impacts associated with the project are less than significant is not supported by the evidence.
- The Mitchell Ranch Center EIR is inconsistent with a similar EIR prepared for a similar Walmart Supercenter in the City of Milpitas. The Milpitas EIR concluded that impacts related to additional solid waste generated by that proposed Walmart expansion were potentially significant and required mitigation to reduce the impacts to less than significant levels. The Mitchell Ranch Center EIR estimates that additional solid waste generated by the Mitchell Ranch Center would be two orders of magnitude greater than that produced by the Milpitas Walmart expansion, yet the



Mitchell Ranch Center EIR concludes that the resulting impacts would be less than significant. The impacts resulting from the additional solid waste generated by this project would clearly be significant and would require mitigation.

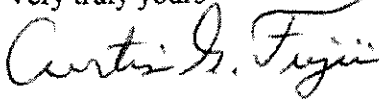
- The Mitchell Ranch Center EIR concludes without substantial evidence that cumulative impacts would be less than significant because the analysis of cumulative impacts does not evaluate the impacts of the even the new projects identified in the EIR, let alone cumulative impacts from development within the entire area served by Fink Road Landfill.
- The Mitchell Ranch Center EIR concludes incorrectly that cumulative impacts would be less than significant because that conclusion relies on an unpermitted new landfill (the Canyon Fill) to provide solid waste disposal for the project. In addition, by relying on this new unpermitted Canyon Fill to provide an essential service to the project, the EIR makes this new landfill an integral part of the project, similar to a new water treatment plant needed to provide water for a new major planned community. Therefore, the EIR should identify and evaluate the impacts of permitting, constructing and operating the new landfill. The analysis of cumulative impacts does not adequately represent the area served by Fink Road Landfill.
- The Mitchell Ranch Center EIR fails to disclose, or discuss, cumulative impacts on recycling facilities, or operations, despite the fact that such facilities and operations must process 61% of the solid waste generated in the region.
- The Mitchell Ranch Center EIR fails to identify and evaluate unavoidable incremental increases in landfill equipment and staff to meet cumulative solid waste related impacts and the resulting cumulative climate change and other air quality impacts at Fink Road Landfill, recycling facilities and operations, and on solid waste collection operations. In fact, the EIR fails to disclose, or discuss, any of the limits, or conditions, of the Fink road permit from SJVAPCD, and potential project impacts associated with this permit.
- The Mitchell Ranch Center EIR fails to disclose, or discuss cumulative impacts resulting from off-site disposal of solid waste generated by the new sale of grocery items at the project.

Overall, the EIR concludes incorrectly that there are no significant solid waste related or recycling related impacts from the project. In fact, the EIR does not provide sufficient information to draw any conclusions regarding solid waste, or recycling-related impacts from the project and demonstrates that some solid waste related impacts will actually be significant. In order to be sufficient as an informational document, the EIR must be revised to describe project impacts on recycling facilities and operations, to reduce PLA-related

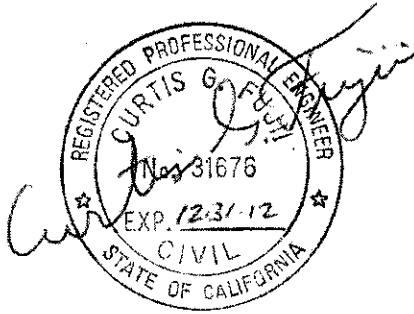
recycling and disposal impacts from the project, to describe adequately project impacts related to landfill capacity, and to address all cumulative impacts from all related projects that will impact solid waste and recycling facilities and operations.

I appreciate the opportunity to provide this review of the discussion of potential solid waste related impacts from the Mitchell Ranch Center project. Please contact me if you have any questions, or comments.

Very truly yours



Curtis G. Fujii, R.C.E. 31676  
Principal



#### References

1. CalRecycle, Jurisdiction Disposal/Diversion Rate Summary for Stanislaus County Regional Solid Waste Planning Agency, Attached as Appendix 2
2. "Wal-Mart is taking the lead on Environmental Sustainability", <http://walmartstores.com/pressroom/news/5664.aspx>, Attached as Appendix 3.
3. American Agriculturalist, "Wal-Mart Switches to Corn-Based Plastic Packaging" October 24, 2005, Attached as Appendix 4.
4. California State University, Chico Research Foundation, Contractor's Report to the Board, Performance Evaluation of Environmentally Degradable Plastic Packaging and Disposable Food Service Ware – Final Report, California Integrated Waste Management Board, June, 2007, pages 9 and 10, Attached as Appendix 5.
5. Ibid., page 52
6. Ibid.
7. Elizabeth Royte, Smithsonian Magazine, "Corn Plastic to the Rescue" August, 2006, Attached as Appendix 6.
8. City of Milpitas, Milpitas Walmart Expansion Project Draft Environmental Impact Report, File No., SCH #2009032018, Prepared by Michael Brandman Associates, November 5, 2009, page 4.9-18, Attached as Appendix 7.
9. Ibid, page 4.9-7

10. Solid Waste Facility Permit for Newby Island Sanitary Landfill, Attached as Appendix 8.
11. CalRecycle, Jurisdiction of Origin Waste Disposal by Facility for Fink Road Landfill, Attached as Appendix 9
12. Cal Recycle, Estimated Generation Rates for Residential Developments, <http://www.calrecycle.ca.gov/wastechar/wastegenrates/Residential.htm>, Attached as Appendix 10.
13. CalRecycle, Estimated Generation Rates for Commercial Establishments, <http://www.calrecycle.ca.gov/wastechar/wastegenrates/Commercial.htm>, Attached as Appendix 11.

**Table 1**  
**Ceres Mitchell Ranch Center EIR**  
**Cumulative Solid Waste Generation**  
**Projects Identified in EIR**

**Table 1**  
**Ceres Mitchell Ranch**  
**EIR**  
**Cumulative Solid Waste Generation**  
**Projects Identified in EIR**

Project	City	Size (DU)	Size (SF)	Status	Solid Waste Generated (Tons/Year)
Copper Trails	Ceres	568	0	Preparing EIR	1,244
Maple Glen	Stanislaus Co. (planned for annexation to Ceres)	909	0	Developer has withdrawn application at this time	1,991
Ceres Gateway Center	Ceres	0	25,955	Approved 5/19/08	62
Three Amigos Annexation	Stanislaus Co. (planned for annexation to Ceres)	0	0	Approved 11/27/07 - No development currently proposed	0
West Ceres Specific Plan	Stanislaus Co. (planned for annexation to Ceres)	0	0	Preparing Specific Plan	0
Davante Villas VTSM 03-09	Ceres	32	0	Final Map Approved	70
Bing Cherry Estates VTSM 04-11	Ceres	172	0	Under Construction	377
Joe Tedesco Townhouses Permit 04-28	Ceres	12	0	Under Construction	26
Tuscany Village VTSM 04-14	Ceres	40	0	VTSM Approved	88
San Pedro North VTSM 05-16	Ceres	11	0	Under Construction	24
Dow Ranch VTSM 05-55	Ceres	46	0	VTSM and Rezone Approved, Model Homes Constructed	101
Frank Sequira VTPM 06-17	Ceres	10		VTPM and ASPA Approved	22
GDR Engineering VTSM 06-28	Ceres	8	0	VTSM Approved	18



**Table 1**  
**Ceres Mitchell Ranch**  
**EIR**  
**Cumulative Solid Waste Generation**  
**Projects Identified in EIR**

Aspen Survey VTSM 06-36	Ceres	6	0	VTSM Approved	13
Frank Sequira ASPA 06-41	Ceres	6	0	ASPA Approved, in Plan Check Stage	13
Gary and Lindy Middleton	Ceres	3	0	ASPA Approved	7
<b>TOTALS</b>		<b>1,823</b>	<b>25,955</b>		<b>4,054</b>

NOTES: 1. Residential waste generation rate = 12 pounds per dwelling unit (household) per day from Appendix 10

2. Commercial waste generation rate of 13 pounds per 1,000 square feet per day from Appendix 11 used for non-residential projects

## **Appendix 1**

### **Curtis G. Fujii Experience and Qualifications**

**Curt Fujii, P.E.**  
*Solid Waste Experience and Qualifications*  
Concord, CA  
925-768-6103  
cgfujii@mac.com

**Education**

Bachelor of Science Degree, Major in Civil Engineering, Stanford University.

**Professional Registration**

Registered Professional Civil Engineer, with Surveying Rights, in State of California, P.E. Number 31676.

**Summary**

Registered Professional Civil Engineer with extensive professional experience, the majority in landfill engineering and solid waste management. Experience includes work for two private solid waste management companies, two major solid waste/environmental consulting firms, a local general civil engineering consulting firm, and a local government agency.

- Solid Waste Facility Permitting, Including Associated CEQA Reviews
- Solid Waste Facility Design and Construction
- Solid Waste Facility Operations
- Environmental Monitoring & Compliance
- Regulatory Liaison
- Community Relations
- Leachate Management
- Landfill Gas Control
- Landfill Closure
- Postclosure Monitoring & Maintenance

**Professional Experience**

**Fujii Civil Engineering (FCE)**

**June, 2009 – Present**

**Principal.** Independent consultant providing engineering consulting services to private companies and public agencies

- Provided engineering services to assist an independent solid waste management company in managing waste water from vehicle/equipment washing and facility operations.
- Prepared Spill Prevention Control and Countermeasure Plan for an independent solid waste management company
- Provided engineering services to a California county for modifying a sort line to increase diversion from landfill disposal and reduce contamination of compost feedstock
- Evaluated compliance of a publicly owned solid waste management company with new EPA Greenhouse Gas Mandatory Reporting Rule requirements

**Civil & Environmental Consultants, Inc. (CEC)****September, 2008 – June, 2009**

**Principal.** Responsible for business development and project management for a 450-employee consulting firm establishing a presence in California.

- Evaluated environmental and regulatory liabilities associated with a major merger for a nationwide solid waste management company. Services also included integrating landfill capital and compliance budget information into a format for use by the new, merged company.
- Provided engineering services to assist an independent solid waste management company in complying with regulatory orders regarding wastewater management. Identified wastewater management strategies that met regulatory requirements and addressed societal concerns about resource conservation and management.
- Supported an independent solid waste management company in a rate increase request by providing engineering support for components of requested increase.
- Assisted major nationwide client in resolving drainage issue with adjacent property owner.

**Allied Waste (Now Republic Services)****July, 1999 – May, 2008**

**Regional and District engineering responsibilities.** As Region Engineer, responsible for engineering and environmental compliance for Allied facilities and operations in Washington, Oregon, California, and Arizona. As District Engineer, responsible for Allied facilities and operations in Northern California. California facilities included:

- Keller Canyon Sanitary Landfill, Contra Costa County
- Contra Costa Transfer and Recovery Station, Contra Costa County
- Devlin Road Transfer Station, Napa County
- Newby Island Sanitary Landfill, Santa Clara County
- Newby Island Compost Facility, Santa Clara County
- The Recyclery at Newby Island, Santa Clara County
- Forward Inc. Sanitary Landfill, San Joaquin County
- Sunshine Canyon Sanitary Landfill, Los Angeles County
- Shoreway Environmental Center (recycling facility and solid waste transfer station), San Mateo County
- Ox Mountain Sanitary Landfill, San Mateo County
- Mussel Rock Transfer Station, San Mateo County
- Sycamore Canyon Sanitary Landfill, San Diego County

**NORCAL Waste Systems****1993 – 1999**

**Director of Engineering** and other positions. Responsible for a wide variety of activities for a major regional solid waste management company. Responsibilities varied widely due to the flexible management approach – people were not “pigeon-holed.”

- Coordinated/managed numerous landfill liner construction projects using in-house landfill equipment and labor.

- Resolved significant leachate management issues at one sanitary landfill. This included negotiating a leachate disposal agreement with a sewage treatment facility that did not include the sanitary landfill in its service area.
- Provided project/construction management services for sanitary landfills operated under contract, but owned by local government agencies.
- Managed engineering and project proponent's activities in CEQA review to permit two major landfill expansions and one greenfield site. Made key presentations in public hearings.
- Evaluated potential acquisitions with regard to potential engineering and compliance issues.

#### **EMCON Associates**

**1987 – 1993**

**Project Manager.** Managed multi-disciplinary teams for a wide variety of landfill and solid waste projects.

- Managed a project to successfully take a greenfield site from beginning design to complete construction and tipping in less than one month, when client was suddenly shut out of previous landfill.
- Successfully led interdisciplinary teams on a wide variety of complex projects.
- Successfully represented clients' position to regulatory agencies.

#### **Sandis & Associates**

**1985 – 1987**

**Project Manager.** Managed a wide variety of residential and commercial development projects.

#### **City of Mountain View**

**1977 – 1985**

**Associate Civil Engineer and Other Positions.** Supervised landfill engineering group and performed a wide variety of other public works functions

#### **Professional Associations**

Member of Solid Waste Association of North American (SWANA)



## **Appendix 2**

### **CalRecycle Web Page – Jurisdiction Disposal/Diversion Rate Summary for Stanislaus County Regional Solid Waste Planning Agency**



## Jurisdiction Diversion/Disposal Rate Summary

**Advisory!** This online database contains some diversion rates calculated with preliminary data and labeled as such. Preliminary data is subject to change during CalRecycle review process or when a jurisdiction submits updated information. Those diversion rates where the status is labeled "Preliminary Data Under Staff Review;" "Biennial Review Not Completed Yet, Preliminary Data;" "Biennial Review Not Completed Yet, New Base Year;" or "Not Subject to Biennial Review, Newly Incorporated" are not official diversion rates and have not been reviewed by CalRecycle.

**Please Note!** For the 2004 through 2006 jurisdiction annual reports, CalRecycle allowed the use of the Taxable Sales Deflator Index (TSDI) as an acceptable alternative to the Consumer Price Index (CPI) to calculate diversion rates. If you want to find out more about the TSDI and see a comparison of preliminary 2004 diversion rates calculated using CPI and TSDI see our [Taxable Sales Deflator Index](#) page.

### Stanislaus County Regional Solid Waste Planning Agency

Reporting Year	Biennial Review Cycle	Diversion Rate %	Biennial Review Status* (click on status to view detailed data)
1995	95-96	No data	Regional Agency formation at a later date
1996	95-96	No data	Regional Agency formation at a later date
1997	97-98	No data	Regional Agency formation at a later date
1998	97-98	No data	Regional Agency formation at a later date
1999	99-00	No data	Regional Agency formation at a later date
2000	99-00	No data	Regional Agency formation at a later date
2001	01-02	59	<a href="#">Board Approved</a>
2002	01-02	60	<a href="#">Board Approved</a>
2003	03-04	60	<a href="#">Board Approved</a>
2004	03-04	64	<a href="#">Board Approved</a>
2005	05-06	64	<a href="#">Board Approved</a>
2006	05-06	61	<a href="#">Board Approved</a>

### Jurisdiction Diversion/Disposal Rate Summary | \*Biennial/CalRecycle Review Status Definitions

Last updated: Data updated continuously.  
 Local Government Central, <http://www.calrecycle.ca.gov/LGCentral/>  
 Larry Stephens: [Larry.Stephens@calrecycle.ca.gov](mailto:Larry.Stephens@calrecycle.ca.gov) (916) 341-6241

[Conditions of Use](#) | [Privacy Policy](#)

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### **Appendix 3**

#### **Walmart Announcement Regarding PLA Plastic Packaging**

*Last Updated: Monday, April 03, 2006*

## **Wal-Mart is taking the lead on Environmental Sustainability**

At Wal-Mart, we know that being an efficient and profitable business and being a good steward of the environment are goals that can work together. Our environmental goals at Wal-Mart are simple and straightforward: To be supplied 100 percent by renewable energy; to create zero waste; and to sell products that sustain our resources and our environment.

### ***Environmentally-Friendly Products Reduce Costs and Expand Options for Customers:***

We believe ALL families should have affordable access to sustainable products, like organic fruits and vegetables, fresh seafood, clothes made from organic cotton, and forest and paper products that are safe for families and are produced, packaged and delivered to our stores in an environmentally-friendly way.

Recently, SAM'S CLUB introduced a yoga outfit made of organic cotton. It sold 190,000 units at 290 clubs in 10 weeks. Customers snapped it up and, as a result of this and other environmentally-friendly products we sell, Wal-Mart is now the largest purchaser of organic cotton in the world.

In February 2006, Wal-Mart announced plans to, within the next three to five years, purchase all of its wild-caught fresh and frozen fish for the North American market from Marine Stewardship Council (MSC)-certified fisheries. The MSC is a non-profit organization dedicated to promoting solutions to the problem of over-fishing. Products from MSC-certified fisheries carry a distinctive blue eco-label letting customers know the fish they'll serve their families was harvested in a sustainable way.

In November of last year, Wal-Mart took a major step to ensure that the company's imported shrimp are farmed with environmental sustainability in mind. Wal-Mart partnered with the Global Aquaculture Alliance (GAA) and Aquaculture Certification Council, Inc. (ACC) to certify that all foreign shrimp suppliers adhere to Best Aquaculture Practices (BAP) standards.

Additionally, we are working with various suppliers to educate and inform our customers through newspaper ads featuring new products that are good for the environment like compact fluorescent light bulbs and bold water detergents.

These are the kinds of options we offer our customers. These are also the kinds of innovations that a retailer with an eye on sustainability can make. And this is the kind of access to sustainable products that we can create for every community, every family and every individual we serve, regardless of their station in life. All it takes is courage and commitment.

### ***Using, Encouraging and Investing in Renewable Energy is Good for the Environment and Good for the Business:***

Who better than Wal-Mart to make a kilowatt of electricity go twice as far, or a gallon of diesel take our trucks twice the distance? Or three times? Who better than Wal-Mart to stretch our energy dollars farther than anyone ever has or to help lower our energy bills and gas prices for years to come?

We have one of the largest private fleets in the U.S. At today's prices, if we improve our fleet fuel mileage by just one mile per gallon, we can save over \$52 million per year. We are increasing our fleet efficiency by 25 percent over the next three years and will double it within ten years. When implemented across our entire fleet by 2015, this amounts to savings of more than \$310 million per year.

We plan to eliminate 30 percent of the energy used by our stores. Increasing our energy efficiency not only reduces dependence on oil and saves money; it also reduces greenhouse gas emissions. Wal-Mart wants to help restore balance to climate systems, reduce greenhouse gases, save money for our customers, and reduce dependence on oil. We are committed to the following:

Aggressively investing approximately \$600 million annually in sustainable technologies and innovations.

Reducing greenhouse gases at our existing stores, SAMS Clubs and Distribution Centers around the world by 20 percent over the next seven years.

Designing and opening a viable prototype store that is 25-30 percent more efficient and will produce up to 30 percent fewer greenhouse gas emissions within the next four years.

Sharing our learning with the world, including our competitors, because the more people who utilize this type of technology, the larger the market and the more we can save our customers.

Aggressively pursuing regulatory and policy changes that will create incentives for utilities to invest in energy efficiency, to use low or no greenhouse gas sources of electricity, and to reduce barriers to integrating these sources into the power grid.

Assisting in the design and support of a green company program in China, where Wal-Mart will show preference to those suppliers and their factories involved in such a program.

Initiating a program here in the U.S. over the next 18 months that will show preference to suppliers who set their own goals and aggressively reduce their own emissions.

***Reducing Waste Is Responsible and Cost-Efficient:***

We intend to reach the point in the near future where there will be no dumpsters at our stores and no landfills with Wal-Mart throwaways. To do that, we have to address packaging. We want to ensure that our goods come in the right size package and that the materials in that packaging are made from renewable or recyclable materials.

We are committed to:

Reducing our solid waste from U.S. stores and clubs by 25 percent in the next three years.

Working with suppliers to create less packaging overall, increase product packaging recycling and increase use of post-consumer material.

Replacing some packaging of our private brands with alternatives that are more sustainable and recyclable within the next two years.

And these solutions will build on the types of things we're already doing:

Our packaging team, for example, worked with a supplier to reduce excessive packaging on some of our private-label toy products. By making the packaging just a little bit smaller on one private brand of toys, we will use 497 fewer containers and generate freight savings of more than \$2.4 million per year. We'll save more than 3,800 trees and more than 1,000 barrels of oil.

In November, we replaced our select produce packaging with corn-based (PLA) packaging on just four items: cut fruit, herbs, strawberries and Brussels sprouts. That change will save the equivalent of 800,000 gallons of gasoline and will prevent over 11 million pounds of greenhouse gas emissions from polluting our environment. We are currently testing PLA on everything from cake and donut boxes to bread bags; from strawberry clam shells to deli trays and salad bowls.

We believe that Wal-Mart can continue these kinds of efforts and significantly reduce the amount of waste going to landfills in our communities while reducing costs through increased recycling of the remaining material. A new process in place at some of our stores is helping us recycle plastic that used to be thrown away. Having all of our stores participate in this program will save us \$28 million per year.

***Our Environmental Initiatives Are Already Getting Results:***

In April 2005, Wal-Mart and the National Fish and Wildlife Foundation (NFWF) began the "Acres for America" partnership. The program preserves one acre of critical wildlife habitat for every acre Wal-Mart has developed and will develop for the next 10 years. To date, over 321,000 acres of wildlife habitat in Arizona, Arkansas, Maine, Louisiana, and Oregon have been preserved, and new projects will be announced early this year.



In California, we recently announced the rollout of the Wal-Mart Kids Recycling Challenge, a private-public partnership that helps California elementary school students become responsible stewards of their environment while earning money for their schools. The Kids Recycling Challenge is the largest plastic bag recycling program of its kind ever undertaken in the state. Since its inception, more than 400 schools have participated, and have already recycled over 104 tons of plastic bags, earning more than \$116,000 for their schools.

We have had hybrid vehicles in our corporate fleet since June of 2003. Hybrid vehicles dramatically reduce gasoline consumption and are environmentally-friendly alternatives to traditional automobiles. We currently have over 100 hybrid vehicles and have requested another 100 for 2006.

We at Wal-Mart are doing our part to live up to our environmental sustainability goals and to strive to reach our potential. We truly believe that corporations can develop and implement practices that are good for the environment and good for business. Learn more about what we are doing at [www.walmarstores.com](http://www.walmarstores.com)

## **Appendix 4**

### **American Agriculturalist Article on Walmart Switch to PLA Plastic Packaging**

## Wal-Mart Switches to Corn-Based Plastic Packaging

*Super retailer will begin substituting 114 million clear-plastic clamshell containers made from polylactic acid on Nov. 1. Compiled by staff*

*Compiled by staff*

Published: Oct 24, 2005

Wal-Mart, the country's largest retailer and grocery seller, will begin substituting 114 million clear-plastic clamshell containers made from polylactic acid (PLA) on Nov. 1, according to the Philadelphia Inquirer. PLA is a polymer derived from lactic acid, which NatureWorks derives from cornstarch. Wal-Mart will also use PLA to make its gift cards and calling cards.

"This is a huge jump into the consumer market for PLA," says Nathan Fields, director of research and business development for the National Corn Growers Association. "It indicates that retailers are beginning to see the advantages of corn-based products, which are domestically produced and better for the environment."

"With this change to packaging made from corn, we will save the equivalent of 600,000 gallons of gasoline and reduce more than 11 million pounds of greenhouse gas emission," says Matt Ketter, Wal-Mart vice president for product development and private brands for the company's Sam's Club division, at the Sustainable Packaging Forum in Philadelphia last week. "This is a way to make a change, positive for the environment and for business."

"It's exciting to see Wal-Mart is going to use PLA for new applications, such as the gift cards and calling cards," Fields says. "It's clear that Wal-Mart is seeking price stability through U.S. agriculture."

The company will use PLA packaging in its 3,779 Wal-Mart, Sam's Club and Neighborhood Market stores.

"Wal-Mart is using PLA to reduce waste and garbage costs, just like Network Associates Coliseum, home of the Oakland A's and Raiders in Oakland, Calif., which has also switched some of its packaging to PLA," Fields says.

PLA is produced by NatureWorks, a division of Cargill. The product is composted easily and is recyclable. According to the Environmental Protection Agency, containers and packaging accounted for 32% of municipal solid wastes by weight in 2003.

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Read comments from others and share your own thoughts.

**Appendix 5**

**California Integrated Waste Management Board Report on  
Degradable Plastic Packaging  
(Selected Pages)**

## **Contractor's Report to the Board**

# **Performance Evaluation of Environmentally Degradable Plastic Packaging and Disposable Food Service Ware - Final Report**

*June 2007*

**Produced under contract by:**

California State University  
Chico Research Foundation





**Table 2. Production information for commercially available degradable plastics**

<b>Trade Name</b>	<b>Product Application</b>	<b>Supplier-location</b>	<b>Production Capacity</b>
Biomax™	Plates, bowls, containers	Dupont	10 million lbs. per year
Miral™ PHA	Film, sheet, cups, trays, containers	Metabolix Inc-USA	100 million lbs. per year <sup>[14]</sup>
EASTAR Bio	Bags, films, liners, fiber and nonwovens applications	Novamont NA-Italy	33 million lbs. per year <sup>[15]</sup>
Ecovio plastic PLA-Ecoflex	Bags, sheets, film	BASF- USA	20 to 50 million lbs. per year
Cereplast resins	Nat-UR cold drink cups, foodservice containers, cutlery	Cereplast Corporation-Hawthorne CA	40 million lbs. per year <sup>[16]</sup>
EcoFlex	Bags, liners, film	BASF-Denmark	60 million lbs. per year <sup>[17]</sup>
NatureWorks PLA	Cold drink cups, foodservice containers and cutlery	Nature Works LLC, Cargill-Dow- USA	300 million lbs. per year <sup>[18]</sup>
Stalk Market Sugar Cane	Foodservice containers and cutlery	Asean Corporation, China	30 million lbs. per year
Mater-Bi Resins	Bags, liners, film products	Novamont Corporation-Italy	40 million lbs. per year <sup>[19]</sup>
EPI additives for polyethylene	Bags, sheets, film, trays. Additive is available for many plastic products.	Biocorp, Inc. Becker, MN, USA	20 million lbs. per year
Oxo-UV-degradable additives for polyethylene	Bags, sheets, film, trays. Additive is available for many plastic products.	EPI Environmental Technologies, Nevada, USA	20 million lbs. per year
Polystarch master batch for polyethylene	Bags, sheets, film, trays, containers. Starch additive is available for many plastic products.	Willow Ridge Plastics, Inc. Erlanger, KY, USA	10 million lbs. per year

Table 3 lists polymer type, degradation extent and rate, shelf life, and certification of several degradable plastics. The degradable polymers can degrade aerobically in compost, landfill, and marine environments. The rate of decomposition depends upon the temperature, moisture content, and population of microorganisms in the particular environment. All of the compostable plastics are certified by BPI and therefore completely mineralize and biodegrade in six months under composting conditions. They also have a reasonable shelf life of 12 to 18 months. The UV-degradable plastics and oxodegradable plastics are not certified as compostable and will not fully degrade in compost environments within six months.

**Table 3. Certification information of commercially available degradable plastics**

Trade Name	Polymer Source/Type	Rate and Extent of Degradation (Environment)	Shelf Life	BPI Certified	ISO Certified
Biomax™	Mixed aliphatic and aromatic polyester	Compostable in six months (compost)	12 to 18 months	Yes	Yes
Biopol™ PHA	Poly-hydroxyalkanoate via bacteria	Compostable in six months (compost)	12 to 18 months	No	No
EASTAR Bio	Modified polyethylene terephthalate (PET) polyester	Compostable in six months (compost)	12 to 18 months	Yes	Yes
Ecovio plastic	PLA-Ecoflex	New product	TBD	No	No
Cereplast resins	Plant organic sources	Compostable in six months (compost)	12 to 18 months	Yes	Yes
EcoFlex	Mixed aliphatic and aromatic polyester	Compostable in six months (compost)	12 to 18 months	Yes	Yes
NatureWorks PLA	Polyester	Compostable in six months (compost)	12 to 18 months	Yes	Yes
Stalk Market Sugar Cane	Sugar cane	Biodegradable (compost)	12 to 18 months	No	No
Mater-Bi™ Resins	Family of bioplastics that use vegetable components, such as corn starch, that have been modified (or complexed) with biodegradable polyesters.	Compostable in six months (compost)	12 to 18 months	Yes	Yes
EPI additives for polyethylene	Oxodegradable additive for HDPE and LDPE	Disintegrates but not compostable	2 to 3 years	No	No
Oxo- UV-degradable additives for polyethylene	Oxodegradable additive for HDPE and LDPE	Disintegrates but not compostable	2 to 3 years	No	No
Polystarch master batch	Starch and LDPE or HDPE, and Polypropylene (PP)	Disintegrates but not compostable	2 to 3 years	No	No

Biodegradable plastics that are certified by BPI are fully biodegradable in compost environments. The bacteria in soil and compost will consume the organic components of the biodegradable plastics. See Table 4 for a list of biodegradable and compostable plastics that degrade safely leaving no harmful residue.

The majority of compostable plastics belong to the polyester family, including poly-lactic acid (PLA), which is manufactured and supplied by NatureWorks, LLC. PLA is produced from the polymerization of lactic acid. It is also referred to as poly lactide. PLA is a very common biodegradable polymer that has high clarity for packaging applications. It can be used for thermoformed cups and containers, forks, spoons, knives, candy wraps, coatings for paper cups, optically enhanced films, and shrink labels. PLA

## Conclusions and Recommendations

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In developing state and local policy related to the environmentally beneficial uses of degradable plastics, decision-makers should first consider the implications of any policy or program decision on the affected waste diversion and disposal systems, and those that use it. This is because improvement in one area of a system can sometimes adversely affect another part of the system. For example, it is clear that compostable plastic products could significantly increase food scrap and greenwaste diversion because food service ware could be composted along with food scraps, and the bags used to collect greenwaste would not need to be separated before composting. However, degradable plastics could also contaminate the existing plastic recycling stream if they are not properly collected and composted, thus reducing plastic recycling opportunities. Further, while compostable bags meeting ASTM standards will degrade in a compost environment (based on the experimental conditions of this study), most will not break down if released as litter into the land or marine environments. Thus, it is important to understand that biodegradable or compostable plastics are not a panacea for waste or litter reduction.

It is recommended that additional research be performed to:

- Better understand the fate of degradable plastics in land and marine environments and to understand the effect that degradation residues may have on wildlife, plants, and marine life.
- To assess the environmental risks and fate of intermediate products of other biodegradable plastics in composting environments.
- Assess the life cycle costs incurred during the manufacturing, collection, and reprocessing of compostable bags compared to the costs incurred managing conventional plastics through processing, recycling, and disposal. Local governments need this information to make informed decisions on uses for compostable bags.
- Propose a law requiring the development of an identification code for compostable bags and containers to help identify and separate compostable plastics from recyclable plastics. The presence of degradable plastic material in regulated rigid plastic packaging containers and trash bags would make compliance with present law very difficult and, as indicated above, would reduce plastic recycling opportunities.
- Evaluate other degradable plastics, including oxodegradable materials, in commercial compost operations that utilize aerobic in-vessel composting.
- Further investigate degradability in marine environments and life cycle assessments of the degradable plastics.
- Better understand the biodegradation of compostable and biodegradable polymers in the marine environment.
- Further evaluate the effects of contamination of the degradable plastics on recycled plastics.
- Better evaluate the variations in melt index.

## Appendix 6

### Smithsonian Magazine Article Regarding Corn Plastic



pipe and solidified in flossy strands on the steel-grated floor. The next time I saw the stuff, in a box in a warehouse, it had been crystallized into translucent white balls the size of peas: PLA resin. In the hands of fabricators, the pellets would be melted and reshaped into containers, films and fibers.

Though the polymer, because of its low melting point, doesn't yet have as many applications as does the far more common plastic polyethylene terephthalate (PET), used to make soda bottles and some polyester fibers, the company has plans, as a large banner in the office proclaims, to "Beat PET!" In some ways, corn plastic is clearly easier on the environment. Producing PLA uses 65 percent less energy than producing conventional plastics, according to an independent analysis commissioned by NatureWorks. It also generates 68 percent fewer greenhouse gases, and contains no toxins. "It has a drastically different safety profile," says NatureWorks operations manager Carey Buckles. "It's not going to blow up the community."

For retailers, PLA has a halo effect. Wild Oats was an early adopter of the stuff. "Our employees loved the environmental message of the containers, that they came from a renewable resource, and our customers had a strong reaction when we told them they were compostable," says Sonja Tuitele, a Wild Oats spokesperson. The containers initially boosted the company's deli sales by 17 percent, she says, and the chain now uses six million PLA containers a year. Newman's Own Organics uses PLA packaging for its salad mixes. "We felt strongly that everywhere we can get out of petroleum products, we should," says Newman's Own CEO Peter Meehan. "No one has ever gone to war over corn."

Wal-Mart, which has begun using PLA containers in some stores, has also switched packaging on high-end electronics from PET to a sandwich of cardboard and PLA. "It has a smaller packaging footprint, it's completely biodegradable and it costs less," says Kistler. What Wal-Mart says about PLA's biodegradable nature is true, but there's an important catch.

Corn plastic has been around for 20 years, but the polymer was too expensive for broad commercial applications until 1989, when Patrick Gruber, then a Cargill chemist looking for new ways to use corn, invented a way to make the polymer more efficiently. Working with his wife, also a chemist, he created his first prototype PLA products on his kitchen stove. In the beginning, it cost \$200 to make a pound of PLA; now it's less than \$1.

The polymer has had to get over some cultural hurdles. In the mid-1980s, another bio-based plastic appeared on grocery store shelves: bags made from polyethylene and cornstarch that were said to be biodegradable. "People thought they would disappear quickly," recalls Steven Mojo, executive director of the Biodegradable Products Institute. They didn't. Will Brinton, president of Woods End, a compost research laboratory in Mt. Vernon, Maine, says the bags broke into small fragments of polyethylene, fragments that weren't good for compost or public relations. "It was a big step backward for the biodegradability movement," he adds. "Whole communities abandoned the concept of biodegradable bags as a fraud."

According to a biodegradability standard that Mojo helped develop, PLA is said to decompose into carbon dioxide and water in a "controlled composting environment" in fewer than 90 days. What's a controlled composting environment? Not your backyard bin, pit or tumbling barrel. It's a large facility where compost—essentially, plant scraps being digested by microbes into fertilizer—reaches 140 degrees for ten consecutive days. So, yes, as PLA advocates say, corn plastic is "biodegradable." But in reality very few consumers have access to the sort of composting facilities that can make that happen. NatureWorks has identified 113 such facilities nationwide—some handle industrial food-processing waste or yard trimmings, others are college or prison operations—but only about a quarter of them accept residential foodscraps collected by municipalities.

Moreover, PLA by the truckload may potentially pose a problem for some large-scale composters. Chris Choate, a composting expert at Norcal Waste Systems, headquartered in San Francisco, says large amounts of PLA can interfere with conventional composting because the polymer reverts into lactic acid, making the compost wetter and more acidic. "Microbes will consume the lactic acid, but they demand a lot of oxygen, and we're having trouble providing enough," he says. "Right now, PLA isn't a problem," because there's so little of it, Choate says. (NatureWorks disputes that idea, saying that PLA has no such effect on composting processes.) In any event, Norcal says a future PLA boom won't be a problem because the company hopes to convert its composters to so-called anaerobic digesters, which break down organic material in the absence of oxygen and capture the resulting methane for fuel.

Wild Oats accepts used PLA containers in half of its 80 stores. "We mix the PLA with produce and scraps from our juice bars and deliver it to an industrial composting facility," says the company's Tuitele. But at the Wild Oats stores that don't take back PLA, customers are on their own, and they can't be blamed if they feel deceived by PLA containers stamped "compostable." Brinton, who has done extensive testing of PLA, says such containers are "unchanged" after six months in a home composting operation. For that reason, he considers the Wild Oats stamp, and their in-store signage touting PLA's compostability, to be false advertising.

Wal-Mart's Kistler says the company isn't about to take back used PLA for composting. "We're not in the business of collecting garbage," he says. "How do we get states and municipalities to set up composting systems? That is the million-dollar question. It's not our role to tell government what to do. There is money to be made in the recycling business. As we develop packaging that can be recycled and composted, the industry will be developed."



For their part, recycling facilities have problems with PLA too. They worry that consumers will simply dump PLA in with their PET. To plastic processors, PLA in tiny amounts is merely a nuisance. But in large amounts it can be an expensive hassle. In the recycling business, soda bottles, milk jugs and the like are collected and baled by materials recovery facilities, or MRFs (pronounced -marfs-). The MRFs sell the material to processors, which break down the plastic into pellets or flakes, which are, in turn, made into new products, such as carpeting, fiberfill, or containers for detergent or motor oil. Because PLA and PET mix about as well as oil and water, recyclers consider PLA a contaminant. They have to pay to sort it out and pay again to dispose of it.

NatureWorks has given this problem some thought. "If the MRF separates the PLA, we'll buy it back from them when they've got enough to fill a truck," says spokeswoman Bridget Charon. The company will then either take the PLA to an industrial composter or haul it back to Blair, where the polymer will be broken down and remade into fresh PLA.

Despite PLA's potential as an environmentally friendly material, it seems clear that a great deal of corn packaging, probably the majority of it, will end up in landfills. And there's no evidence it will break down there any faster or more thoroughly than PET or any other form of plastic. Glenn Johnston, manager of global regulatory affairs for NatureWorks, says that a PLA container dumped in a landfill will last—as long as a PET bottle. "No one knows for sure how long that is, but estimates range from 100 to 1,000 years."

Environmentalists have other objections to PLA. Lester Brown, president of the Earth Policy Institute, questions the morality of turning a foodstuff into packaging when so many people in the world are hungry. "Already we're converting 12 percent of the U.S. grain harvest to ethanol," he says. The USDA projects that figure will rise to 23 percent by 2014. "How much corn do we want to convert to nonfood products?" In addition, most of the corn that NatureWorks uses to make PLA resin is genetically modified to resist pests, and some environmentalists oppose the use of such crops, claiming they will contaminate conventional crops or disrupt local ecosystems. Other critics point to the steep environmental toll of industrially grown corn. The cultivation of corn uses more nitrogen fertilizer, more herbicides and more insecticides than any other U.S. crop; those practices contribute to soil erosion and water pollution when nitrogen runs off fields into streams and rivers.

NatureWorks, acknowledging some of those criticisms, points out that the corn it uses is low-grade animal feed not intended for human use. And it processes a small amount of non-genetically engineered corn for customers who request it. NatureWorks is also investigating better ways to segregate PLA in traditional recycling facilities, and it's even buying renewable energy certificates (investments in wind power) to offset its use of fossil fuels. But there's not much the company can do about the most fundamental question about corn plastic containers: Are they really necessary?

A few miles south of Blair, in Fort Calhoun, Wilkinson Industries occupies a sprawling, low brick building in a residential neighborhood. Wilkinson converts NatureWorks resin into packaging. In a warehouse-size room, the pellets are melted, pressed into a thin film and stretched into sheets that a thermoformer stamps into rigid containers—square, tall, rectangular or round. (PLA can also take the shape of labels, electronics casings, wrap for flowers, gift cards, clothing fiber and pillow stuffing.) "We're shipping trays to Google's cafeteria and to [filmmaker] George Lucas' studio in San Francisco," says Joe Selzer, a Wilkinson vice president. "We do trays for Del Monte's and Meijer stores' fresh cut fruit. And, oh yeah, we do Wal-Mart."

PLA amounts to about 20 percent of the plastic products made by Wilkinson. The rest is polystyrene and PET. "We'd like to see PLA be the resin of the future, but we know it never will be," says Selzer. "It's cost stable, but it can't go above 114 degrees. I've had people call me and say, 'Oh my god, I had my takeout box in my car in the sun and it melted into a pancake!'" Bridget Charon, sitting next to me, raises an eyebrow. Selzer continues. "Our number-one concern is PLA's competitive price, and then its applications. After that comes the feel-good."

Selzer leads us up a staircase to an interior room the size of a large pantry. It's crammed with samples of the 450 different containers fabricated by Wilkinson, which also stamps out aluminum trays. "Here's Kentucky Fried Chicken's potpie," Selzer says, pointing to a small round tin. "This plastic tray is for a wedding cake. This one's for crudité. This is for cut pineapple." (Wilkinson manufactured the original TV dinner tray, a sample of which resides in the Smithsonian Institution.) As I look around, I can't help thinking that almost all these products will be dumped, after just an hour or two of use, straight into a big hole in the ground.

Martin Bonaguid, executive director of the Berkeley Ecology Center, a nonprofit recycling organization, holds a dim view of PLA convenience packaging. "Yes, corn-based packaging is better than petroleum-based packaging for absolutely necessary plastics that aren't already successfully recycled, and for packaging that cannot be made of paper," he says. "But it's not as good as asking, 'Why are we using so many containers?' My worry is that PLA legitimizes single-serving, over-packaged products."

Many ecologists argue that companies should produce consumer goods that don't pollute the earth in their manufacture or disposal. In *Cradle to Cradle: Remaking the Way We Make Things*, the architect William McDonough writes about a future in which durable goods, like TVs and cars, are made from substances that cycle back into the manufacturing process, while packaging for short-lived products, like shampoo, will decompose back into the earth. NatureWorks says it wants to be part of that future. As the company's former CEO, Kathleen Bader, told *Forbes* magazine, "We're offering companies a chance to preempt embarrassing demands for responsible packaging. Brands that wait for legislative fiat will be left behind and exposed."

Eric Lombardi, president of the Grassroots Recycling Network and a leader in the international Zero Waste movement, takes a nuanced view of PLA's progress. He says it's "visionary" even to think about biologically based plastic instead of a petroleum-based one. True, he says, there are problems with PLA, "but let's not kill the good in pursuit of the perfect." He suggests that the difficulty disposing of PLA reflects a larger deficiency in how we handle trash. He's calling for a composting revolution. "We need a convenient, creative collection system with three bins: one for biodegradables, which we'll compost, one for recycling, and one for whatever's left."

Until such a system is in place, it's going to be hard to have cheap convenient packaging and feel good about its environmental effect to have our takeout cake and eat it too. But the manufacture of PLA does save oil and generates far less air pollution. And we have to start somewhere.

Elizabeth Royte, a resident of Brooklyn, is the author of *Garbage Land: On the Secret Trail of Trash*. Photographer Brian Smale is based in Seattle.

**Find this article at:**

<http://www.smithsonianmag.com/science-nature/plastic.html?c=y&page=1>



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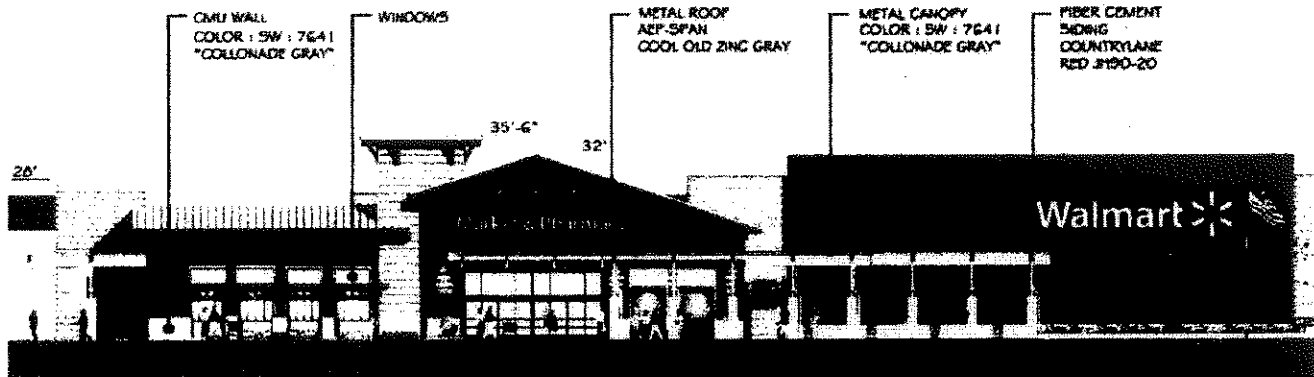
Check the box to include the list of links referenced in the article.

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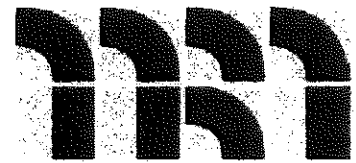
**Appendix 7**  
**Milpitas Walmart Expansion Draft EIR**  
**Selected Pages**

# Milpitas Walmart Expansion Project Draft Environmental Impact Report

SCH No. 2009032018



City of Milpitas ■ November 5, 2009



Michael Brandman Associates  
Bishop Ranch 3  
2633 Camino Ramon, Suite 460  
San Ramon, CA 94583

diverted to South Bay Water Recycling pipelines for use in landscaping, agricultural irrigation, and industrial applications. The plant receives 116.6 million gallons per day on average.

Wastewater treatment services are governed by an agreement between the cities of San Jose and Santa Clara (as joint owners of the plant) and the City of Milpitas. Under terms of the agreement, the City pays a capital share (in proportion to the City's capacity rights and the total plant capacity). In 2006, Milpitas increased its capacity allocation from 12.5 million gallons per day to 13.5 million gallons per day of the plant's 167 million gallons per day capacity.

#### **Wastewater Conveyance Facilities**

A wastewater trunk line is located in N. McCarthy Boulevard from SR-237 to the Milpitas Pump Station located at Dixon Landing Road. The trunk line ranges in diameter from 36 to 48 inches. The existing Walmart store ties into the trunk line via a lateral.

#### **Storm Drainage**

The City of Milpitas collects and disposes its stormwater via a storm drainage network consisting of catch basins, conveyance piping, pump stations, and outfalls to creeks. Storm drainage infrastructure within the City includes 123 miles of piping, 3,490 catch basins, approximately 4.5 miles of drainage ditches and creeks, and 13 stormwater pump stations. Note that the SCVWD has jurisdiction over creeks, including Coyote Creek.

#### **Storm Drainage Conveyance Facilities**

The existing Walmart store and parking areas are served by existing inlets and piping that discharge runoff into a storm drain main located within N. McCarthy Boulevard. This main ranges from 24 to 48 inches in diameter and discharges stormwater into Coyote Creek northwest of the project site.

#### **Solid Waste**

The City of Milpitas Public Works department oversees solid waste and recycling services in the City. Republic Services is contracted with the City to provide solid waste and recycling collection. Accepted materials include aluminum cans, plastics, corrugated cardboard, newspapers, magazines, tin and steel cans, and mixed paper.

#### **Landfill Capacity**

Solid waste from Milpitas is landfilled at the Newby Island Landfill, located on Dixon Landing Road in San Jose. The landfill characteristics are summarized in Table 4.9-5. As shown in the table, Newby Island Land fill has approximately 10.7 million cubic yards of remaining capacity. Note that the landfill operator has applied to the City of San Jose to increase disposal capacity by 15 million cubic yards.

Given the amount of construction waste tonnage, mitigation is proposed that would require the project applicant to retain a contractor to recycle construction and demolition debris. The implementation of this mitigation measure would reduce potential impacts to a level of less than significant.

#### **Operational Waste Generation**

The operational solid waste generation estimate was calculated by using a standard commercial waste generation rate provided by the California Integrated Waste Management Board. As shown in Table 4.9-10, the proposed project is estimated to generate 362 tons of solid waste annually, which would represent a net increase of 45.6 tons over the existing store's estimated solid waste generation.

**Table 4.9-10: Operational Waste Generation**

4.8 pounds/square foot	131,725	316.1	150,725	361.7	45.6
Notes: 1 ton = 2,000 pounds Source: California Integrated Waste Management Board, 2006; Michael Brandman Associates, 2009.					

Mitigation is proposed that would require the project applicant to provide onsite recycling facilities prior to issuance of occupancy permits. The implementation of this mitigation measure would reduce solid waste generation and reduce demand for landfill capacity. Therefore, solid waste impacts would be reduced to a level of less than significant.

#### **Level of Significance Before Mitigation**

Potentially significant impact.

#### **Mitigation Measures**

- MM PSU-6a** Prior to issuance of building permits, the project applicant shall retain a qualified contractor to perform construction and demolition debris recycling. The project applicant shall provide documentation to the satisfaction of the City of Milpitas demonstrating that construction and demolition debris was recycled.
- MM PSU-6b** Prior to issuance of occupancy permits, the project applicant shall provide onsite facilities necessary to collect and store recyclable materials. The facilities shall include receptacles in public spaces that are of high-quality design and identify accepted materials.

#### **Level of Significance After Mitigation**

Less than significant impact.



## **Appendix 8**

### **Solid Waste Facility Permit for Newby Island Sanitary Landfill**

<b>SOLID WASTE FACILITY PERMIT</b>		1. Facility/Permit Number:  43-AN-0003																																										
<b>2. Name and Street Address of Facility:</b> Newby Island Sanitary Landfill 1601 Dixon Landing Road San Jose, CA 95035 *Facility is located in San Jose, however the mailing address is in Milpitas	<b>3. Name and Mailing Address of Operator:</b> International Disposal Corporation, Inc. 1601 Dixon Landing Road Milpitas, CA 95035	<b>4. Name and Mailing Address of Owner:</b> International Disposal Corporation 1601 Dixon Landing Road Milpitas, CA 95035																																										
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<b>e. Key Design Parameters (Detailed parameters are shown on site plans bearing LEA and CWMB validations):</b> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th></th> <th>Total</th> <th>Disposal</th> <th>Transfer</th> <th>MRF</th> <th>Composting</th> <th>Transformation</th> </tr> </thead> <tbody> <tr> <td>Permitted Area (in acres)</td> <td>342 a</td> <td>308 a</td> <td>N/A a</td> <td>N/A a</td> <td>6 a</td> <td>N/A a</td> </tr> <tr> <td>Design Capacity</td> <td></td> <td>50.8 Million cy</td> <td>N/A tpd</td> <td>N/A tpd</td> <td>N/A tpd</td> <td>N/A tpd</td> </tr> <tr> <td>Max. Elevation (FL MSL)</td> <td></td> <td>150 ft</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Max. Depth (FL BGS)</td> <td></td> <td>40 ft</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Estimated Closure Date</td> <td></td> <td>2025 Estimate Only</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>				Total	Disposal	Transfer	MRF	Composting	Transformation	Permitted Area (in acres)	342 a	308 a	N/A a	N/A a	6 a	N/A a	Design Capacity		50.8 Million cy	N/A tpd	N/A tpd	N/A tpd	N/A tpd	Max. Elevation (FL MSL)		150 ft					Max. Depth (FL BGS)		40 ft					Estimated Closure Date		2025 Estimate Only				
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Upon a significant change in design or operation from that described herein, this permit is subject to revocation or suspension. The stipulated permit findings and conditions are integral parts of this permit & supersede the conditions of any previously issued permit.																																												
<b>6. Approval:</b>  Approving Officer Signature  Name/Title: Michael Hannon, Deputy Director, Code Enforcement		<b>7. Enforcement Agency Name and Address:</b> City of San Jose Planning, Building and Code Enforcement 170 W. San Carlos St. San Jose, CA 95113																																										
<b>8. Received by CWMB:</b> January 24, 1997	<b>9. CWMB Concurrence Date:</b> February 26, 1997	<b>10. Permit Issued Date:</b> March 14, 1997																																										
<b>11A. Next Permit Review Due Date:</b> November 15, 2011	<b>11B. Permit Transfer Date:</b> N/A	<b>11C. Permit Review Date:</b> November 15, 2006																																										

# SOLID WASTE FACILITY PERMIT - Pg. 1 of 6

1. Facility/Permit Number:

SWIS No. 43-AN-0003

2. Name and Street Address of Facility:

Newby Island Sanitary Landfill  
1601 Dixon Landing Road  
San Jose, CA 95035

3. Name and Mailing Address of Operator:

International Disposal Corporation, Inc.  
1601 Dixon Landing Road  
Milpitas CA 95035

4. Name and Mailing Address of Owner:

International Disposal Corporation, Inc.  
1601 Dixon Landing Road  
Milpitas CA 95035

NOTE: The Facility is located in San Jose, however  
the mailing address is in Milpitas.

5. Specifications:

- a. Permitted Operations:
- |                                     |                                    |                                     |   |
|-------------------------------------|------------------------------------|-------------------------------------|---|
| <input type="checkbox"/>            | Composting Facility (mixed wastes) | <input type="checkbox"/>            | Processing Facility   |
| <input type="checkbox"/>            | Composting Facility (yard waste)   | <input type="checkbox"/>            | Transfer Station  |
| <input checked="" type="checkbox"/> | Landfill Disposal Site             | <input type="checkbox"/>            | Transformation Facility   |
| <input type="checkbox"/>            | Material Recovery Facility         | <input checked="" type="checkbox"/> | Other: <u>Compost Processing Operation and Waste Tire Storage</u> |

b. Permitted Hours of Operation:

Commercial and Industrial Disposal Operations ..... 24 Hours per Day, 6 Days per Week (CLOSED ON SUNDAY)  
Public Disposal Operations ..... 8:00am to 4:00 pm, 7 Days per Week (CLOSED ON SUNDAY)

c. Permitted Tons per Operating Day:

The Annual Average Tonnage allowed is 3260 TPD (See Conditions #C4).

Total: 4000\* Tons/Day  
\* Maximum Peak Daily Tonnage (See Conditions #C4).

Non-Hazardous - General  
Non-Hazardous - Sludge  
Non-Hazardous - Separated or commingled recyclables  
Non-Hazardous - Other (See Section 14 of Permit)  
Designated (See Section 14 of Permit)  
Hazardous (See Section 14 of Permit)

<u>4000</u>	Tons/Day
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<u>N/A</u>	Tons/Day
<u>N/A</u>	Tons/Day
<u>N/A</u>	Tons/Day

d. Permitted Traffic Volume:

Total: Equivalent of 4000\* Tons per Day Vehicles/Day

Incoming waste materials  
Outgoing waste materials (for disposal)  
Outgoing materials from material recovery operations

<u>N/A</u>	Vehicles/Day
<u>N/A</u>	Vehicles/Day
<u>N/A</u>	Vehicles/Day

e. Key Design Parameters (Detailed parameters are shown on site plans bearing LEA and CIWMB validations):

	Total	Disposal	Transfer	MRF	Composting**	Transformation
Permitted Area (in acres)	342 Acres	313 Acres	N/A		6 Acres	N/A
Design Capacity		50.8 Million Cubic Yards	N/A		N/A	N/A
Max. Elevation (Fl. M.S.L.)		150 ft				
Max. Depth (Fl. below M.S.L.)		40 ft				
Estimated Closure Date		2020 Estimate Only				

(\* \*\* Composting Operations are authorized by a separate Solid Waste Facility Permit 43-AN-0017.)

The permit is granted to the operator named above. Upon a change of owner or operator, the LEA shall be notified 45 days in advance so that the LEA may make a determination for a modification or revision to the permit. The attached permit findings and conditions are integral parts of this permit and supersede the conditions of any previous issued solid waste facility permits.

6. Approval:

Approving Officer Signature

James R. Derryberry

Name/Title James R. Derryberry, Director

7. Enforcement Agency Name and Address:

City of San Jose  
Department of Planning, Building and Code  
Enforcement  
777 N. First St. Suite 700  
San Jose, CA 95112

8. Received by CIWMB:

JAN 24 1997

9. CIWMB Concurrence Date: FEB 26 1997

10. Permit Review Due Date:

March 14, 2002

11. Permit Issued Date:

March 14, 1997

# SOLID WASTE FACILITY PERMIT - Pg. 2 of 3

Facility/Permit Number:

SWIS No. 43-AN-0003

12. Legal Description of Facility (refer to attached Site Vicinity and Site Location Maps, as shown in the RDSI Figures 1.2.3) Located at the Western terminus of Dixon Landing Road, in Section 35 of Township 5 S, Range 1 W, Mount Diablo Base and Meridian (APN 015-40-002 and 015-31-024). The site latitude and longitude are approximately 37 degrees 30 minutes North and 121 degrees 34 minutes West, City of San Jose, Santa Clara County (SEE ATTACHMENT A: Legal Site Description).

## 13. Findings:

- This permit is consistent with the County Solid Waste Management Plan or the County-wide Integrated Solid Waste Management Plan (CoiWMP). Public Resources Code, Section 50001. The CoiWMP, dated November 1995, was adopted by the C.I.W.M.B. in July 1996 (See attachment B).
- This permit is consistent with standards adopted by the California Integrated Waste Management Board (CIWMB). Public Resources Code, Section 14010.
- The design and operation of the facility is in compliance with the State Minimum Standards for Solid Waste Handling and Disposal as determined by the LEA (The City of San Jose Local Enforcement Agency) during the inspections of - December 23, 1996.
- The following local fire protection district has determined that the facility is in conformance with applicable fire standards as required in Public Resources Code, Section 44151 (See Attachment C: Fire District Compliance.) San Jose Fire Dept. Approval date May 9, 1998.
- An environmental determination (i.e. Notice of Determination) was filed with the State Clearinghouse (SCH = 85063028) to identify current and proposed changes, pursuant to Public Resources Code, Section 21081.5. The environmental documents were filed by the City of San Jose Planning Department and adopted on July 21, 1995. (See attachment D: Environmental Determination.)
- A County-wide Integrated Waste Management Plan has been approved by the CIWMB.
- The following authorized agent has made a determination that the facility is consistent with, and designated in, the applicable general plan: The City of San Jose Department of Planning (See Attachment E: General Plan Conformance Finding) Public Resources Code, Section 50000.5(a).
- The following local governing body has made a written finding that surrounding land use is compatible with the facility operation, as required in Public Resources Code, Section 50000.5(b): The City of San Jose Planning Department (See Attachment E: General Plan Conformance Finding).

## 14. Prohibitions:

The permittee is prohibited from accepting any liquid waste sludge, designated wastes, friable asbestos, or hazardous waste unless such waste is specifically listed below, and unless the acceptance of such waste is authorized by all applicable agencies. Wastes requiring special handling, other than those defined in the RDSI, shall require LEA approval for authorization of special handling methods. All non-solid wastes containing less than 50 percent solids must be handled and disposed of as described in a waste management plan approved by the Regional Water Quality Control Board (RWQCB) and the Local Enforcement Agency (LEA).

EXCEPTIONS: A. Non-liquid water treatment residue such as solids from screens and settling tanks, and sludge containing at least 15%-20% solids.

B. Non-liquid sewage treatment residue such as solids from screens and grit chambers, and sludge containing at least 15%-20% solids.

C. Wastes containing less than 50% solids, which have been approved by the LEA and the RWQCB.

D. Triple Rinsed containers in accordance with Title 22, CCR, Section 66251.7.

E. Manure.

F. Dead animals or portions thereof.

G. Ashes from household burning.

H. Non-Hazardous Solids Waste as defined in CCR Title 23, Chapter 15, Section 2523 that are not prohibited in other portions of this permit or in the WDR's.

I. Contaminated Soils and other Industrial Wastes are permitted with prior approval by the LEA and the RWQCB and in compliance with all other regulatory requirements.

The permittee is additionally conditioned by the following items:

- Untreated medical waste, as defined in Chapter 6.1, Division 20 of the Health and Safety Code, is prohibited.

## 15. The following documents also describe and/or restrict the operation of this facility (insert document date in space):

	DATE
[x] Report of Disposal Site Information	<u>7-28-96</u>
[x] Land Use Permits and Conditional Use Permits: SLP #80-10-008 H95-03-022	<u>7-02-91 and</u> <u>7-17-95</u>
[x] Air Pollution Permits and Variances: Permit #11093 to operate Plant 9013	<u>7-19-95</u>
[x] EIR or Negative Declaration: H95-03-022	<u>7-17-95</u>
[x] Lease Agreements - owner and operator	<u>12-16-87</u>
[x] Preliminary Closure/Post Closure Plan	<u>3-13-94</u>
[x] Closure Financial Responsibility Document	<u>2-15-90</u>
[x] Updated Waste Discharge Requirements Order No. 87-152 and 94-025	<u>11-30-87 and 3-15-94</u>

# SOLID WASTE FACILITY PERMIT - Pg. 3 of 5

Facility/Permit Number:

SWS No. 43-AN-0003

## 16. Self Monitoring:

a. Results of all self-monitoring programs will be reported as follows:

(The monitoring documentation, where applicable, will be delinquent 30 days after the end of the reporting period)

Program	Reporting Facility	Agency Reported To
b. Operator shall notify the LEA upon receipt of a Notice of Violation from any regulatory agency. In addition, the operator shall notify the LEA within 72 hours, or on the next business day, following written receipt of a Notice of Violation or upon receipt of written notification of complaints regarding the facility which have been received by other agencies.	As noted	LEA
c. All complaints regarding this facility and the operator's actions taken to resolve these complaints shall be entered into the log of special occurrences. (Notification to the LEA within one day following any serious or major complaint is still recommended.)	As noted	LEA
d. Reports of all special/unusual occurrences and the operator's actions taken to correct these problems shall also be entered into the Log of Special Occurrences.	As noted	LEA
e. The quantities and types of hazardous wastes, untreated medical wastes, or otherwise prohibited wastes found in the waste stream and the disposition of these materials.	ANNUAL (Due Jan. 30)	LEA
f. All incidents of unlawful disposal of prohibited materials and the operator's actions taken shall be entered into the log of special occurrences. Indicate those incidents which occurred as a result of the random load checking program. Incidents, as used here, means that the hauler or producer of the prohibited waste is known.	As noted	LEA
g. The operator shall maintain on-site records for the LEA to document the daily gross Tonnage along with the monthly totals. Also, copies of these monthly totals shall be mailed to the LEA within 30 days after the end of the month. The operator shall maintain these records on the facility's premises for a minimum of one year and make them available to any Enforcement Agency's personnel on request.	As noted	LEA
h. The operator shall report to the LEA in writing the average annual Tonnage figure at the end of the calendar year.	ANNUAL (Due Jan. 30)	LEA
i. The results of the landfill perimeter gas monitoring.	As required by regulation.	LEA
j. The results of the leachate monitoring, collection, treatment and disposal program. The operator shall monitor leachate generation as required by the WDR's. The operator will collect, treat and effectively dispose of the leachate in a manner approved by the CRWQCB, with the results, reports and other documentation being copied to the LEA.	As required by WDR's	LEA
k. One topographical map showing all current fill locations, and one showing all excavations from the previous calendar year. Maps shall be on white bond with a scale no smaller than one inch = 200 feet unless otherwise approved by LEA.	Annually (Due April 1)	LEA
l. Black and White Stereo Pair copies of Aerial Photos will be provided to the LEA.	Same as above	LEA
m. The Operator shall make available to the LEA the gate Receipt Records with vehicle count and arrival times when it is necessary for the LEA to review them onsite.	As requested	

# SOLID WASTE FACILITY PERMIT - Pg. 4 of 5

Facility/Permit Number:

SWIS NO. 43-AN-0003

## 17. LEA Conditions:

### A. Requirements:

1. This facility shall comply with all the State Standards for Solid Waste Handling and Disposal.
2. This facility shall comply with all federal, state, and local requirements and enactments including all mitigation measures given in any certified Environmental document filed pursuant to the Public Resources Code, Section 21031.6.
3. The operator shall comply with all notices and orders issued by any responsible agency designated by the Lead Agency to monitor the mitigation Measures contained in any of the documents referenced within this permit pursuant to the Public Resources Code section 21081.6.
4. Additional information concerning the Design and operation of this facility shall be furnished on request to the Enforcement Agency personnel.
5. The operator shall maintain a copy of this permit at the facility so as to be available at all times to facility personnel and to Enforcement Agency Personnel.
6. The operator shall install and maintain signs at the entrance indicating that no hazardous waste or liquid wastes are accepted.
7. The operator shall comply with the Waste Load Checking Program as described in Section 6.12 and Appendix E of the Report of Disposal Site Information document dated June 28, 1996.
8. The operator shall comply with all conditions and requirements contained in the WDR's (Order No. 94-025).

### B. Provisions

1. Operational controls shall be established to preclude the receipt and disposal of volatile organic chemicals or other types of prohibited wastes. The Operator shall comply with the approved Waste Load Checking Program as described in the RDSI dated June 28, 1996. Any changes in this program must be approved by the LEA prior to implementation. The following SWFP conditions supplement those conditions:
  - A. The minimum number of random waste loads to be inspected monthly at this landfill is five (5).
  - B. The number of random incoming loads to be inspected each month is determined by the LEA and shall be related to the permitted daily volume of Refuse received by the facility. The LEA reserves the right to increase the required number of incoming waste load inspections for sufficient cause.
  - C. Incidents of unlawful disposal of prohibited materials shall be reported to the LEA as described in the monitoring section of this permit. In Addition, all other agencies as required by regulation shall also be notified of any such incidents in accordance with established time frames.
2. This facility must comply with all monitoring requirements established in the Regional Water Quality Control Board Order No. 94-025, Waste Discharge Requirements.
3. This permit is subject to review by the LEA and may be suspended, revoked or modified at any time by the LEA for sufficient cause.
4. The LEA reserves the right to suspend or modify waste receiving operations when deemed necessary due to an emergency, a potential health hazard or the creation of a public nuisance.
5. The operator shall maintain a log of special occurrences as required by CCR Title 14 and 27 and shall make available to the LEA any BAAQMD or OSHA related reportable documentation. This log shall include, but is not necessarily limited to:

Surface and underground fires, explosions, earthquakes, slope failures, discharge of hazardous liquids or gases to the ground, water or air, or significant injuries requiring hospital care. Entries made in this log and deemed significant by the operator must be reported to the LEA within 72 hours. Each of these log entries shall be accompanied by a summary of any actions taken by the operator to mitigate the occurrence.
6. The operator shall maintain, at the facility, accurate daily records of the weight and/or volume of refuse received. These records shall be available to both LEA and CIWMB personnel and shall be maintained for a period of at least one year.

### C. Specifications

1. The operator shall notify the LEA in writing, of any proposed significant changes in the facility design or operations during the planning stages. In no case shall the operator undertake any changes unless the operator first submits to the LEA a notice of said changes at least 120 days before said changes are undertaken. Any significant change as determined by the LEA would require a revision of this permit.
2. Upon a change in the owner or operator, the LEA shall be notified 45 days prior to the change so that the LEA may make a determination to either modify or revise the permit.
3. This permit supersedes all previous SWFP's for this site.
4. This facility is allowed a peak or maximum daily tonnage of 4000 TPD for disposal purposes. The site is allowed an annual average of 3260 TPD, and is also allowed to take in up to 100,000 tons per year of inert (concrete, asphalt, rock, greenwaste and soil) for road and pad building and other site improvements. The weight of these materials shall be deducted from the incoming waste totals, and will not be counted towards the permitted tonnage totals.



# SOLID WASTE FACILITY PERMIT - Pg. 5 of 5

Facility/Permit Number:

SWIS NO. 43-AN-0003

## 17. LEA Conditions (continued)

### C. Specifications (continued)

5. Because this site is a 24 hour site with continuous disposal operations for 24 hours a day, the active disposal face is in a continuous disposal mode. For this reason, the operating day for this site will be defined as a six day period. During this period, the exterior sloping face of the active cell shall be covered with daily Cover. At the end of the six day period, the active face and exterior slope face of the cell will be covered fully with daily cover after the last load of waste is placed after 4:00 p.m. From day 1 to day 6, only those areas that are continuously receiving waste can remain without cover. Also, from day 1 to day 6, where waste has not been received for more than 3 hours, the entire active face will be covered. The operator may be directed to cover more frequently, if required by the LEA, in the event of a public health issue or a public nuisance.
6. The various types of ADC approved for this site, such as Biosolids, may be amended by the LEA and/or other Agency authorizations.
7. Upon successful completion of an approved ADC pilot project and upon administrative concurrence by the LEA, CWMB, and the RNQCB the Operator may commence ongoing non-experimental ADC use.
8. This facility must comply with all applicable Federal, State and local enactments, laws and regulations, including the State Minimum Standards established by the C.I.W.M.B. in State CCR's Title 14, and administered locally by the Local Enforcement Agency. The Local Enforcement Agency is the City of San Jose, Department of Planning, Building and Code Enforcement.

## **Appendix 9**

### **CalRecycle Web Page – Jurisdiction of Origin Waste Disposal by Facility for Fink Road Landfill**

## Jurisdiction of Origin Waste Disposal By Facility

For: Fink Road Landfill 50-AA-0001

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Alameda										7			
Alameda-Unincorporated	4	1				5	4	8	1	10	27	16	7
Alameda County Integrated Solid Waste Management Agency										5			
Antioch	49	2						20					
Bakersfield						1					6		
Benicia											10		7
Berkeley			3		1						2		
Brentwood		2	3	3		20	97		100	71	1		21
Butte County Regional Waste Management Authority													
Calaveras County Regional Agency													
Calaveras-Unincorporated													4
Capitola										11			
Central Contra Costa Solid Waste Authority (CCCSWA)													
Ceres	4,627	5,456	10,625	9,820	8,210	7,168							

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Alameda		
Alameda-Unincorporated	4	242
Amador County Integrated Solid Waste Management Agency		
Antioch		
Bakersfield		
Benicia		
Berkeley		
Brentwood	4	
Butte County Regional Waste Management Authority		
Calaveras County Regional Agency		
Calaveras-Unincorporated		
Capitola		
Central Contra Costa Solid Waste Authority (CCCSWA)		3
Ceres		

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

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California Department of Resources Recycling and Recovery (CalRecycle)  
Disposal Reporting System (DRS)

## Jurisdiction of Origin Waste Disposal By Facility

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Chowchilla													
Clayton													
Clearlake								5					
Concord		3				3	1	19	22	77	70	9	
Consolidated Waste Management Authority				1							14		
Contra Costa/Ironhouse/Oakley Regional Agency										6			
Contra Costa-Unincorporated	2		3										
Danville	1												
Davis									15				
Dublin											11	1	
Escalon	286	415	658	280	456	77	115	200	64	248	119	194	91
Fremont			4	301	353								
Fresno		1		152	39		1		14	14	3	650	106
Fresno-Unincorporated							3						
Galt					1								
Gilroy	2							4	5	5	13	15	1

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

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## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Chowchilla		
Clayton	1	
Clearlake		
Concord		
Consolidated Waste Management Authority	2	2
Contra Costa/Honolulu/Oakley Regional Agency		13
Contra Costa-Unincorporated		
Danville		
Davis		
Dublin		
Escalon	569	23
Fremont		
Fresno	13	13
Fresno-Unincorporated		
Galt		
Gilroy	3,634	1,433

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

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## Jurisdiction of Origin Waste Disposal By Facility

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Hayward													
Hughson	268	442	610	753	818	500							
Kerman		2											
Lafayette													
Lathrop	12		58			9	149		68	71	76	7	2
Livermore		8	18	8	9	10		2	5	12	20	13	33
Lodi	1	4	1		5		2	4	20		9	7	9
Los Angeles							1						
Los Gatos		16											
Madera	4	1					1	1					
Madera-Unincorporated											1		
Manteca	54	15	18	9	13	7	29	17	135	7	25	359	139
Marin County Hazardous and Solid Waste Management Authority		3											
Mariposa-Unincorporated													
Martinez			2		13				5		3		
Mendocino-Unincorporated													
Menlo Park								9					

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Hayward	3	20
Hughson		
Kerman		
Lafayette		
Lathrop	3	2
Livermore		33
Lodi	4	1
Los Angeles		
Los Gatos		
Madera	3	
Madera-Unincorporated		2
Manteca	51	34
Marin County Hazardous and Solid Waste Management Authority		
Mariposa-Unincorporated	1	75
Martinez		
Mendocino-Unincorporated		
Menlo Park	13	21

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

Regional Agency	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Merced County Solid Waste	1,396	1,370	2,519	2,205	2,614	2,723	3,425	3,840	3,748	5,719	4,680	7,893	6,405
Milpitas												5	
Modesto	24,644	28,552	35,846	27,216	34,757	35,048	39,430	37,197	34,427	36,685	34,692	32,543	25,079
Monterey-Unincorporated												19	
Napa-Unincorporated										11			
Newark												2	
Newman	1,686	1,264	1,633	1,940	2,366	2,141							
Oakdale	1,060	1,624	2,620	1,801	2,288	2,291							
Oakland		6		7	2			13	3	1		38	92
Pacifica													
Palo Alto		10	30	10		3				27		8	
Patterson	2,908	3,356	3,591	5,375	5,770	6,599							
Pittsburg						17				2			
Pleasanton			6						5	2	7		
Rancho Cordova									1				
Redwood City			7	5		8		5					
Ripon	54	59	262	6	76	184	155	238	268	107	330	85	191

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Merced County Solid Waste Regional Agency	7,784	6,330
Milpitas		
Modesto	33,238	15,041
Monterey-Unincorporated		73
Napa-Unincorporated		
Newark		
Newman		
Oakdale		
Oakland	4	40
Pacifica		
Palo Alto		
Patterson		
Pittsburg		
Pleasanton		
Rancho Cordova		
Redwood City		
Ripon	249	65

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

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## Jurisdiction of Origin Waste Disposal By Facility

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Riverbank	955	1,037	1,665	1,110	1,922	1,868							
Roseville													
Sacramento			5				6	55		70	42	159	15
Salinas	2										21	29	84
San Benito County Integrated Waste Management Regional Agency	2	2								7	19		55
San Francisco	10	28	1		1					12	3		
San Joaquin			33										
San Joaquin-Unincorporated	13	50	137	91	191	285	310	191	737	1,103	2,523	2,511	3,201
San Jose	4	42	21	10		1	1	65	25	75	41	17	101
San Leandro	7			116	21	1	8		1				
San Mateo	9		17	7	4								
San Mateo-Unincorporated										4			
San Ramon	1	4								23			
Santa Ana							8						
Santa Clara	1												
Santa Clara-Unincorporated	3	1	2				1				14		

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Riverbank		
Roseville		
Sacramento	1	
Salinas	299	
San Benito County Integrated Waste Management Regional Agency		245
San Francisco		673
San Joaquin		
San Joaquin-Unincorporated	10,855	7,191
San Jose		4
San Leandro		
San Mateo		
San Mateo-Unincorporated		
San Ramon		6
Santa Ana		
Santa Clara		
Santa Clara-Unincorporated	9	

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.



## Jurisdiction of Origin Waste Disposal By Facility

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Solano-Unincorporated						1				21	39	3	
Sonoma County Waste Management Agency													
Sonoma	2	25		1			1		7	10	3	93	49
Stanislaus County Regional Solid Waste Planning Agency							62,535	70,434	74,624	87,671	89,467	114,979	97,368
Stanislaus-Unincorporated	14,966	20,296	30,846	21,586	22,377	30,881							
Stockton	92	73	78	114	228	79	93	129	76	188	168	40	97
Sunnyvale								9					
Tracy	193	62	18	76	191	130	145	3,664	5,620	325	266	1,528	1,417
Tulare-Unincorporated			2										
Tuolumne-Unincorporated	31	3	1	12	1	7			28	10	18	19	
Turlock	7,113	10,138	16,026	11,912	9,593	8,675							
Union City		5											
Vallejo									74	13			
Walnut Creek	6	1	3	4		2		1					
Waterford	249	333	655	920	949	681							
West Contra Costa Integrated Waste Management Authority							16	21	77		2		

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Solano-Unincorporated		
Sonoma County Waste Management Agency		
Sonoma	19	34
Stanislaus County Regional Solid Waste Planning Agency	98,750	58,420
Stanislaus-Unincorporated		
Stockton	126	48
Sunnyvale		
Tracy	635	1,212
Tulare-Unincorporated		
Tuolumne-Unincorporated	1	4
Turlock		
Union City		
Vallejo		
Walnut Creek		
Waterford		
West Contra Costa Integrated Waste Management Authority		

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

California Department of Resources Recycling and Recovery (CalRecycle)  
Disposal Reporting System (DRS)

## Jurisdiction of Origin Waste Disposal By Facility

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Woodland											3		
Yuba/Sutter Regional Waste Management Authority								13			3		
Annual Total	60,716	74,713	108,027	85,849	93,271	99,426	106,535	116,167	120,174	132,628	132,753	161,241	134,574

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## Jurisdiction of Origin Waste Disposal By Facility

	2008	2009
Woodland		
Yuba/Sutter Regional Waste Management Authority	7	
Annual Total	156,280	91,302

Note: Origin means the jurisdiction where the waste was produced. ADC means CalRecycle-approved materials other than soil used as a temporary overlay on an exposed landfill face.

DRS web reports are based upon information reported by permitted facility operators and compiled by County/Regional Agency disposal reporting coordinators. The data is checked for accuracy then released in yearly increments. Only finalized data are shown in these reports.

## **Appendix 10**

### **CalRecycle Web Page – Estimated Solid Waste Generation Rates for Residential Developments**

[Home](#)  
[Local Govt. Central](#)  
[Search Database](#)  
[Waste Studies](#)  
[Material Types](#)  
[Business Waste](#)  
[Residential Waste](#)  
[Data Development](#)  
[Data Limitations](#)  
[Site Map](#)

## Estimated Solid Waste Generation Rates for Residential Developments

This is not official CalRecycle data; please read our [disclaimer](#) and [background information](#).

Also see listings for [Commercial](#) / [Industrial](#) / [Institutional](#) / [Service](#) establishments.

Waste Generation Source	Gen. Rate	Units of Measure	Source Date	Source	Notes
Residential	12.23	lb/household/day	2006	<a href="#">City of Los Angeles CEQA Thresholds Guide: Your Resource for Preparing CEQA Analyses in Los Angeles (DRAFT)</a>	Does not include generation of construction debris
Multifamily	4	lb/dwelling unit /day	Aug. 1992	Co. of Los Angeles Dept. of Regional Planning, Vesting Tentative Tract No. 47905, etc.	Cites City of LA Dept. of City Planning document "EIR Manual for Private Projects" as source
Multifamily	8.6	lb/dwelling unit /day	n/a	Draft Environmental Impact Report (EIR) for the Central Commercial Redevelopment Project (Monterey Park Redevelopment Agency)	EIR cites Athens Disposal Co. and GRC Redevel. Consultants, 1992, as source
Multifamily	3.6	lb/unit/day	Apr. 1993	Draft EIR for South Gate Commercial Corridors Redevelopment Project	EIR cites City of LA Dept. of City Planning document "EIR Manual for Private Projects" as source
Multifamily	4	lb/dwelling unit /day	Dec. 1991	Draft EIR for North Hills Development (Santa Clarita)	EIR cites City of LA Bureau of Solid Waste, 1989, as source
Multifamily	5.31	lb/dwelling unit /day	Jan. 1996	Draft Program EIR for Rye Canyon Business Park, Santa Clarita	EIR cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Santa Clarita SRRE, 1990
Multifamily	1.17	tons/unit/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."
Residential	12	lb/person/day	Apr. 1992	Stevenson Ranch Draft EIR (Phase IV) , LA County	EIR cites source as Ultrasonics
Single Family	10	lb/dwelling unit /day	Aug. 1992	Co. of Los Angeles Dept. of Regional Planning, Vesting Tentative Tract No. 47905, etc.	EIR cites City of LA Dept. of City Planning doc "EIR Manual for Private Projects" as source
Single Family	11.4	lb/dwelling unit /day	n/a	Draft EIR for the Central Commercial Redevelopment Project (Monterey Park Redevelopment Agency)	EIR cites Athens Disposal Co. and GRC Redevel. Consultants, 1992, as source
Single Family	7.8	lb/unit/day	Apr. 1993	Draft EIR for South Gate Commercial Corridors Redevelopment Project	EIR cites City of LA Manual for Private Projects
Single Family	10	lb/dwelling unit /day	Dec. 1991	Draft EIR for North Hills Development (Santa Clarita)	EIR cites City of LA Bureau of Solid Waste, 1989, as source
Single Family	9.8	lb/dwelling unit /day	Jan. 1996	Draft Program EIR for Rye Canyon Business Park, Santa	EIR cites SWANA Tech. Bull. 85-6; Recovery Sciences,



			Clarita	1987; and Santa Clarita SRRE, 1990
Single Family	2.04 tons/unit/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."

CalRecycle does not officially endorse any of the waste generation rates in the preceding table, and cannot validate their accuracy. However, they may be useful in providing a general level of information for planning purposes.

The table contains information extracted from various sources, which are cited. Please note that several of the documents listed were developed by city or county planning or environmental departments. Your city or county planning or environmental agency may be a source of information for a local project.

### Waste Generation Rates Home

Last updated: July 14, 2010

Solid Waste Characterization, <http://www.calrecycle.ca.gov/WasteChar/>  
Nancy Carr: [Nancy.Carr@calrecycle.ca.gov](mailto:Nancy.Carr@calrecycle.ca.gov) (916) 341-6216

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## **Appendix 11**

### **CalRecycle Web Page – Estimated Solid Waste Generation Rates for Commercial Establishments**



[Home](#)  
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[Site Map](#)

## Estimated Solid Waste Generation Rates for Commercial Establishments

This is not official Board data; please read our [disclaimer](#) and [background information](#).

Also see listings for [Industrial](#) / [Institutional](#) / [Residential](#) / [Service](#) establishments.

Waste Generation Source	Gen. Rate	Units of Measure	Source Date	Source	Notes
Commercial	10.53	lb/employee/day	May 1998	<a href="#">City of Los Angeles CEQA Thresholds Guide: Your Resource for Preparing CEQA Analyses in Los Angeles (DRAFT)</a>	Does not include generation of construction debris
Commercial	5	lb/1000 sq ft /day	Aug. 1992	Co. of Los Angeles Dept. of Regional Planning, Vesting Tentative Tract No. 47905, etc.	EIR cites City of LA Dept. of City Planning doc "EIR Manual for Private Projects" as source
Commercial	13	lb/1000 sq ft /day	Apr. 1993	Draft Environmental Impact Report (EIR) for South Gate Commercial Corridors Redevelopment Project	EIR cites CIWMB Resource Manual, May 1989
Commercial	25	lb/gross sq ft /day	Jan. 1996	Draft Program EIR for Rye Canyon Business Park, Santa Clarita	EIR cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Santa Clarita SRRE, 1990
Commercial retail	0.046	lb/sq ft/day	n/a	Draft EIR for the Central Commercial Redevelopment Project (Monterey Park Redevelopment Agency)	EIR cites Athens Disposal Co. and GRC Redevel. Consultants, 1992 as source
Commercial retail	0.006	lb/sq ft/day	Dec. 1991	Draft EIR for North Hills Development (Santa Clarita)	EIR cites City of LA Bureau of Solid Waste, 1989, as source
Commercial retail	2.5	lb/1000 sq ft /day	Apr. 1992	Stevenson Ranch Draft EIR (Phase IV) , LA County	EIR cites source as Ultrasystems
Office	6	lb/1000 sq ft /day	Apr. 1992	Stevenson Ranch Draft EIR (Phase IV) , LA County	EIR cites source as Ultrasystems
Office	0.006	lb/sq ft/day	Dec. 1991	Draft EIR for North Hills Development (Santa Clarita)	EIR cites City of LA Bureau of Solid Waste, 1989, as source
Office	100	lb/gross sq ft /day	Jan. 1996	Draft Program EIR for Rye Canyon Business Park, Santa Clarita	EIR cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Santa Clarita SRRE, 1990
Office	0.0108	tons/sq ft/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."
Office	1.24	lb/employee /day	Jul. 1993	Final Report: 1992 Washington State Waste Characterization Study, Volume 3: Generator Survey Approach (Washington State Department of Ecology)	

Offices	1 lb/100 sq ft /day 1.5 lb/employee /day	May 1997	Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department)	Cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste"
Professional office	0.084 lb/sq ft/day	n/a	Draft EIR for the Central Commercial Redevelopment Project and the Freeway ... (Monterey Park Redevel. Agency)	EIR cites Athens Disposal Co. and GRC Redevel. Consultants, 1992 as source
Commercial retail	0.0024 tons/sq ft/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."
Commercial retail (dry goods)	4.75 lb/emp/day	Jul. 1993	Final Report: 1992 Washington State Waste Characterization Study; Volume 3: Generator Survey Approach (Washington State Department of Ecology)	
Auto dealer and service station	0.9 lb/100 sq ft/day	May 1997	Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department)	Cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste"
Auto dealer, services, repair and service stations	0.0108 tons/sq ft/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."
Department store	3.12 lb/100 sq ft/day	May 1997	Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department)	Cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste"
Food stores	0.0108 tons/sq ft/year	May 1998	Guidelines for Preparation of Environmental Assessments for Solid Waste Impacts (Ventura County Solid Waste Management Department)	Document states: "The Guidelines should not be construed as being a universal measuring tool for projects outside Ventura County."
Shopping center	2.5 lb/100 sq ft/day	May 1997	Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department)	Cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste"
Supermarket	3.12 lb/100 sq ft/day	May 1997	Guide to Solid Waste and Recycling Plans for Development Projects (Santa Barbara County Public Works Department)	Cites SWANA Tech. Bull. 85-6; Recovery Sciences, 1987; and Matrix Mgmt Group, "Best Management Practices Analysis for Solid Waste"

The California Integrated Waste Management Board does not officially endorse any of the waste generation rates in the preceding table, and cannot validate their accuracy. However, they may be useful in providing a general level of information for planning purposes.

The table contains information extracted from various sources, which are cited. Please note that several of the documents listed were developed by city or county planning or environmental departments. Your city or county planning or environmental agency may be a source of information for a local project.

#### Waste Generation Rates Home

Last updated: December 30, 2009

Solid Waste Characterization, <http://www.calrecycle.ca.gov/WasteChar/>  
Nancy Carr: [Nancy.Carr@calrecycle.ca.gov](mailto:Nancy.Carr@calrecycle.ca.gov) (916) 341-6216

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Stockton, Lodi, Manteca, Los Banos,  
Salinas, Ceres, Atascadero,  
San Luis Obispo & Paso Robles



May 23, 2011

City of Ceres  
City Clerk  
2720 Second Street  
Ceres, CA, 95307

Re: Mitchell Ranch Appeal

Dear Mayor & Council,

We appreciate the opportunity to submit our concerns and objections to the Mitchell Ranch Development project being appealed this evening. The Proposed project presents severe concerns for the company which I have outlined for your review in this letter.

When Food4Less first reviewed the opportunity to come to Ceres, we evaluated the need and identified a location we felt was strategically located. Since our grand opening in 2005 we have enjoyed great customer loyalty which in addition to price and quality, is also attributed to our unique location and retail neighbor (Wal-Mart).

The intersection at Hatch and Mitchell road (also known as the gateway to Ceres) provides a significant economic synergy for the Food4Less center, Wal-Mart, and the shopping plaza on north Hatch Rd. Without a fully tenanted intersection the synergy does not exist – especially with the loss of a major tenant such as Wal-Mart.

During the course of the discussions that have been held at the Planning Commission and with members of the council we have expressed our concern with the method being taken to re-tenant the existing Wal-Mart if Mitchell Ranch is approved. Our understanding is Wal-Mart would only be required to submit a “marketing strategy plan” to re-tenant the building without considering some key points of interest.

1. According to our discussions with the city, Wal-Mart has the ability to bar any “like” businesses from occupying the vacated space.



2. The Marketing Strategy suggested prior to construction, lacks any requirement of the owner to re-tenant within a given time frame. The obvious reason being they can't control the real estate market.
  - a. Cities have experienced the same situation which has left vacancies for significant periods of time. Just recently an RV dealer announced he was moving into the Gilroy Wal-Mart vacancy off of 101 which has been vacant since 2005 (see current photo attached). This is not the type of infill neighbor that provides foot traffic needed to create synergy at Mitchell and Hatch.
3. While Wal-Mart claims they don't own any vacant buildings in California they certainly have contributed to the vacancy issues and from a quick web search we were able to see several former sites listed for sale, including one at walmartreality.com. Cities where an additional store was approved (list attached).
4. Economic Impact flaws: According to Bay Area Economics (BAE) study for Ceres, the average retail floor space figure that was used to calculate the projected success of Wal-Mart in the proposed center claims sales per square foot at \$575.00 with a projected rate of \$90.9 Million of general merchandise. Comparatively, in Atascadero where a proposed center is currently undergoing an EIR review the sales figure per square foot by BAE was listed at \$428.00 and referred to as a **"national average"** (Walmart sales per square foot average \$428 nationally (as shown in Table 10) Source: Atascadero DEIR page 47 & 39, attached).
  - a. 158,139 Sq. Ft of general merchandise by Wal-Mart floor space average of \$428 = \$67.6 million
  - b. Difference based on BAE and Wal-Mart national average: **(-\$23.3million)**
  - c. This would also have an affect on project tax revenue and considering the Atascadero Report was complete in 2010 rather than 2008. I would recommend a re-evaluation of the figures provided.
5. Traffic and Highway interchange: Whether you consider it detrimental to safety or not the traffic study clearly indicates that many of the traffic medication measure are **significant and unavoidable**. How the council chooses to address that is critical. It would be negligent to consider anyone of the traffic reports impacts as obtainable in the foreseeable future. Even with State participation, most of these have right of way to Caltrans and require matching funds – a requirement that has proven to be unachievable given budget constraints. (*See Hwy 99 Business Plan (figure 3.4)*).

The city has many factors to consider during the course of the hearings on Mitchell Ranch and during this discussion we intend to keep the dialogue open and listen to any comments that the Council may have regarding our position and the information provided. Thank you in advance for your review and consideration in this matter. Food4Less has enjoyed being a community partner and thanks the cities leaders for

reviewing this matter so closely. Should you have any questions please feel free to contact me at (209) 201 – 9086 or via email at [bob.gutierrez@paqinc.com](mailto:bob.gutierrez@paqinc.com).

Thank you in advance,

A handwritten signature in black ink, appearing to read 'Bob Gutierrez', with a stylized flourish at the end.

Bob Gutierrez  
Government Affairs Director  
Food4less/Rancho San Miguel

## Attachments

1. Atascadero DEIR BAE
2. Vacant Stores in California
3. Business Plan project list (figure 3.4) with Traffic Impact Study (notes)
4. Gilroy Article re: Store vacancy and new tenant
5. News Article 5/23/11 re: Modesto business vacancies

a more competitive economic climate, taking into account long-term growth that could overcome any short-term losses. In the event an existing retail store is already operating at or near its margins or is otherwise struggling to stay open, the addition of a competitor to the marketplace could lead the store to close sooner than it would otherwise have done so. Beyond five years, the potential entry of other retailers, possible changes in consumer shopping patterns, general economic conditions, and other factors would make any attempt at an urban decay analysis highly speculative.

### Estimated Sales at Project Opening

BAE has made an estimate of the performance of the Proposed Project, as shown in Table 10. The Proposed Project is estimated to achieve total annual sales of approximately \$94 million annually, based on Walmart averages and other industry benchmarks. These sales estimates are based on stabilized operations at full performance levels; it is possible that early years would see lower levels of sales as the project reached stabilized benchmark performance levels.

<b>Table 10: Estimated Sales in Proposed Project</b>			
<b>Type of Store</b>	<b>Square Feet (a)</b>	<b>Sales per SF</b>	<b>Estimated Sales in Proposed Project</b>
<b>Walmart Site</b>			
<b>Walmart</b>			
✓ General Merchandise Equivalent	95,560	✓ \$428 (b)	\$40,900,000
Supermarket Equivalent	34,000	\$428 (b)	\$14,600,000
Outlot 1	5,000	\$284 (c)	\$1,400,000
Outlot 2	5,000	\$284 (c)	\$1,400,000
<b>Annex</b>			
Non automotive retail	112,400	\$284 (c)	\$31,900,000
Eating & Drinking Places	8,500	\$410 (d)	\$3,500,000
<b>Total</b>	<b>260,460</b>		<b>\$93,700,000</b>
<p>All sales estimates in 2009 dollars. Total sales rounded to nearest hundred thousand.</p> <p>(a) Derived from Table 1 per latest site plan available.</p> <p>(b) Based on sales per square foot from Wal-Mart 2010 10-K, 3/30/2010.</p> <p>(c) Based on the median sales per square foot of super community/community shopping centers from <i>Dollars &amp; Cents of Shopping Centers/the SCORE 2008</i>, published by ULI/ICSC.</p> <p>(d) Based on the median sales per square foot for hamburger restaurants in super community/community shopping centers from <i>Dollars &amp; Cents of Shopping Centers/the SCORE 2008</i>, published by ULI/ICSC. Median for this type of restaurant was in the high range for medians for fast food restaurants.</p> <p>✓ Source: Bay Area Economics, 2010, based on information from Urban Land Institute (ULI)/International Council of Shopping Centers, and Wal-Mart.</p>			

### *General Merchandise Stores*

The largest component of the Proposed Project is the Walmart's general merchandise store equivalent space; overall losses from baseline levels for the area's existing general merchandise are estimated at 12 percent, or \$6.3 million in 2013 (see Table 13 above). This declines to six percent, or \$2.9 million, by 2018.

The primary PMA competitor in this category is the Kmart. However, as noted above, the Kmart in Atascadero, perhaps due to its position as the only store of its type in town, is performing well above Kmart averages; even if all of the overall PMA losses were attributed to this store, available data indicate it would still have sales above the Kmart national performance average of approximately \$125 per square foot. While this is far below the Walmart sales per square foot average \$428 nationally (as shown in Table 10), Kmart continues to operate successfully at this level of sales. While the chain downsized substantially several years ago as it went through bankruptcy, in recent years, store closures have been very limited, with most of the closures being superstore operations. In California, Kmart has 99 stores (as of end of FY 2009/January 30 2010), only two stores fewer (one a superstore) than at the end of FY 2007. Kmart continues to operate stores in the same market as Walmart in many California communities, including Salinas, Arroyo Grande, and Santa Maria. Part of this may be due to Kmart typically occupying older locations, as they do in Atascadero, with lower occupancy costs than Walmart or Target, such that they can operate their stores profitably at a lower sales level. Even if the entire estimated decline in baseline sales in 2013 in the general merchandise category as shown in Table 13 were attributed to the Kmart, sales would likely still be in the range of the \$125 per square foot national average for Kmart. As a result, the analysis indicates that the Atascadero Kmart, while impacted by the Proposed Project, is not likely to face closure.

The other competitive general merchandise stores in the PMA are the three chain drug stores. These stores, however, compete by offering a more convenient shopping experience than the larger discount stores, and in other regions have survived in the face of the existing big box outlets in the retail market, and thus are not seen as candidates for closure due to Proposed Project impacts. Sometimes these stores even seek to locate in the same center as a Walmart store in order to benefit from the substantial traffic that anchor store generates.<sup>33</sup>

Outside the PMA, there are multiple large discount and other general merchandise stores in Paso Robles and San Luis Obispo city and beyond. The capture by the Proposed Project's Walmart is likely to come at the expense of these other large discount stores, particularly the Walmarts in Paso Robles and Arroyo Grande, but site visits and other available data indicate these stores are performing at strong sales levels, and the recapture by the Proposed Project of leakages from the PMA to these stores likely will not result in closure of these outlets. Outside the PMA, the local-serving pharmacies in other cities are not seen as competitive with the Proposed Project and thus not at risk of closure.

<sup>33</sup> For example, a chain drugstore has proposed to locate in the same center as a proposed new Walmart (expansion/relocation) in Lodi.



**Building Size:** 133,613 S.F.  
**Parcel Size:** 10.42 Acres  
**Building Dimensions:** 430' Wide x 311 Deep  
**Year Built:** 2001

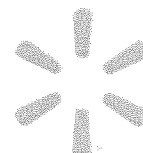
***Building/Site Configuration:*** Shopping Center

**Est. 2009 Population:** 5-mile Radius.....373,410  
10-mile Radius.....896,585

**Est. 2009 Median Income:** 5-mile Radius.....\$49,304  
10-mile Radius.....\$53,594

**FOR MORE INFORMATION CONTACT:**

**Craig Burress, Real Estate Broker**  
(916) 781-4887  
craig.burress@cbre.com





2735

# Sacramento (W) Sacramento (W), Ca, 4420 Florin Road

### Legend

- Wal-Mart's
- Supercenters
- Neighborhood Mkts
- Sam's Clubs
- DC's
- Once Occupied
- Once Occupied
- Drug Stores
- Home Improvement
- Department Stores
- DataMatrix Traffic Counts
- Airports
- State Boundaries

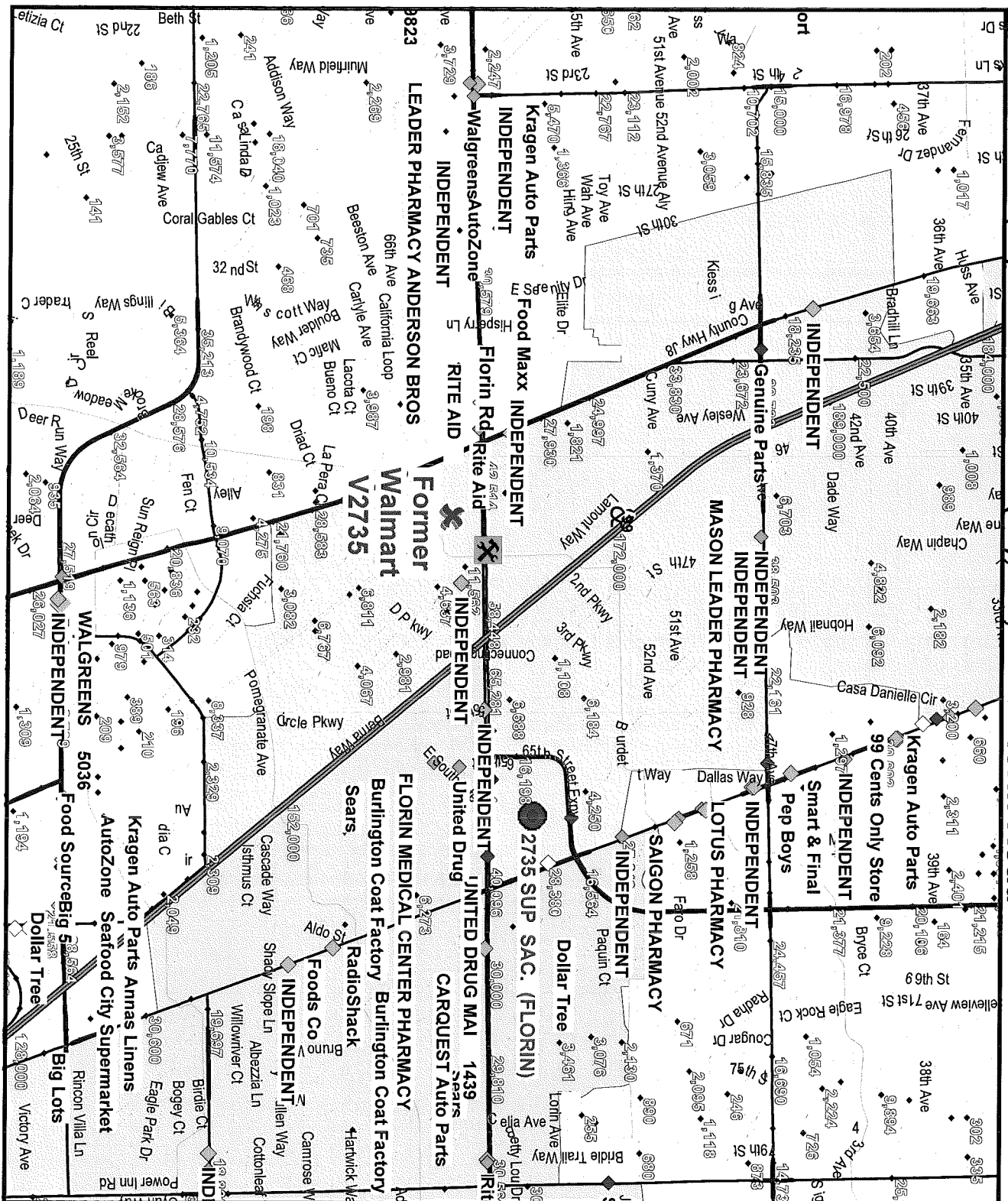
Site Coordinates

Longitude/X: -121.454289

Latitude/Y: 38.494407

N

0 0.4 0.8 Miles



AnySite®

2735

Sacramento (W) Sacramento (W), Ca, 4420 Florin Road

### Legend


- Wal-Mart's
- Supercenters
- Neighborhood Mkts
- Sam's Clubs
- DC's
- Once Occupied
- Once Occupied
- Drug Stores
- Home Improvement
- Department Stores
- Restaurants
- DataMentix Traffic Counts
- Airports
- State Boundaries

Site Coordinates

Longitude/X: -121.454289

Latitude/Y: 38.494407

N



0 0.034 0.068

Miles







## Pop Facts Summary -- Brief Report

2735

Sacramento (W) SACRAMENTO (W), CA 4420 Florin Road

4/6/2011

Coordinates Longitude: -121.454289

Latitude: 38.494407


	1 MILE RING 3.14 SQ/MI	3 MILE RING 28.27 SQ/MI	5 MILE RING 78.53 SQ/MI	10 MILE RING 314.11 SQ/MI
<b>POPULATION</b>				
2014 Population	22,636	196,904	397,368	933,260
2009 Population	22,141	186,984	373,410	853,760
2000 Population	22,326	176,696	344,295	733,953
1990 Population	19,661	152,148	290,296	628,644
1990-2000 % Population change	13.55%	16.13%	18.60%	16.75%
<b>HOUSEHOLDS</b>				
2014 Households	7,002	56,901	133,411	339,917
2009 Households	6,953	54,812	126,259	312,853
2000 Households	7,230	53,377	118,625	274,182
1990 Households	6,960	50,110	105,377	244,278
1990-2000 % HH Change	3.73%	6.12%	11.17%	10.91%
Postal Address Counts (Summer)	7,449	54,874	125,305	311,097
Postal Address Counts (Winter)	7,449	54,876	125,320	311,156
<b>POPULATION BY RACE</b>				
% 2009 White Alone	27.70%	28.59%	37.30%	49.60%
% 2009 Black or African American Alone	24.03%	19.18%	16.43%	12.56%
% 2009 American Indian/Alaska Alone	1.22%	1.30%	1.31%	1.21%
% 2009 Asian Alone	20.15%	24.16%	23.10%	16.91%
% 2009 Hawaiian/Pacific Alone	1.94%	1.74%	1.22%	0.97%
% 2009 Some Other Race Alone	16.88%	17.08%	13.19%	11.41%
% 2009 Two or More Races	8.08%	7.95%	7.45%	7.35%
% 2009 Hispanic Population	30.70%	33.09%	26.95%	23.80%
<b>HOUSING</b>				
2009 Housing Units	7,582	58,467	133,530	331,849
% 2009 Owner Occupied Housing Units	47.05%	51.39%	56.28%	53.43%
% 2009 Renter Occupied Housing Units	44.95%	42.40%	38.29%	40.86%
2009 Avg HH Size (no GQ)	3.2	3.4	2.9	2.7
<b>HOUSEHOLDS BY INCOME</b>				
% 2009 Household Income \$500,000+	0.19%	0.10%	0.36%	0.39%
% 2009 Household Income \$250,000-\$499,999	0.65%	0.43%	1.03%	1.34%
% 2009 Household Income \$150,000-\$249,999	1.01%	1.35%	4.21%	5.73%
% 2009 Household Income \$100,000-\$149,999	6.41%	6.42%	10.91%	12.56%
% 2009 Household Income \$75,000-\$99,999	8.27%	9.48%	12.60%	13.10%
% 2009 Household Income \$50,000-\$74,999	16.87%	19.19%	20.15%	19.72%
% 2009 Household Income \$35,000-\$49,999	18.71%	18.10%	15.94%	14.84%
% 2009 Household Income \$25,000-\$34,999	14.80%	13.18%	10.50%	9.90%
% 2009 Household Income \$15,000-\$24,999	15.99%	14.34%	11.02%	10.18%
% 2009 Household Income <\$15,000	17.11%	17.40%	13.27%	12.25%
<b>INCOME</b>				
2009 Average Household Income	\$47,499	\$48,348	\$63,547	\$69,079
2009 Median Household Income	\$36,682	\$39,215	\$49,304	\$53,594
2009 Per Capita Income	\$15,044	\$14,399	\$21,729	\$25,585
<b>OTHER</b>				
2009 Median Age	28.4	28.5	31.6	32.9
Total SAM's Business Count (D&B)	916	6,409	15,646	49,441

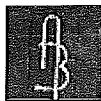


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Wal-Mart Discount Store Vallejo,CA

Former Wal-Mart located on Sonoma Blvd. in Vallejo,CA. Note that this store never received a star in place of the Wal-Mart sign. The star was installed in memoriam of Sam Walton.

Here is a very nice write-up courtesy of brekmorn...

This Walmart in Vallejo was closed in 2007 and is abandoned. Vallejo no longer has a Walmart. There is a Food 4 Less sharing the parking lot. That Food 4 Less is owned by Nugget Markets of Woodland. Nugget owns the Food 4 Less stores in Woodland, Cameron Park, and Vallejo. The Vallejo Food 4 Less is the only Food 4 Less left in the Bay Area. Nugget is a somewhat upscale supermarket chain.

Nugget wanted to build a supermarket in Vallejo, but only if they would be assured that a Super Walmart would not open in Vallejo. While the city debated a Super Walmart, Nugget got fed up and dropped its plans. Meanwhile Walmart built a new Super Walmart in American Canyon and closed the Vallejo store. The American Canyon store is the only Super Walmart in the Bay Area as far as I know. The Bay Area has no Super Kmart or



Super Targets. American Canyon seems like it is really far away on the edge of the wilderness.

Now Vallejo has no Nugget and no Walmart.

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**Taken on:** September 11, 2008

**Groups appears in:** • Dead Malls & Vacant Retail • Vintage Discount Stores more »

**Camera:** Canon PowerShot A570 IS, f/5, 0.002 sec (1/500) sec, 16mm, ISO 80 (more info)

**Stats:** 1,313 views / 12 comments

4/4/2011

1750 W. Lacey Blvd., Hanford, CA, 932...



**1750 W. Lacey Blvd., Hanford, CA, 93230 - Available for Lease**  
Retail For Lease

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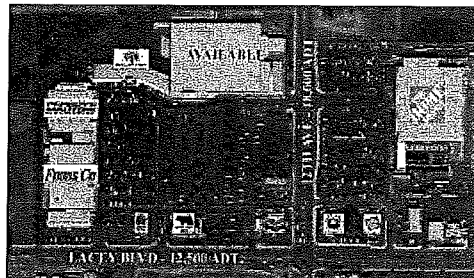
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Retail Property For Lease . . .

**Former Wal-Mart**  
**1750 W. Lacey Blvd., Hanford, CA 93230**



Total Space Available:

**125,787 SF**

Rental Rate:

**Negotiable**

Property Type:

Retail

Property Sub-type:

Retail (Other)

Building Size:

**125,787 SF**

Lot Size:

**11.96 AC**

Cross Streets:

Lacey Blvd and 12th Avenue

[Find Out More...](#)

Last Verified 4/1/2011 Listing ID 16874076

**1 Space Available**

Display Rental Rate as [Entered](#)

**Space 1**

Space Available:

**125,787 SF**

Rental Rate:

**Rental Rate Negotiable**

Space Type:

Retail (Other)

**Description**

Property Summary Former Wal-Mart at the busiest intersection in Hanford, California +/-125,787 SF Building Parcel Size: 11.96 acres/520,978 SF Pad Opportunity for up to +/-15,000 SF Trade Area Population of 185,920 Across from the only regional mall in Kings County Nearby retailers include Target, Michaels, Marshalls, Petsmart, JC Penney, Forever 21, Sears, Ross, Lowes, Home Depot, FoodsCo, Dollar Tree, Walmart and Kohls (Opening Fall 2010)

**Map of 1750 W. Lacey Blvd., Hanford, CA 93230 (Kings County)**

[Hide Map](#)

## 7900 Arroyo Cir - Former Wal-Mart



**Location:** Former Wal-Mart  
Morgan Hill/Gilroy Cluster  
Gilroy Submarket  
Santa Clara County  
Gilroy, CA 95050

**Building Type:** Retail/General Freestanding  
**Bldg Status:** Built 1993  
**Building Size:** 125,597 SF  
**Typical Floor Size:** 125,597 SF  
**Stories:** 1  
**Land Area:** 13.70 AC  
**Total Avail:** 125,597 SF  
**% Leased:** 100%  
**Total Spaces Avail:** 1  
**Smallest Space:** 25,000 SF  
**Bldg Vacant:** -

**Landlord Rep:** Hudson Jones Commercial Real Estate  
**Developer:** -  
**Management:** -  
**Recorded Owner:** Daniel E Hudson  
**Parcel Number:** 841-69-037

**Sales Company:** Hudson Jones Commercial Real Estate: Dan Hudson (408) 445-4002

**For Sale:** For Sale at \$8,650,000 (\$68.87/SF) - Active

**Street Frontage:** 943 feet on Arroyo Cir(with 0 curb cut)

**Parking:** 500 free Surface Spaces are available; Ratio of 7.00/1,000 SF

Floor	SF Avail	Floor Contig	Bldg Contig	Rent/SF/mo + Svs	Occupancy	Term	Type
E 1st	25,000 - 125,597	125,597	125,597	Negotiable	30 Days	Negotiable	Direct

Hudson Jones Commercial Real Estate / Dan Hudson (408) 445-4002

### Building Notes

Wal-Mart has moved its business out of the building as of September 28, 2005. They will turn over the building to the owners at the end of the year.

We are looking for tenants to lease the building. The building is approximately 125,000 Square Feet including a 5,000SF garden center and a 5,900SF automotive center both of which are attached to the building on the north side of the building. The owners are prepared to demise the space to accommodate new tenant. Additional space can be added to the building or in the form of out parcels.

The site is 13.7 acres and presently has a parking ratio of 7/1,000 with room to add more. It fronts U. S. Highway 101 and has a very tall freeway sign. The site is adjacent to the Gilroy Premium Outlet Mall, which sees over 6,000,000 visitors annually. The building is only 10 years old. The owners are prepared to redevelop the front of the building to accommodate tenants requiring conventional store fronts (see the attached).

## 7900 Arroyo Cir - Former Wal-Mart(cont'd)

Arroyo Circle, which circles in front of the store, will connect to the Newman and Regency power centers to the south at Highway 152/10th street. Access to the site is from Leavesely Road, just to the north. An extensive re-landscape plan will enhance the site's freeway visibility and a there will be renovation to the existing freeway sign to give tenants freeway signage.


**Property Record for 2300 White Lane, Bakersfield, CA 93304**

Information for the Retail property located at 2300 White Lane, Bakersfield, CA 93304 includes data gathered from Kern County tax records, public records data providers and LoopNet historical listing and sales records.

LoopNet Property Records display available information for a property such as historical listings, property details, tax details, owners, mortgages, tenants, and more. Information is aggregated from the LoopNet marketplace, LoopNet research, leading independent data providers, public records, Kern County tax records and LoopNet members.

X

**Retail Property Record**
**2300 White Lane, Bakersfield, CA 93304**

Summary Sale & Lease Stats & Trends Property Owner & Mortgage Tenant Tax More▼

**Summary**

Property information for **2300 White Lane, Bakersfield, CA** and all other **10 Million property records** is available to all Property Facts subscribers: [Learn More](#).

[View Plans & Pricing](#)

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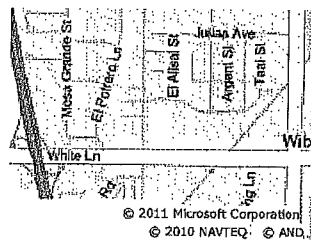
Currently Active For Lease (1)


**Stats & Trends**
[View Details & Use Calculator ▶](#)

	This Property	Nearby Properties	City Index
Asking Rent \$/SF/YR	\$9	\$16.2	\$17.73

**Property Details**
[View Details ▶](#)

Primary Property Type: Retail  
Property Sub-type: Free Standing Bldg  
Building Size: \*\*\*


[View Larger Maps ▶](#)
**Owner & Mortgage Info**
[View Details ▶](#)

Current Owner: \*\*\*  
Current Mortgage: \*\*\*

**Tenant Info**
[View Details ▶](#)

Current Tenants: \*\*\*

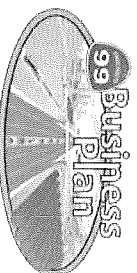
**Tax Info**
[View Details ▶](#)

\*\*\*, \*\*\*, \*\*\* Assessed Value, \$\*\*\*, \*\*\* Taxes

The information above has been obtained from sources believed reliable. While we do not doubt its accuracy we have not verified it and make no guarantee, warranty or representation about it. It is your responsibility to independently confirm its accuracy and completeness. Any projections, opinions, assumptions, or estimates used are for example only and do not represent the current or future performance of the property. The value of this transaction to you depends on tax and other factors which should be evaluated by your tax, financial, and legal advisors. You and your advisors should conduct a careful, independent investigation of the property to determine to your satisfaction the suitability of the property for your needs.

**Figure 3.4 Route 99 Programmed Capacity and Interchange Projects Not Yet Advertised**

								Capital Costs Greater than \$8 million		August 25, 2009	
MAP PROJ. NUMBER	COUNTY	ROUTE 99 POSTMILE	EXPENDITURE AUTHORIZATION	LOCATION	PROJECT NAME	PROJECT DESCRIPTION	ADVERTISE SCHEDULE	RW AND CONST. COSTS (\$1,000)	SUPPORT COSTS (\$1,000)	TOTAL COSTS PER PROJECT (\$1,000)	REGIONAL PRIORITY CATEGORY
2	Kern	18.0/19.2	06-0C3900	At Hoskings Rd	Hoskings Rd Interchange	Construct New Interchange	2010	\$35,000	\$1,800	\$36,800	4
6	Kern	R30.5/R31.1	06-433504	At 7th Standard Rd Interchange	7th Standard Road Widening	Modify Interchange	Constructed	\$17,200	\$1,700	\$18,900	3
12	Tulare	31.3/32.6	06-332200	At Carrill Ave	Carrill Ave Interchange	Reconstruct Interchange	2010	\$54,500	\$11,000	\$65,500	3
14	Tulare	30.6/41.3	06-360200	Prosperity Ave to North Goshen Overhead	Tulare to Goshen 6-Lane	Widen from 4F to 6F	2016	\$181,000	\$28,400	\$209,400	2
15	Tulare	39.6/41.3	06-471500	In Goshen at Betty Drive	Betty Drive Interchange	Reconstruct Interchange	2014	\$44,000	\$11,200	\$55,200	3
16	Tulare, Fresno	41.3/53.9, 0.0/1.0	06-324501	N of Goshen to N of Sierra Ave Overcrossing	Goshen to Kingsburg 6-Lane	Widen from 4F and 5F to 6F	2010	\$151,800	\$21,000	\$172,800	2
25a	Fresno	26.7/30.6	06-442810	From Ashland Avenue to 0.2 Miles N of Grandland Ave Overcrossing	North Fresno 6-Lane	Widen from 4F to 6F	2010	\$20,000	\$6,000	\$26,000	2
25b	Fresno	30.3/31.6 0.0/1.6	06-442820	Grandland to Ave. 7 IJC	Island Park 6-Lane	Widen from 4F to 6F	2012	\$55,000	\$11,000	\$66,000	2
29	Madera	R7.1/R7.9	06-471000	At Avenue 12	Avenue 12 Interchange	Reconstruct Interchange	2012	\$57,000	\$11,000	\$68,000	3
30	Madera	10.1/10.4	06-407214	At Route 145	Route 145 Widening at SR99	Modify Interchange	2008	\$6,100	\$1,800	\$7,900	3
35	Madera	19.5/22.8	06-293304	Ave 21 to the Rte 99/152 Separation	Farmed Freeway and Interchange	Widen 4E to 6F with Interchange at Ave 22	Constructed	\$62,000	\$9,000	\$71,000	1
39	Merced	0.0/4.6	10-415801	Madera County Line to Buchanan Hollow Road to 0.5 Km N of Buchanan Rd	Plumburg RD Freeway	Widen from 4E to 6F on 8 Lane R/W Alignment	2010	\$101,200	\$18,000	\$119,200	1
40	Merced	4.6/10.5	10-415701	Buchanan Hollow Road to 0.5 Km N of McHenry Rd	Arbolada Drive Freeway	Widen from 4E to 6F on 8 Lane R/W Alignment	2010	\$152,200	\$25,000	\$177,200	1
44	Merced	23.8/28.5	10-414814	0.5 mi. N. of Avenue OH to 0.5 mi. S of Avenue S of Hammett Ave Overcrossing to Stanislaus/Merced County Line	Arwater Freeway	Widen from 4E to 6F on 8 Lane R/W Alignment	Constructed	\$58,000	\$12,100	\$70,100	1
45	Merced	28.8/R37.3	10-011200	S of Hammett Ave Overcrossing to Stanislaus/Merced County Line	Merced Median Widening	Widen from 4F to 6F	2014	\$87,000	\$13,000	\$90,000	2
48	Stanislaus	5.7/10.9	10-1A6900	0.5 Km S to 1.0 Km N. of Mitchell Rd	Mitchell Rd / Service Rd Interchange	Reconstruct Interchange	2018	\$60,000	\$12,000	\$72,000	3
51	Stanislaus	R11.9	10-2A7704	City of Ceres at Whitmore Ave. Overcrossing	Rte 99/Whitmore Interchange	Reconstruct Interchange	Constructed	\$18,100	\$14,200	\$32,300	3
55	Stanislaus	R16.2/R17.0	10-403501	Rte 132 to Kansas Ave	Route 132 West Expressway	Reconstruct Interchange	2013	\$78,000	\$3,700	\$81,700	3
59	Stanislaus	21.0/22.4	10-472100	At Palmdale Ave	Palmdale Interchange	Modify Interchange	2011	\$71,000	\$3,700	\$74,700	3
62	San Joaquin	5.3/15.0	10-0E6100	SR 120 West to Arch Road	Nanteca 6-Lane	Widen from 4F to 6F	2012	\$225,300	\$24,700	\$250,000	2
63	San Joaquin	15.0/18.6	10-3A1001	0.4 Mile N of Arch Rd to Rte 4 West	South Stockton 6-Lane	Widen from 4F to 6F	2012	\$231,000	\$19,500	\$250,500	2
64	San Joaquin	16.4/17.5	10-3A1001	Mariposa Rd and Farmington Rd	Combined into Proj. #63	Reconstruct and Combine Interchanges	2012	NA	NA	NA	3
65	San Joaquin	23.5/24.5	10-0L1400	At Morada Lane	Morada/99 Interchange	Reconstruct Interchange	2012	\$25,000	\$2,800	\$27,800	3
66	San Joaquin	24.9/25.9	10-0L1300	At Eight Mile Rd	Eight Mile/99 Interchange	Reconstruct Interchange	2012	\$34,200	\$10,000	\$44,200	3
Note: Data in this table should not be used to program projects.											
Legend:											
Shaded = Fully Funded											
Constructed											
Italic = Partially Funded    Bold = Not Funded											
PROGRAMMED PROJECTS TOTAL COSTS								\$2,046,900			





## 7. PROJECT IMPACTS AND MITIGATION MEASURES

Project impacts and mitigation measures for Existing and Cumulative conditions are discussed in this chapter. Roadway system impacts are addressed. Transit, pedestrian, and bicycle impacts were discussed in Chapter 6 in conjunction with vehicular site access considerations.

### SIGNIFICANT IMPACT CRITERIA FOR ROADWAY SYSTEM IMPACTS

Traffic impacts would be considered significant if the Project would result in any of the following:

- Deterioration of a signalized intersection from LOS D (or better) to LOS E or LOS F, or an increase in the service volume of any approach by 5 percent or more for a signalized intersection operating at LOS E or LOS F under Baseline (No Project) Conditions, or an increase in average delay of 5 or more seconds for a signalized intersection operating at LOS E or LOS F under Baseline conditions.
- Deterioration of a controlled movement at an unsignalized intersection from LOS E or better to LOS F, or at intersections where a controlled movement already operates at LOS F, one of the following:
  1. Project traffic results in satisfaction at the peak hour volume traffic signal warrant;
  2. Project traffic increases minor movement delay by more than 30 seconds; or
  3. Where the peak hour volume signal warrant is met without the Project traffic and delay cannot be measured, Project increases traffic by 10 or more vehicles per lane on the controlled approach.
- Deterioration of a freeway segment from LOS D or better to LOS E or LOS F, or an increase in traffic volumes of 5 percent or more for a segment operating at LOS E or LOS F under Baseline conditions.
- Deterioration of a ramp merge/diverge area from LOS D or better to LOS E or LOS F, or an increase of ramp merge/diverge area traffic volumes of 5 percent or more for a ramp merge/diverge area operating at LOS E or LOS F under Baseline conditions.

### EXISTING CONDITIONS IMPACTS AND MITIGATION MEASURES

As detailed in Chapter 4, the addition of project traffic would impact 8 of the 13 study intersections in the Existing condition. These impacted locations and suggested mitigation measures are discussed in further detail below. The intersection mitigation measures are summarized on Figure 13. For intersections where ultimate improvements are identified in the Public Facilities Fee (PFF) program, fee credits may be issued by the City for the cost of interim improvements that provide acceptable operations on opening day of the project.

**Impact 1 – East Whitmore Avenue/Mitchell Road:** This intersection operates at acceptable service levels in both the weekday AM and Saturday peak hours, and it operates at a deficient LOS F in the weekday PM peak hour prior to the addition of project traffic. The addition of project traffic would further worsen LOS F conditions in the weekday PM peak hour, increasing delay by more than five seconds, and result in LOS E conditions during the Saturday peak hour. This is considered a **significant impact**.

**Mitigation Measure 1 – East Whitmore Avenue/Mitchell Road:** The Project Applicant shall modify the Mitchell Road on the northbound approach to East Whitmore Avenue to provide second left-turn lane, in

conjunction with signal timing modifications. The mast arm on the north leg of the intersection may also need to be modified. This improvement can be constructed within the existing right-of-way, as conceptually shown on Figure 14. This improvement would provide additional capacity for the northbound left-turn movement, and result in acceptable intersection operations, as shown in Table 19, reducing the project's impact to a **less-than-significant** level. This improvement would not result in secondary pedestrian impacts as no intersection widening is required and the pedestrian crossing distance would not increase.

**Impact 2 – Don Pedro Road/Mitchell Road:** This unsignalized intersection currently operates at an overall acceptable service level. With the addition of project traffic, it would continue to operate at an overall acceptable service level. However, the addition of project traffic would result in overall deficient operations for the side-street movements during the AM, PM and Saturday peak hours, which is considered **significant**. With the addition of project traffic, the peak hour volume and delay signal warrants would be satisfied.

**Mitigation Measure 2 – Don Pedro Road/Mitchell Road:** The Project Applicant shall install traffic signals at this intersection, including pedestrian signals and actuation. The signals shall be interconnected and coordinated with the proposed signal at the Mitchell Road entry to minimize vehicle queue spillback through the area. Intersection signalization would reduce delay for movements from the side-street, resulting in acceptable overall intersection operations, reducing the project impact to a **less-than-significant** level, as shown in Table 19. This improvement would provide a benefit to pedestrians by providing a protected pedestrian crossing.


★ **Impact 3 – Service Road/Moffett Road:** This unsignalized intersection operates at an overall acceptable service level prior to the addition of project traffic and would continue to operate at an overall acceptable service level with the addition of project traffic. However, the addition of project traffic would result in LOS F conditions for the vehicles turning from Moffett Road to Service Road during the PM peak hour. As the project would result in deficient operations for the side-street movement, this is considered a **significant impact**. Neither the peak hour volume or delay signal warrant would be satisfied with the addition of project traffic.

**Mitigation Measure 3 – Service Road/Moffett Road:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements through the payment of the public facilities fee (PFF). As part of the interchange improvement project, this intersection would be widened to provide additional travel lanes and a traffic signal would be installed. Implementation of the interchange improvement would result in acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level. However, this improvement is not fully funded and as it is located on the State Highway system; neither the City nor Project Applicant can control the timing or implementation of the mitigation. Therefore this impact would remain **significant and unavoidable**.

Should completion of the project occur prior to construction of the interchange improvement project, the side-street movements at this intersection would operate at an unacceptable level. Prohibiting the eastbound left-turn would result in acceptable service levels at this intersection, reducing the project impact to a less-than-significant impact. However, restricting access for existing traffic is not desirable.

★ Due to the close spacing of this intersection to the SR 99 over crossing, sight distance is limited over the bridge structure and there is insufficient distance between the crest of the bridge and expected westbound vehicle queues (should the intersection meet signal warrants and be signalized) to provide sufficient stopping distance.

Alternative improvements, such as widening the southbound approach to provide separate left and right-turn lanes would reduce delay for vehicles turning from Moffett Road to Service Road. The left turn pocket should accommodate one vehicle (approximately 25 feet). Although this improvement would not result in acceptable side-street operations for the southbound left-turn movement during the PM peak hour, it would operate better than the With Project without Mitigation condition, as it would allow right-turn vehicles to by-pass left-turning vehicles, reducing delay for right-turn movements. However, even with this alternative improvement in place, this impact would remain **significant and unavoidable** in the Existing Plus Project condition. It should also be noted that sufficient excess capacity exists for the southbound left-turn movement at Central Avenue to accommodate the existing left-turns from Moffett Road, providing an alternative vehicle route for left-turning vehicles.

 **Impact 4 – Service Road/El Camino Avenue:** This unsignalized intersection operates at an overall acceptable service level prior to the addition of project traffic and would continue to operate at an overall acceptable service level with the addition of project traffic. However, the addition of project traffic would result in LOS F conditions for the vehicles turning from El Camino Avenue to Service Road during the PM peak hour. As the project would result in deficient operations for the side-street movement, this is considered a **significant impact**. Neither the peak hour volume or delay signal warrant would be satisfied with the addition of project traffic.

**Mitigation Measure 4 – Service Road/El Camino Avenue:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements. As part of the interchange improvement project, this intersection would be relocated to the east to align with a new SR 99 ramp, or rerouted to connect with Don Pedro Road. Implementation of the interchange improvement would result in acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level. However, as this improvement is not fully funded and it is located on the State Highway system, neither the City nor Project Applicant can control the timing or implementation of the mitigation. Therefore, this impact would remain **significant and unavoidable**.

However, should completion of the project occur prior to construction of the interchange improvement project, the side-street movements at this intersection would continue to operate at unacceptable levels. Prohibiting the southbound left-turn from El Camino Avenue to Service Road would result in acceptable service levels at this intersection, reducing the project impact to a less-than-significant impact. However, restricting access for existing traffic is not desirable.

Due to the close spacing of this intersection to the SR 99 over crossing, sight distance is limited over the bridge structure and there is insufficient distance between the crest of the bridge and expected eastbound vehicle queues (should the intersection meet signal warrants and be signalized) to provide sufficient stopping distance.

Alternative improvements, such as widening the southbound approach to provide separate left and right-turn lanes would reduce delay for vehicles turning from El Camino Avenue to Service Road, and widening Service Road to provide a westbound right-turn lane would improve intersection operations. The southbound left-turn pocket should accommodate one vehicle (approximately 25 feet). Although this improvement would not result in acceptable side-street operations for the southbound left-turn movement during the PM peak hour, it would operate better than the With Project without Mitigation condition, as it would allow right-turn vehicles to by-pass left-turning vehicles, reducing delay for right-turn movements. However, even with this alternative

improvement in place, this impact would remain **significant and unavoidable** in the Existing Plus Project condition.

**Impact 5 – Service Road/Mitchell Road:** This intersection currently operates at acceptable service levels. The addition of project traffic would result in LOS E operations during the weekday AM peak hour and LOS F conditions during the weekday PM and Saturday afternoon peak hours. As the project would result in deficient intersection operations, this is considered a **significant impact**.

**Mitigation Measure 5 – Service Road/Mitchell Road:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements. As part of the interchange improvement project, this intersection would be improved to provide additional through lanes on both Service Road and Mitchell Road, in addition to additional turning movement capacity. Implementation of the interchange improvement would result in acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level.

However, should completion of the proposed Project occur prior to construction of the interchange improvement project, interim improvements would need to be installed at the intersection to provide acceptable operations, including construction of a second eastbound left-turn lane on Service Road to Mitchell Road, extending the northbound left-turn lane to provide at least 325 feet of vehicle storage, signal modifications to provide protected east-west left-turn phasing, and an evaluation of the traffic signal timing six month subsequent to the issuance of the final certificate of occupancy for the Walmart portion of the project to ensure optional traffic flows through the intersection based on current conditions. This improvement would also require traffic signal relocation. This interim measure is within the ultimate right-of-way required for the interchange improvement project although right-of-way has not been acquired for that project.

Implementation of the interim improvements would result in acceptable intersection operations as the improvement provides additional intersection capacity, as shown on Table 19, reducing the project impact to a **less-than-significant** level. This improvement would result in secondary pedestrian impacts, as widening the intersection would increase the pedestrian crossing distance. However, the intersection would operate acceptably for vehicles when accounting for the increased pedestrian crossing times. The extension of the northbound left-turn lane would also restrict access to the parcel on the eastside of Mitchell Road, south of Service Avenue. That restriction would also occur with construction of the Service Road/Mitchell Road interchange improvement project.

**Impact 6 – Rohde Road/Mitchell Road:** This unsignalized intersection currently operates at an overall acceptable level of service, although the side-street movements operate deficiently during the AM, PM and Saturday peak hour. The addition of project traffic would increase delay for these movements by more than 30 seconds and worsen operations for the already deficient side-street movement, which is considered a **significant impact**. The addition of project traffic would also cause overall unacceptable operations to the intersection as a whole during the weekday PM and Saturday afternoon peak hours. The peak hour signal warrants would be satisfied at this intersection prior to the addition of project traffic.

**Mitigation Measure 6 – Rohde Road/Mitchell Road:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements. As part of the interchange improvement project, this intersection would be improved to provide additional through lanes on Mitchell Road, in addition to additional turning movement capacity. Implementation of the interchange improvement would result in

acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level.

[However, as this improvement is not fully funded and located on the State Highway system, neither the City nor Project Applicant can control the timing or implementation of the mitigation, this impact would remain **significant and unavoidable**.]

It should be noted that the approved Ceres Gateway Center, located on the west side of Mitchell Road, south of Service Road is conditioned to install a traffic signal at this intersection in addition to constructing dual northbound left-turn pockets, a southbound right-turn pocket and relocating the intersection north of its current location to facilitate implementation of the Service Road/Mitchell Road interchange improvement project. This intersection configuration would provide sufficient capacity to accommodate traffic from both the Ceres Gateway Center and Mitchell Ranch Center. The Project applicant shall participate in a reimbursement agreement for their fair share of the cost to install a traffic signal at this intersection.

Should the Mitchell Ranch Center develop prior to the Ceres Gateway Center, Mitchell Ranch Center should relocate the intersection further north, which would provide additional weaving distance for vehicles exiting SR 99, and install a traffic signal at the resulting intersection. Implementation of the alternative improvements would result in acceptable intersection operations, as the improvement would provide additional intersection capacity, as shown on Table 19, reducing the project impact to a **less-than-significant** level.

✱ **Impact 7 – Northbound State Route 99 Off/On-Ramp/Mitchell Road:** This unsignalized intersection currently operates at an overall acceptable level of service as only the northbound movements and westbound left-turn movements (which are minimal) are stop-controlled. Although the addition of project traffic would increase delay for these movements, the intersection would continue to operate at an acceptable service level when considered as an isolated intersection. However, given the close proximity of this intersection to the Southbound SR 99 On/Off-Ramp/Mitchell Road and Rohde Road/Mitchell Road intersections, which are projected to operate deficiently with the addition of project traffic, vehicle queue spillback from the adjacent intersections could impede the operation of the Northbound State Route 99 Off/On-Ramp/Mitchell Road. Additionally, when considering the recommended mitigation measures at the adjacent intersections, secondary impacts would occur at this location if improvements are not implemented. Therefore, this is considered a **significant impact**.

**Mitigation Measure 7 – Northbound State Route 99 Off/On-Ramp/Mitchell Road:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements. As part of the interchange improvement project, this intersection would be improved to provide additional through lanes on Mitchell Road and eliminate the northbound on-ramp. Implementation of the interchange improvement would result in acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level. [However, as this improvement is not fully funded and located on the State Highway system, neither the City nor Project Applicant can control the timing or implementation of the mitigation, this impact would remain **significant and unavoidable**.]

Should completion of the project occur prior to construction of the interchange improvement project, the following improvements should be implemented:

- Eliminate westbound left-turn movement for non-emergency vehicles
- Eliminate the stop-control for the northbound movement
- Modifying striping, as shown on Figure 15

Implementation of the interim improvements would provide additional intersection capacity, resulting in acceptable intersection operations, as shown on Table 19, reducing the project impact to a **less-than-significant** level. Should these improvements not be implemented, as the intersection is located in Caltrans right-of-way and neither the City nor the applicant can control the timing of implementation, the impact could remain **significant and unavoidable** until the improvements are constructed.

✱ **Impact 8 – Southbound SR 99 On/Off-Ramp/Mitchell Road:** This unsignalized intersection currently operates at an overall acceptable level of service, although the side-street movements operate deficiently during the AM and PM peak hours. The addition of project traffic would result in overall unacceptable operations during the weekday PM and Saturday afternoon peak hours, which is considered a **significant impact**. The peak hour signal warrants would be satisfied at this intersection prior to the addition of project traffic.

**Mitigation Measure 8 – Southbound SR 99 On/Off-Ramp/Mitchell Road:** The Project Applicant shall contribute their fair share to the SR 99/Mitchell Road/Service Road interchange improvements. As part of the interchange improvement project, this intersection would be improved to provide additional through lanes on Mitchell Road and eliminate the southbound off-ramp. Implementation of the interchange improvement would result in acceptable service levels at this intersection, reducing the project impact to a **less-than-significant** level. However, as this improvement is not fully funded and located on the State Highway system, neither the City nor Project Applicant can control the timing or implementation of the mitigation, this impact would remain **significant and unavoidable**.

Should completion of the project occur prior to construction of the interchange improvement project, the following improvements should be installed by the Project Applicant:

- Install traffic signal
- Modify southbound Mitchell Road to provide a second left-turn lane within the existing right-of-way, modify the on-ramp to provide two receiving lanes
- Modifying striping, as shown on Figure 15

Implementation of the interim improvements would result in acceptable intersection operations as the improvement provides additional intersection capacity, as shown on Table 19, reducing the project impact to a **less-than-significant** level.

The above improvements may require a design exception from Caltrans to provide two southbound and one northbound lane under the SR 99 over-crossing. Should the design exception not be granted, the Project Applicant can alternatively install a traffic signal at the SR 99/Southbound Ramp intersection without the additional lane capacity. Although this improvement would not result in acceptable service levels during the weekday PM (LOS F) and Saturday afternoon (LOS F) peak hours, it would provide an improvement over the Existing Plus Project condition and improve safety. The traffic signal should be timed to give priority to vehicles exiting the freeway to minimize the potential for vehicle queue spillback to the mainline. With implementation of this alternative measure, the impact would remain **significant and unavoidable**.

✱ Should these improvements not be implemented, as the intersection is located in Caltrans right-of-way and neither the City nor the applicant can control the timing of implementation, the impact could remain **significant and unavoidable** until the improvements are constructed.



**Impact 9 – Don Pedro Avenue:** Don Pedro Avenue is a designated secondary collector street that connects a primary collector street (El Camino Avenue) to an arterial street (Mitchell Road). As such, it carries higher traffic volumes than might be expected for a secondary collector street with fronting residential parcels, approximately 1,120 vehicles per day (vpd) west of Mitchell Road along the project frontage and 1,010 vpd east of El Camino Avenue. The definition of an acceptable amount of traffic on a local residential street is subjective and depends upon many factors such as housing set-backs, street width, presence of on-street parking, location (downtown, suburban, rural), and the connectivity of adjacent streets. Even two-lane local residential streets are physically capable of carrying volumes in excess of 7,000 vpd, where the constraint on capacity is typically the traffic control at each intersection (i.e., stop signs or signal). However, high volumes would cause excessive delays for vehicles backing out of driveways, would not provide a pleasant pedestrian experience, and would not typically represent a “livable” street.

Traffic volumes are projected to increase by approximately 1,800 vpd to 3,000 vpd west of Mitchell Road along the project frontage, as project traffic accesses the site from the driveways on Don Pedro Road. Although the roadway can accommodate this level of traffic, it could create difficulties for residents with driveways on this segment of Don Pedro Road, as there would be additional vehicle conflicts when residents are backing out from their driveways. There are approximately 6 driveways serving parcels on the north side of Don Pedro Avenue along the project frontage that would experience degraded driveway access. This is considered a **significant impact**.

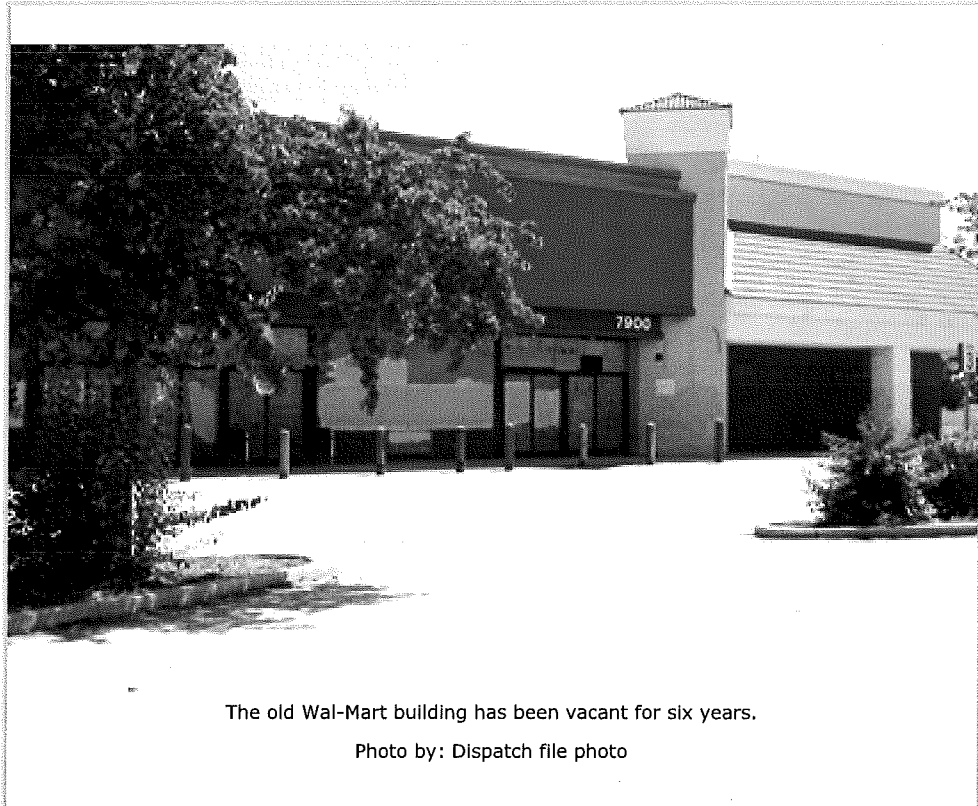
**Mitigation Measure 9 – Don Pedro Avenue:** The Project Applicant shall contribute funding towards the preparation of a traffic calming plan and construction of improvements identified by that plan for Don Pedro Road between Mitchell Road and El Camino Avenue. This plan shall be developed in consultation with City staff and residents to limit traffic on Don Pedro Road to 2,500 VPD between Mitchell Road and the western most project driveway to 1,500 VPD west of the westernmost project driveway. The plan shall include features such as the installation of curb extensions, speed humps, speed feedback signs, lighted cross-walks, and other devices that have proven effectiveness. A minimum of one community meeting shall be held with affected neighbors and the Plan shall be approved by the Public Works Director with input from the Community Development Director, Fire Chief and Police Chief prior to the issuance of a certificate of occupancy for Major 1. As the effectiveness of traffic calming for Don Pedro Road is unknown this impact would remain **significant and unavoidable**.

East of El Camino Avenue, the project is expected to increase daily traffic volumes by approximately 120 vpd through the neighborhood. This increase in traffic would generally not be noticeable to residents on this portion of Don Pedro Road. This is considered **less-than-significant**.

Freeway mainline and ramp merge/diverge impacts were found to be less-than-significant in the Existing Plus Project Scenario as the freeway would continue to operate at LOS D or better with the addition of project traffic. Therefore, no freeway mainline or ramp merge/diverge mitigation measures are identified.

## RV business set to roll in to vacant former Wal-Mart location

Apr 12, 2011 By Mark Powell



The old Wal-Mart building has been vacant for six years.

Photo by: Dispatch file photo

The boarded-up former Wal-Mart building, vacant for six years, will be home to a new RV dealership.

See Grins RV, located in San Martin, will move its primary lot to the former Wal-Mart property at 7900 Arroyo Circle just north of the Gilroy Unified School District offices possibly by this summer, said dealership owner Randy Scianna.

Scianna said the dealership would house 300 to 350 RVs and as soon as June 24. The start date, however, would depend on his progress repairing the often-vandalized building.

Scianna said he would have to conduct significant electrical repairs, replace rooftop air conditioning units and install a new security system.

"There's just a lot of work to be done. That's the bottom line," he said.

City Administrator Tom Haglund confirmed the deal in an e-mail sent to the Gilroy City Council Monday afternoon.

"We are particularly excited that See Grins will be occupying this vacant site which will greatly improve and enhance the area," Haglund wrote.

The 126,000-square-foot former Wal-Mart retail store closed in 2005 when a new, 219,570-square-foot Wal-Mart Supercenter opened at the Pacheco Pass Shopping Center at 7155 Camino Arroyo. Since then, the property has sat barren, and plans to open a go-cart racetrack there fell through in August 2010.

See Grins is an exclusive Heartland RV dealer that carries new and used model RVs, including travel trailers, fifth wheels, toy haulers and motorized coaches, according to its website. In television advertisements promoting the dealership, a smiling horse says with a twang, "RV with me and see grins with satisfaction."

Scianna said his San Martin location opened three years ago and he plans to keep it running despite moving his main lot to Gilroy. He said he started looking for a new location several months ago because he feared California's high-speed rail project would gut adjacent land and cause sales to plummet.

Despite the lagging economy, See Grins' sales soared 84 percent above the nationwide industry average last year, which itself grew by 42 percent, Scianna said.

The Gilroy location will include a barbecue area, petting zoo, rental and accessory departments and virtual reality RV displays, which will be shown inside the building, Scianna said.

He said it would be the largest indoor RV showroom west of the Mississippi River.

"Our business has just, quite frankly, exploded, Scianna said. "People are out buying RVs. They are tired of being depressed in these economic times."

Mayor Al Pinheiro said the dealership not only would make that area more appealing visually, but could also boost Gilroy financially.

"It's exciting stuff. He's going to bring an area that's been blighted for a long time and clean it up," Pinheiro said. "He will also bring some sales tax to the city."

Councilman Bob Dillon called the property ideal for an RV location, and said the move could be a sign that Gilroy's economic state was improving.

"We could be turning around here. It's encouraging," Dillon said. "It's synergistic. It's great they're going to have a big business come to town."

Scianna said See Grins eventually would contribute roughly \$1 million in sales taxes to Gilroy each year. Dan Hudson, of Hudson Jones Commercial Real Estate Property, which owns the old Wal-Mart, and Scianna declined to say how long the deal was for, simply stating it was "a long-term lease."

"We've really made a commitment to that building, that shopping center and that community," Scianna said. When asked if he was happy to finally sign an agreement with a tenant, Hudson replied, "Oh yeah, I think that goes without saying."

# The Modesto Bee

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Posted on Mon, May. 23, 2011

## Hope not as bright for valley's empty stores

### Bee Staff Reports

last updated: May 23, 2011 05:03:35 AM

Filling the space vacated by hundreds of Blockbuster and Borders stores may seem like a huge challenge for shopping center landlords, but it may not be in many parts of the United States.

Real estate experts agree the two recent victims of digital and streaming entertainment had at least one thing going for them: great locations.

And there's not much retail development on the drawing boards, so nationwide empty space isn't the headache it was for landlords the past few years, experts say.

While that may be true for the nation, filling retail space remains a challenge in the Northern San Joaquin Valley.

"In this market, nothing is easy to lease," said Christopher Sill of Lee & Associates Commercial Real Estate Services. Sill is the listing agent for about 10 former Hollywood Video and Blockbuster locations in the region.

That includes Modesto's northwest corner of McHenry and Standiford avenues, which has been vacant since Hollywood Video moved out in fall 2009.

But that prime spot may be filled soon with a Skechers shoe store. Skechers applied for a city building permit last month, seeking permission to do tenant improvements in the 7,500-square-foot space.

Sill said no deal has been made final, so he would not confirm that Skechers is coming.

"But that's a high-profile and attractive location," Sill said about McHenry and Standiford. It also has become more marketable since Ross Dress For Less announced it will open a store across the parking lot this summer.

### Health care filled spot

Like the Hollywood Video stores that closed a couple of years ago, Blockbuster stores are mostly in top neighborhood centers and occupy prime corners or end spaces with high visibility.

A Blockbuster store at 1234 McHenry closed in spring 2009, but its space was filled that fall with a CareMore Health Plan operation.

Sill said he has had success filling former video stores in Manteca and Tracy.

About 1,500 Blockbuster stores closed since the Dallas-based company filed for bankruptcy in September, and about 1,000 closed before that.

"Blockbuster did a great job of picking their locations," said Sam Kartalis, president of Dallas-based Henry S. Miller Brokerage LLC.

"Even a Blockbuster store in a bad center — they always occupy the end-cap space, which is still good."

Borders closed 200 stores as part of its February bankruptcy, including the one on Sisk Road in Modesto. Borders stores tend to anchor lifestyle centers in neighborhoods with strong reading demographics, and they usually are big enough to subdivide. That can mean more rent and maintenance fees from new tenants.

Specialty grocers nationwide, such as Central Market and Trader Joe's, are eyeing those former Borders locations.

"Borders stores are generating a lot of interest from specialty food stores, furniture stores, health-related companies and firms looking for office space, said Andy Graiser, co-president of DJM Realty, a New York firm hired to dispose of 200 Borders stores.

Modesto's Borders store had about 25,000 square feet. There's been no word about what tenant may end up there.



(JOAN BARNETT LEE / jlee@modbee.com) - The old Hollywood Video store at the corner of Standiford and McHenry Avenues in Modesto will soon be occupied by a new business. It is pictured on Thursday afternoon (05-19-11). - Modesto Bee - Joan Barnett Lee

#### **Cash to redevelop sites?**

Landlords also have more money to redevelop and subdivide spaces, Graiser said. And more retailers and restaurants are looking for smaller spaces, he said.

Wal-Mart Stores Inc. is testing smaller stores, and J.C. Penney Co.'s new Growth Brands division is rolling out Foundry Big & Tall Supply Co., which it expects to become a 300-store chain.

At the same time, some chains, such as Forever 21, are looking for larger spaces, Graiser said.

"I'm more bullish than I was a year ago," he said.

"At the end of the day, public companies have to grow. To do so, they have to go into second-generation space because there isn't a lot of new development."

**The Dallas Morning News and Bee staff writer J.N. Sbranti contributed to this report.**

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**Fw: WalMart Supercenter**

Monday, May 23, 2011 1:46 PM

From: "James Vinyard" &lt;vinybros@att.net&gt;

To: vinybros@att.net

My name is James Vinyard, Citizens for Ceres. I live at 1339 Grandview Ave. here in Ceres. I have been a resident here for over 50 years. Like many other people in our city I care very much about the welfare of our community.

My field of work and study is Landscaping and Landscape Maintenance, and I am most concerned about the landscape care for the proposed shopping center. What WalMart is currently providing at their Ceres store, is a poorly maintained, unattractive, and uninviting landscaping environment. For over 15 years, the current Ceres WalMart's landscaping, including trees and shrubs, have been mostly neglected.

For example, trees and shrubs have not been properly pruned or staked for healthy plant growth. Plants have not been replaced when needed, and sprinklers have been allowed to stay broken with the end result of dead plants!

Since this new project will be at our southern gateway, an area that should be a showcase for our city, I believe the City Council should establish written performance benchmarks for the new WalMart's landscaping and landscaping maintenance procedures. WalMart should not be allowed to present an ugly face to our citizens and our out-of-town visitors.

There is no excuse for not requiring Walmart to meet landscape standards established by Ceres. Walmart should be required to provide us with assurances of a written maintenance contract with a professional landscape contractor. The contract should include a periodic maintenance schedule that meets Ceres' reasonable standards.

Furthermore, Ceres should make sure to establish minimum standards for the sizes of trees and shrubs, methods of planting, style and sizes of planting containers, pruning, staking, fertilization, tree, shrub and lawn maintenance requirements, sprinkler irrigation, and sprinkler repair maintenance.

I am willing to provide you with guidance in this area, to make sure that the landscaping is done right because I believe Ceres deserves to have attractive landscaping. Ceres has the right -- no the responsibility to expect the highest landscaping standards of any large retailer who wants to locate at our southern gateway.

Please members of our City Council, since the existing WalMart's landscaping is below acceptable standards, and WalMart has not provided any assurances that the new store's landscaping will be any better than the old one, at this time, I urge you to vote "no" on the proposed WalMart Supercenter.

Thank you very much,

James Vinyard  
1339 Grandview Ave.  
Ceres, Ca.95307