

## COUNCIL AGENDA REPORT

COUNCIL MEETING Date: 5/23/11

### CITY COUNCIL

Chris Vierra, Mayor  
Ken Lane  
Guillermo Ochoa  
Bret Durossette

Report Preparation Date: 5/9/11

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

CONTACT: Tom Westbrook, Planning, Building and Housing Division Manager, [tom.westbrook@ci.ceres.ca.us](mailto:tom.westbrook@ci.ceres.ca.us), 209.538.5789

### **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:**

#### **Appeal Filed**

On April 14, 2011, the City received an appeal from Citizen for Ceres to the following Planning Commission actions: certification of the Environmental Impact Report, including the adopted findings, the approved CUP and VTSM, and their associated resolutions (11-03, 11-04 and 11-05). The appeal that was filed included the signatures of 91 individuals and the appeal can be found in Section 1 of the Background Materials.

#### **Planning Commission Meeting**

At its February 22, 2011 meeting, the Planning Commission considered a development proposal for the Mitchell Ranch Shopping Center on 26.3 acres located on the west side of Mitchell Road from Service Road to Don Pedro Road. The proposed center would consist of just less than 300,000 square feet of commercial space comprised of four majors, four shop buildings, and three pads. About two-thirds of this total commercial space is proposed for occupancy by a Walmart store, which comprises phase 1 of development of the site.

Extensive public testimony was received both for and against the project. At the conclusion of the February 22, 2011 meeting, the Commission identified a number of questions for further study and provision of information by staff, and continued consideration of the item to April 4, 2011. At the April 4, 2011 meeting, staff provided further information responding to the Commission's concerns, and further extensive testimony was received.

Public testimony opposing the project or requesting design modifications focused on the following issues:

- Issues relating to the potential negative economic effects of the project, including the potential for job loss, store closure, and the effect of the current Walmart building if it remains vacant.
- Issues relating to the effect of the project on the neighborhood to the north across Don Pedro Road, particularly including noise and truck traffic issues.
- Request for redesign of the project to reorient Major 1 (Walmart) toward Mitchell Road and Service Road and remove access from Don Pedro Road, separating the neighborhood to the north from the project with a solid wall and landscaping.

Public testimony supporting the project focused on the following:

- The contributions that Walmart has made to community organizations.
- The desirability of additional shopping/eating opportunities in the City, including the one-stop shopping that the Walmart store would provide.
- Issues relating to potential positive economic effects of the project including the potential for additional sales tax dollars and jobs that could accrue to the City.

After considering the testimony and discussion, the Planning Commission determined on April 4, 2011 by a 3-1 vote (Commissioner Kline – No, Commissioner Smith – absent) that the environmental document and conditions of approval for the project, with revisions, appropriately addressed the impacts of the project and the issues raised in testimony, and certified the Environmental Impact Report and approved the Conditional Use Permit and Vesting Tentative Subdivision Map for the project. Resolutions 11-03, 11-04, and 11-05 are the approving resolutions from the Commission and can be found in Section 5 of the Background materials at pages 20-157. Resolutions 11-04 and 11-05, which include the revised conditions from the April 4<sup>th</sup> Planning Commission meeting are attached to this report at pages 144 to 204.

The materials prepared for the Planning Commission and received at the meetings provide extensive background regarding the project and were delivered to the Council at their April 25 meeting. The DRAFT minutes from the Planning Commission meetings of February 22<sup>nd</sup> and April 4<sup>th</sup> are attached to this report and can be found at pages 205 to 295.

## **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:**

Public noticing was posted on May 11, 2011 and sent to property owners within 300 feet of the proposed development and all those who provided comment on the Draft EIR, in addition to a notification in the Ceres Courier. This level of notice was also sent prior to the February 22, 2011 Planning Commission hearing.

### **VI. COMMITTEE RECOMMENDATION:**

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

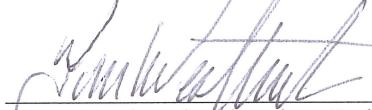
## **VII. ENVIRONMENTAL REVIEW:**

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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[tom.westbrook@ci.ceres.ca.us](mailto:tom.westbrook@ci.ceres.ca.us), 209.538.5789

Submitted by:



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Sheila Cumberland, Deputy City Manager

Attachments:

Pages

5 - 6	CC Resolution No. 2011-____ (Denying Appeal)
7 - 143	CC Resolution No. 2011-____ (EIR)
144 - 175	PC Resolution No. 11-04 (Conditional Use Permit)
176 - 204	PC Resolution No. 11-05 (Vesting Tentative Subdivision Map)
205 - 246	DRAFT Planning Commission minutes, meetings of February 22, 2011
247 - 295	DRAFT Planning Commission minutes, meetings of April 4, 2011

**RESOLUTION NO. 2011 - \_\_\_\_\_**

**RESOLUTION OF THE CITY OF CERES CITY COUNCIL DENYING  
AN APPEAL BY “CITIZENS FOR CERES” TO THE ACTION OF THE  
PLANNING COMMISSION CERTIFYING AN ENVIRONMENTAL IMPACT  
REPORT AND APPROVING A CONDITIONAL USE PERMIT AND VESTING  
TENTATIVE SUBDIVISION MAP FOR THE MITCHELL RANCH CENTER  
LOCATED ON THE WEST SIDE OF MITCHELL ROAD FROM SERVICE  
ROAD TO DON PEDRO ROAD**

**THE CITY COUNCIL  
City of Ceres, California**

**WHEREAS**, an application was received from Regency Centers, LLC for a Conditional Use Permit (“CUP”) and Vesting Tentative Subdivision Map (VTSM) for a regional commercial center located on the northwest corner of Mitchell Road and Service Road in the City of Ceres; and,

**WHEREAS**, the Regency Centers application was subsequently transferred to Walmart, who is now the project applicant; and,

**WHEREAS**, the Planning Commission of the City of Ceres held a duly noticed public hearing regarding the Mitchell Ranch Center project on February 22, 2011 at 6:00 p.m., which hearing was continued to April 4, 2011 at 6:00 p.m. and considered all testimony received whether orally or in writing; and,

**WHEREAS**, the Planning Commission of the City of Ceres took action on April 4, 2011 by 3-1 vote (Commissioner Kline – no, Commissioner Smith – absent) to certify the Mitchell Ranch Center Environmental Impact Report (EIR), adopt a mitigation monitoring and reporting program, and adopt a Statement of Overriding Consideration by Resolution No. 11-03 and approve a Conditional Use Permit (CUP) and Vesting Tentative Subdivision Map (VTSM) by Resolutions 11-04 and 11-05 for the Mitchell Ranch shopping center project; and,

**WHEREAS**, the City Clerk on April 14, 2011 received an appeal letter from “Citizens for Ceres” accompanied by the required appeal fee requesting that the Planning Commission actions be overturned; and,

**WHEREAS**, the City Council held a duly noticed public hearing on May 23, 2011 at 5:30 p.m. and reviewed the letter of appeal and all testimony and comment presented to the Planning Commission and considered all testimony received whether orally or in writing; and,

**WHEREAS**, the City Council based on the evidence within the Planning Commission record and all testimony received, whether orally or in writing finds that the proposed appeal is without merit.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** that:

1. The City Council of the City of Ceres does hereby deny the appeal of Citizens for Ceres to the Planning Commission actions as set forth in Planning Commission Resolutions 11-03, 11-04, and 11-05.

2. The City Council does hereby ratify and adopt PC Resolution 11-03, the findings attached thereto, the mitigation monitoring and reporting program attached thereto, and the statement of overriding considerations attached thereto and affirms that the Resolution and attachments reflect the independent judgment, analysis, and findings of the City Council.

**PASSED AND ADOPTED** by the Ceres City Council at a regular meeting thereof held on the 23<sup>rd</sup> day of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

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Chris Vierra, Mayor

ATTEST:

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Cindy Heidorn, City Clerk, CMC

**RESOLUTION NO. 2011 - \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CERES CERTIFYING AN ENVIRONMENTAL IMPACT REPORT AND ADOPTING FINDINGS CONCERNING MITIGATION MEASURES, FINDINGS CONCERNING ALTERNATIVES, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE MITCHELL RANCH CENTER PROJECT.**

**THE CITY COUNCIL**  
City of Ceres, California

**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 053-013-016 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 required 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 was 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 all comments received during the public review period, which responses provide the City's good faith, reasoned analysis of the environmental issues raised by the comments; 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**, the Planning Commission held public hearings on February 22, 2011, and April 4, 2011, to consider the EIR and the Project, at which times all interested parties had the opportunity to be heard; and

**WHEREAS**, the Planning Commission adopted Resolution 11-03 on April 4, 2011, certifying the EIR and adopting findings concerning mitigation measures, findings concerning alternatives, a statement of overriding considerations, and a mitigation monitoring and reporting program for the Project; and

**WHEREAS**, Citizens for Ceres appealed the Planning Commission's decision to adopt Resolution 11-03 on April 14, 2011; and

**WHEREAS**, the City Council reviewed the Staff Report, dated May 23, 2011 and incorporated herein by reference, and the EIR and related public comments at a noticed public hearing on May 23, 2011, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the Draft and Final EIRs reflect the City's independent judgment and analysis on the potential for environmental impacts and constitute the Environmental Impact Report for the Mitchell Ranch Center Project; and

**WHEREAS**, the Project would have significant effects on the environment, most of which can be substantially reduced through mitigation measures; therefore, approval of the Project must include mitigation findings as set forth in attached Exhibit A; and

**WHEREAS**, some of the significant effects cannot be lessened to a level of less than significant; therefore, approval of the Project must include findings concerning alternatives as set forth in attached Exhibit A and a Statement of Overriding Considerations as set forth in attached Exhibit A; and

**WHEREAS**, a Mitigation Monitoring and Reporting Program, as required by CEQA, is contained in attached Exhibit B; and

**WHEREAS**, the Draft and Final EIRs are separately bound documents, incorporated herein by reference, and pursuant to Public Resources Code Section 21081.6 and California Code of Regulations, title 14, Section 15091, the City is the custodian of the documents and other materials that constitute the record of proceedings upon which the City's decision is based, and such documents and other material are located at: Ceres City Clerk's Office, 2720 Second Street, Ceres, California 95307.

**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

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  $89^{\circ} 52' 43''$  West 739.84 feet and North  $0^{\circ} 07' 17''$  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  $0^{\circ} 10'$  West 11.25 feet; thence leaving said Easterly line South  $89^{\circ} 57' 33''$  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  $0^{\circ} 10'$  East, 11.15 feet to the Northerly right of way line of aforementioned Service Road; thence along said Northerly line South  $89^{\circ} 58' 08''$  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  $89^{\circ} 58' 08''$  West along the South line of said Section 14, a distance of 862.31 feet; thence North  $0^{\circ} 01' 52''$  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  $0^{\circ} 00' 52''$  West, a distance of 152.62 feet; thence South  $89^{\circ} 58' 08''$  West parallel to and 184 feet North of the South line of said Section 14 a distance of 133.00 feet; thence South  $0^{\circ} 01' 52''$  East, a distance of 139.63 feet to the North line of said State of California property; thence South  $81^{\circ} 57' 24''$  East along said North line, a distance of 92.24 feet; thence continuing along said North line, South  $89^{\circ} 59' 15''$  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 certifies the following:

A. The EIR for the Project is hereby certified pursuant to the CEQA (Pub. Resources Code, § 21000 et seq.). (CEQA Guidelines, § 15090.) The City Council hereby certifies that the Final EIR has been completed in compliance with the requirements of CEQA. The City Council further certifies that the Final EIR was presented to it, and that it considered the information contained in the Final EIR prior to approving the Project. Finally, the City Council certifies that the Final EIR reflects the City Council's independent judgment and analysis.

**BE IT FURTHER RESOLVED** that the City Council adopts the findings concerning significant impacts, mitigations and alternatives set forth in Exhibit A, the Statement of Overriding Considerations set forth in Exhibit A, and the Mitigation Monitoring and Reporting Program set forth in Exhibit B, which exhibits are incorporated herein by reference.

**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 23rd day of May 2011, by the following vote

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

**AYES:**

**NOES:**

**ABSENT:**

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Chris Vierra, Mayor

**ATTEST:**

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Cindy Heidorn, City Clerk, CMC

## **EXHIBIT A**

**City of Ceres  
Mitchell Ranch Center**

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***Final Environmental Impact Report  
(SCH No. 2007092011)***

**Certification of the EIR,  
Findings of Fact,  
& Statement of  
Overriding Considerations**

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## **I. INTRODUCTION**

The California Environmental Quality Act, Public Resources Code Section 21000 *et seq.* (“CEQA”), states that if a project would result in significant environmental impacts, it may be approved if feasible mitigation measures or feasible alternatives are proposed which avoid or substantially lessen the impact or if there are specific economic, social, or other considerations which justify approval notwithstanding unmitigated impacts.

Therefore, when an environmental impact report (“EIR”) has been completed which identifies one or more potentially significant or significant environmental impacts, the approving agency must make one or more of the following findings for each identified significant impact:

1. Changes or alternatives which avoid or substantially lessen the significant environmental effects as identified in the EIR have been required or incorporated into the project; or
2. Such changes or alternatives are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency; or
3. Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR. (Pub. Resources Code, § 21081).

As “lead agency” under California Code of Regulations, title 14, Section 15367, the City of Ceres (“City”) hereby adopts the following CEQA findings relating to the Mitchell Ranch Center Draft Environmental Impact Report dated May 2010 (“Draft EIR”) and the Final Environmental Impact Report (“Final EIR”) certified by the City on February 22, 2011. The Draft EIR and the Final EIR are collectively referred to herein as the “EIR.”

## **II. PURPOSE AND BACKGROUND**

### **A. The 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 053-013-016 through -019) totaling 26.3 acres. Proposed development on the project site consists of 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”). For purposes of providing a conservative evaluation of Project impacts, much of the technical analysis prepared in conjunction with the EIR analyzed the Project to be 327,229 square feet. (Draft EIR, pp. 2.0-1 to 2.0-2 and 3.0-10 to 3.0-13.)

## **B. Purpose of the Project**

The Project objectives are as follows:

- To construct a regional retail center within the City of Ceres that will reduce market leakage to other jurisdictions.
- To promote development within the City that is context-sensitive and enhances the quality of life for the residents of Ceres.
- To construct a regional commercial center with convenient highway and roadway access which will provide safe and efficient customer, contractor, emergency, and delivery vehicle ingress and egress.
- To support development applications that are consistent with existing land use designations for regional commercial and retail uses.
- To provide a source of significant new sales tax revenue to Ceres.
- To provide new retail employment opportunities to residents of Ceres and the surrounding areas.
- To support development applications that comply with and fulfill the objectives of the General Plan, the Zoning Ordinance, the Mitchell Road Corridor Specific Plan, and all other applicable codes, plans, and ordinances of Ceres.
- To support development applications that do not conflict with the planned Mitchell/Service Road Interchange Project.
- To protect the economic viability of the Ceres downtown area.

(Draft EIR, p. 3.0-9.)

## **C. Purpose of the EIR**

The EIR was prepared in accordance with CEQA, Public Resources Code sections 21000-21178, and the CEQA Guidelines, California Code of Regulations, title 14, sections 15000-15387, to address the environmental impacts associated with the development of the 26.3-acre Project site and the construction of a 299,830 square foot retail center, 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. To ensure flexibility in the Project, the City prepared the EIR using a total building square footage that was greater than the actual application. Accordingly, many of the technical reports contained in the EIR examine the potential impacts of a

327,229 square foot facility. As required by Section 15121 of the CEQA Guidelines, the EIR assesses the potential environmental impacts resulting from approval, construction, and operation of the Project, and identifies feasible means of minimizing potential adverse environmental impacts. The City is the lead agency for the environmental review of the Project and the EIR was prepared under the direction and supervision of the City. (Draft EIR, pp. 1.0-1, 2.0-1 to 2.0-2 and 3.0-10 to 3.0-13.)

#### **D. Procedural Background**

Following is an overview of the environmental review process for the Project that has led to the preparation of the EIR.

1. 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. Two public scoping meetings were held on September 19, 2007 to further address concerns. Environmental issues and alternatives raised by comments received on the NOP during the public review period were considered for inclusion in the EIR.
2. The Draft EIR was circulated for public review 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.
3. A formal Notice of Availability (“NOA”) of the Draft EIR was prepared and circulated on May 19, 2010, as required by CEQA. The NOA was circulated to responsible agencies, adjacent property owners and interested parties, including any person who filed a written request for such a notice, and was published in the Ceres Courier and the Modesto Bee.
4. The public comment period for the Draft EIR was May 19, 2010 through July 6, 2010.
5. In response to comments received concerning the Draft EIR, the Final EIR was issued on February 2, 2011, at least 10 days prior to certification by the City Council. The Final EIR contains copies of all comments received on the Draft EIR and responses to those comments. The Final EIR also contains errata revisions to the Draft EIR and supplemental information deemed necessary in response to comments on the Draft EIR.

6. Copies of the Final EIR were sent to the commenting responsible agencies. All other commenters received notice with instructions for accessing the Final EIR. Copies of the Final EIR were available at the City offices and the local public library. In addition, the Final EIR was made available on the City's website and Project information was made available in PDF format or on CD by request.
7. A formal Notice of Availability ("NOA") of the Final EIR was prepared and circulated on February 2, 2011. The NOA was circulated to responsible agencies, adjacent property owners and interested parties, including any person who filed a written request for such a notice, and was published in the Ceres Courier and the Modesto Bee.
8. Pursuant to Public Resources Code Section 21092.5, the City provided a written response in the form of the Final EIR to all public agencies commenting on the Draft EIR, 10 days prior to certifying the EIR.
9. On February 22, 2011, the Planning Commission held a public hearing on the Project and continued the hearing to April 4, 2011.
10. On April 4, 2011, the Planning Commission held a public hearing on the project and certified the Final EIR and passed a resolution approving the Project.
11. On April 14, 2011, Citizens for Ceres appealed the Planning Commission's decision to certify the Final EIR and approve the Project.
12. On May 23, 2011, the City Council held a public hearing on the Project and certified the Final EIR and passed a resolution denying the appeal.

(Draft EIR, pp. 1.0-9 to 1.0-10; see also Draft EIR, Appendix 1.0-1.)

### **III. DESCRIPTION OF THE RECORD**

The record of proceedings for the City Council's decision on the Project includes, but is not limited to, the following documents:

- The NOP and all other public notices issued by the City in conjunction with the Project;
- All applications for approvals and development entitlements related to the Project and submitted to the City;
- The Draft EIR for the Project (May 19, 2010) and technical appendices;

- All comments submitted by agencies or members of the public during the public comment period on the Draft EIR;
- The Final EIR for the Project, including comments received on the Draft EIR, responses to those comments, and the Draft EIR and technical appendices (dated November 2010);
- The Mitigation Monitoring and Reporting Program for the Project;
- All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project prepared by the City, or consultants to the City with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;
- All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project cited or referenced in the preparation of the Draft EIR or Final EIR;
- The City of Ceres General Plan, the Mitchell Road Corridor Specific Plan, the Zoning Code, and any other relevant City planning documents;
- All documents submitted to the City (including to the Planning Commission and City Council) by other public agencies or members of the public in connection with the Project, up through the close of the public comment period on July 6, 2010;
- Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project; and
- Any other materials required for the record of proceedings by Public Resources Code Section 21167.6, subdivision (e).

The City Council has relied on all of the documents listed above in reaching its decision on the Project, even if not every document was formally presented to the Council or City staff as part of the City files generated in connection with the Project. Without exception, any documents set forth above not found in the Project files fall into one of two categories. Many of them reflect prior planning or legislative decisions of which the City Council was aware in approving the Project. (See *City of Santa Cruz v. Local Agency Formation Commission* (1978) 76 Cal.App.3d 381, 391-392; *Dominey v. Department of Personnel Administration* (1988) 205 Cal.App.3d 729, 738, fn. 6.) Other documents influenced the expert advice provided to City staff or consultants, who then provided advice to the City Council. For that reason, such documents form part of the underlying factual basis for the Council's decisions relating to the adoption of the Project. (See Pub. Resources Code, § 21167.6, subd. (e)(10); *Browning-Ferris*

*Industries v. City Council of City of San Jose* (1986) 181 Cal.App.3d 852, 866; *Stanislaus Audubon Society, Inc. v. County of Stanislaus* (1995) 33 Cal.App.4th 144, 153, 155.)

#### **IV. DISCRETIONARY ACTIONS**

The Project involves the following actions and approvals by the City:

1. Certification of the Environmental Impact Report
2. Adoption of the Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations.
3. Approval of a Conditional Use Permit (incorporating Specific Plan Site Plan Review provided for by the MRCSP)
4. Approval of the Vesting Tentative Subdivision Map

The following findings, as well as the accompanying statement of overriding considerations in Section XI, have been prepared to comply with the requirements of CEQA (Pub. Resources Code § 21000 et seq.) and the CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.).

#### **V. GENERAL FINDINGS**

##### **A. Terminology of Findings**

Public Resources Code Section 21002 provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.” Section 21002 goes on to state that “in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”

The mandate and principles announced in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which an Environmental Impact Report (“EIR”) is required. (See Pub. Resources Code, § 21081, subd. (a); CEQA Guidelines, § 15091, subd. (a).) For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that “[c]hanges or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) The second permissible finding is that “[s]uch

changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.” (CEQA Guidelines, § 15091, subd. (a)(2).) The third potential conclusion is that “[s]pecific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(3).) Public Resources Code Section 21061.1 defines “feasible” to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” CEQA Guidelines Section 15364 adds another factor: “legal” considerations. (See also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565 (*Goleta II*).)

The concept of “feasibility” also encompasses the question of whether a particular alternative or mitigation measure promotes the underlying goals and objectives of a project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) “[F]easibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.)

The CEQA Guidelines do not define the difference between “avoiding” a significant environmental effect and merely “substantially lessening” such an effect. The agency must therefore glean the meaning of these terms from the other contexts in which the terms are used. Public Resources Code Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term “mitigate” rather than “substantially lessen.” The CEQA Guidelines therefore equate “mitigating” with “substantially lessening.” Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such Projects.” (Pub. Resources Code, § 21002.)

For purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant effect to a less-than-significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant effect, but not to reduce that effect to a less-than-significant level. These interpretations appear to be mandated by the holding in *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 519-521, in which the Court of Appeal held that an agency had satisfied its obligation to substantially lessen or avoid significant effects by adopting numerous mitigation measures, not all of which rendered the significant impacts in question less-than-significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is “avoid[ed] or substantially lessen[ed],” these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less-than-significant level, or has simply been substantially lessened but remains significant.

Moreover, although Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely “potentially significant,” these findings will nevertheless fully account for all such effects identified in the Final EIR.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modification or alternatives are not required, however, where such changes are infeasible or where the responsibility for modifying the project lies with some other agency. (CEQA Guidelines, § 15091, subd. (a), (b).)

With respect to a project for which significant impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons why the agency found that the project’s “benefits” rendered “acceptable” its “unavoidable adverse environmental effects.” (CEQA Guidelines, §§ 15093, 15043, subd. (b); see also Pub. Resources Code, § 21081, subd. (b).) The California Supreme Court has stated, “[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (*Goleta II, supra*, 52 Cal.3d at p. 576.)

These findings constitute the City Council members’ best efforts to set forth the evidentiary and policy bases for its decision to approve the Project in a manner consistent with the requirements of CEQA. To the extent that these findings conclude that various proposed mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded or withdrawn, the City hereby binds itself to implement these measures. These findings, in other words, are not merely informational, but rather constitute a binding set of obligations that will come into effect when the City Council adopts a resolution approving the Project.

## **B. Certification of Final EIR**

The Final EIR for the Project is hereby certified pursuant to the CEQA (Pub. Resources Code, § 21000 et seq.). (CEQA Guidelines, § 15090.) The City Council hereby certifies that the Final EIR has been completed in compliance with the requirements of CEQA. The City Council further certifies that the Final EIR was presented to it and that it considered the information contained in the Final EIR prior to approving the Project. Finally, the City Council certifies that the Final EIR reflects the City Council’s independent judgment and analysis.

## **C. Changes to the Draft EIR**

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the draft EIR but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives

the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide the following examples of significant new information under this standard:

- A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
- The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043.)

Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

The City Council recognizes that the Final EIR incorporates information obtained by the City since the Draft EIR was completed, and contains additions, clarifications, modifications, and other changes. These changes are set forth in section 3.0 of the FEIR. This information was incorporated into the Final EIR to clarify and further refine the environmental analysis of the Project's operational air quality emissions. This is not significant new information that would trigger recirculation.

Notably, CEQA case law emphasizes that “[t]he CEQA reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial project; indeed, new and unforeseen insights may emerge during investigation, evoking revision of the original proposal.” (*Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 736-737; see also *River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 168, fn. 11.) “CEQA compels an interactive process of assessment of environmental impacts and responsive project modification which must be genuine. It must be open to the public, premised upon a full and meaningful disclosure of the scope, purposes, and effect of a consistently described project, with flexibility to respond to unforeseen insights that emerge from the process.’ [Citation.] In short, a project must be open for public discussion and subject to agency modification during the CEQA process.” (*Concerned Citizens of Costa Mesa, Inc. v. 33rd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 936.)

In sum, the information added to the EIR merely clarifies or amplifies the prior information, or makes insignificant modifications; therefore, the Draft EIR does not need to be recirculated.

#### **D. Evidentiary Basis for Findings**

The findings and determinations contained herein are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the Project and the EIR. The findings and determinations constitute the independent findings and determinations by this City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

Although the findings below identify specific pages within the Draft and Final EIRs in support of various conclusions reached below, the Council has no quarrel with, and thus incorporates by reference and adopts as its own, the reasoning set forth in both environmental documents, and thus relies on that reasoning, even where not specifically mentioned or cited below, in reaching the conclusions set forth below, except where additional evidence is specifically mentioned. This is especially true with respect to the Council's approval of all mitigation measures recommended in the Final EIR, and the reasoning set forth in responses to comments in the Final EIR. The City Council further intends that if these findings fail to cross-reference or incorporate by reference any other part of these findings, any finding required or permitted to be made by this City Council with respect to any particular subject matter of the Project must be deemed made if it appears in any portion of these findings or findings elsewhere in the record.

#### **E. Findings Regarding Mitigation Measures**

##### **1. Mitigation Measures Adopted**

Except as otherwise noted, the Mitigation Measures herein referenced are those identified in the Draft EIR or as modified in the FEIR.

##### **2. Effect of Mitigation Measures**

Except as otherwise stated in these findings, in accordance with CEQA Guidelines Sections 15091, 15092, and 15093, the City finds that the environmental effects of the Project:

- Will not be significant; or
- Will be mitigated to a less-than-significant level by the mitigation measures adopted by the City; or
- Will remain significant after mitigation, but specific economic, legal, social, technological, or other considerations outweigh the unavoidable adverse environmental effects.

The City finds that the mitigation measures incorporated into and imposed upon the Project will not have new significant environmental impacts that were not already analyzed in the Draft EIR.

#### **F. Location and Custodian of Records**

Pursuant to Public Resources Code Section 21081.6 and California Code of Regulations, title 14, Section 15091, the City is the custodian of the documents and other materials that constitute the record of proceedings upon which the City's decision is based, and such documents and other material are located at: Ceres City Clerk's Office, 2720 Second Street, Ceres, California 95307.

### **VI. FINDINGS REGARDING MONITORING/REPORTING OF CEQA MITIGATION MEASURES**

A Mitigation Monitoring and Reporting Program (MMRP), which is attached as Exhibit B to this Resolution, was prepared for the Project and was approved by the City Council by the same resolution that has adopted these findings. (See Pub. Resources Code, § 21081.6, subd. (a)(1); CEQA Guidelines, § 15097.) The City will use the MMRP to track compliance with Project mitigation measures. The MMRP will remain available for public review during the compliance period.

### **VII. FINDINGS REGARDING ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES**

#### **A. Effects Not Found to Be Significant**

Based on the discussion in the Final EIR, and other supporting information in the record, the City Council finds that the Project would have no impact or a less than significant impact associated with the specific issues identified below:

##### **1. Biological and Natural Resources**

The Project would not result in the loss or modification of any sensitive natural community including riparian habitat and associated wildlife, would not result in impacts to wetlands or waters of the U.S., and would not conflict with applicable habitat conservation plans or natural resource conservation plans because there are no regionally or locally adopted plans that are applicable to the Project site. (Draft EIR, pp. 4.3-22 to 4.3-24; see also Draft EIR, Appendix 1.0-1.)

##### **2. Geology and Soils**

The Project would have no impact or a less than significant impact related to rupture of a known earthquake fault, landslides, mineral resources, and soil stability associated with septic tanks. (Draft EIR, p. 4.6-9; see also Draft EIR, Appendix 1.0-1.)

### **3. Hazards and Hazardous Materials**

The Project would have no impact or a less than significant impact related to private airstrips, implementation of the Ceres Emergency Operations Plan, and risk of wildland fires. (Draft EIR, p. 4.7-18; see also Draft EIR, Appendix 1.0-1.)

### **4. Hydrology, Drainage, and Water Quality**

The Project would not result in any flooding impacts as the site is not located in a flood hazard zone, in the inundation area for any dam or levee system, or near a large body of water capable of seiche or tsunami. (Draft EIR, p. 4.8-12; see also Draft EIR, Appendix 1.0-1.)

### **5. Land Use, Population, and Housing**

The Project would have a less than significant impact related to the division of an established community, conflicts with habitat conservation plans, and the displacement of housing and people. (Draft EIR, p. 4.9-9; see also Draft EIR, Appendix 1.0-1.)

### **6. Noise**

The Project would not generate excessive groundborne vibration, generate excessive groundborne noise levels, or expose people residing or working in the area to excessive noise levels due to aircraft noise. (Draft EIR, p. 4.10-13; Final EIR, p. 2.0-20; see also Draft EIR, Appendix 1.0-1.)

### **7. Public Services, Utilities, and Service Systems**

The Project would not violate any waste discharge or treatment requirements of the applicable Regional Water Quality Control Board. (Draft EIR, p. 4.12-25; see also Draft EIR, Appendix 1.0-1.)

### **8. Transportation and Traffic**

The Project would have no impact or a less than significant impact related to air traffic patterns. (Draft EIR, p. 4.13-18; see also Draft EIR, Appendix 1.0-1.)

### **9. Recreation**

The Project will not result in the construction of any new residential units; therefore, the use of existing parks and other recreational facilities will not be increased and no new or expanded facilities will be required. (Draft EIR, p. 1.0-9; see also Draft EIR, Appendix 1.0-1.)

### **10. Mineral Resources**

No mineral resource recovery sites are located on or in the immediate vicinity of the Project site. Implementation of the Project would not result in the loss of availability of a known

mineral resource or resource recovery site. (Draft EIR, p. 1.0-9; see also Draft EIR, Appendix 1.0-1.)

## **B. Less-Than-Significant Impacts Without Mitigation**

Based on the Final EIR and the record, the City Council finds that the Project would have *less-than-significant* environmental impacts associated with the specific issues identified below, as addressed in the EIR.

### **1. Aesthetics and Visual Resources**

#### **a. Impacts**

*Impact 4.1.1: Degradation of Visual Environment within Project Area:* The Project will result in the loss or alteration of some visual resources, including the removal of trees, vegetation, and natural topography, and will introduce large buildings, parking areas, and other associated commercial features to the site. While this will result in a fundamental change to the visual character and quality of the Project site and surrounding area, the Project site has not been recognized as being within a “scenic vista” and, with implementation of the City’s design guidelines and standards, the visual character of the site would generally be considered improved rather than degraded, as the site will be converted from an underdeveloped, neglected property to a modern, landscaped, and well-maintained commercial center consistent with the City’s land use and design plans applicable to this area. For these reasons, the Project would have a *less-than-significant* impact on degradation of visual environment within the Project area. (Draft EIR, pp. 4.1-33 to 4.1-35.)

*Impact 4.1.2: Increase of Daytime Glare:* The development associated with the Project would include structures and facilities, and would attract motor vehicles in large parking areas, all of which would create daytime glare by reflecting sunlight. However, because the design guidelines for the South Gateway Design District contained in the Mitchell Road Corridor Specific Plan prohibit the use of silver or “shiny” reflective glass and corrugated metal, there is little glass included in the façades of the buildings, and stainless steel and metals would be used only as trim for awnings, doorways, and windows. Moreover, any aluminum storefronts would remain subject to the conditions of the Mitchell Road Corridor Specific Plan that prohibit the use of shiny or reflective metals and would be subject to further review and ensure that the proposed use of aluminum is consistent with restrictions for the use of “shiny” materials. In addition, while there is currently “limited development” on the Project site itself, the Project area is not a rural area where development and a characteristic amount of glare is unanticipated. The site is within a developing area of the City and the type and amount of daytime glare that will result from the Project will be characteristic of the glare that accompanies such a development pattern. With this recognition, and recognizing the design approval criteria and process which development will be subject to, this impact on increase of daytime glare is considered *less-than-significant*. (Draft EIR, p. 4.1-35.)

*Impact 4.1.4: Cumulative Degradation in Aesthetic Character:* The Project, with implementation of existing regulations, will change, but not substantially degrade, the visual character of the Project area. When considered with other projects in the cumulative setting, a substantial transition in the visual character of the Project area is anticipated. The area is currently a mix of residential and commercial uses, with scattered vacant properties and agricultural areas. Development of the Project site and adjacent properties within the City limits may result in broader changes to the visual landscape by transforming the area in its current condition into a regional commercial center. Although this transition in land use will have a substantial effect on visual character of the area, the overall visual character of the area will not, in the context of urban uses, be degraded. Alterations will occur according to the City's General Plan and the City's vision for the Mitchell Road Corridor Specific Plan area. The City's enforcement of established design standards and the conditions of approval that are being and will be applied to projects, and mitigation measures as are applicable to specific projects, will prevent the cumulative degradation of the area's aesthetic character. As applied to the Project, those standards and requirements, as described above in this section, will avoid the contribution of the Project to a cumulative degradation of visual impacts. Therefore, this impact is considered *less than cumulatively considerable*. (Draft EIR, pp. 4.1-38 to 4.1-39.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to aesthetics and visual resources with respect to degradation of the visual environment within the Project area, increase of daytime glare and cumulative degradation in aesthetic character.

### **2. Air Quality**

#### **a. Impacts**

*Impact 4.2.1: Conflict with or Obstruct Implementation of Applicable Air Quality Plans:* The Project will not exceed significance thresholds established by the SJVAPCD for emissions of ozone precursors (ROG and, NOX) and particulate matter during long-term Project operational activity. Nonetheless, the Project will implement on-site mitigation measures designed to address dust control, equipment maintenance, soil stabilization, the use of generators, future transit, use of bicycle paths, and connectivity of sidewalks.

Most of the operational emissions from the Project are, however, related to personal vehicles, which are regulated by the California Air Resources Board (CARB). The Project has an efficient circulation pattern, adequate parking, shade for the parking areas, and pedestrian and bicycle circulation and will make improvements to roadways and intersections to maintain levels of service and reduce idling or wait time.

The DEIR originally concluded that the project would be considered to have significant and unavoidable impacts because the project would not be considered to be consistent with the SJVAPCD Air Quality Attainment Plan (AQAP). However, subsequent to the publication of the

DEIR, the applicant submitted an Indirect Source Review (ISR) application to SJVAPCD. The ISR application more accurately calculated the project's emissions based on the actual size of the project and more realistic assumptions regarding vehicle trip length. The City's air quality consultant, Urban Crossroads, independently evaluated this new data and concurred with the methodology and conclusions. With the new emissions data, the project will not be inconsistent with the SJVAPCD AQAP and, thus, the impact will be *less-than-significant*. (Draft EIR, pp. 4.2-20 to 4.2-22; Final EIR, pp. 2.0-43 – 2.0-46, 3.0-3; FEIR Appendix C; see also Draft EIR, Appendix 4.2-1.)

*Impact 4.2.3: Violate Air Quality Standards Due to Emission of Airborne Asbestos from Building Demolition:* Prior to construction of the Project, the one remaining residential structure on the Project site will be demolished. Older buildings such as this often include building materials containing asbestos, which can become airborne during demolition activities and pose a serious health threat if adequate control techniques are not carried out when the material is disturbed. The San Joaquin Valley Air Pollution Control District (SJVAPCD) Rule 4002, which implements the National Emissions Standards for Hazardous Air Pollutants (NESHAP) regulations, requires a thorough inspection for asbestos be conducted by a Cal/OSHA-certified consultant before any regulated facility, such as the structure on the Project site, is demolished or renovated. If asbestos-containing building materials are identified, certain measures for emission control and waste disposal identified in the NESHAP regulations must be implemented during demolition activities. In addition, prior to issuance of a demolition permit, the Applicant must obtain a Demolition Permit Release Form from the SJVAPCD. Compliance with District Rule 4002 would ensure that exposure to airborne asbestos fibers resulting from project demolition activities is minimized and no significant risk to public health would occur. For these reasons, the Project would have a *less-than-significant* impact with respect to violating air quality standards due to emission of airborne asbestos from building demolition. (Draft EIR, pp. 4.2-25 to 4.2-26; see also Draft EIR Appendix 4.2-1.)

*Impact 4.2.5: Violate Air Quality Standard for Near-Term Local Mobile-Source Carbon Monoxide:* Per California air quality standards for carbon monoxide (CO), the concentration of CO should not exceed 20.0 parts per million (ppm) for an averaging period of 1 hour or 9.0 ppm for an averaging period of 8 hours. Based on the carbon monoxide (CO) hot spot analysis conducted for the Project, neither of the studied locations (intersections with the highest potential for CO hot spot formation) is projected to experience CO levels in excess of the allowable concentrations. The highest projected CO hot spot 1-hour concentration is 10.0 ppm, while the highest projected 8-hour concentration is 5.90 ppm. Since significant impacts would not occur at the studied intersections, no significant impacts are anticipated to occur at any other location in the Project vicinity as a result of the Project. For these reasons, the Project would have a *less-than-significant* impact with respect to violating air quality standard for near-term local mobile-source carbon monoxide. (Draft EIR, pp. 4.2-28 to 4.2-29; see also Draft EIR Appendix 4.2-1.)

*Impact 4.2.6: Exposure of Public to Hazardous Air Pollutants:* Diesel particulate emissions from heavy trucks are considered a toxic air contaminant and could pose a risk to residents near the Project site as well as to workers and customers on the Project site. According

to the health risk assessment prepared for the Project, the estimated particulate emissions generated from the Project do not pose a significant health risk to receptors in the Project area. Maximum risk of contracting cancer was predicted to be 1.2 in one million based on a 70-year exposure, high-end-point estimate, which does not exceed the SJVAPCD significance threshold of 10 in one million. For non-carcinogenic impacts, maximum exposures were predicted to be a hazard quotient value less than one. In addition, the truck delivery estimates used to conduct the analysis were higher than the actual number of delivery trucks anticipated for the Project (30 trucks per day estimated; 12-14 semi-trailer trucks and 13-15 small vendor trucks per day anticipated), which resulted in a conservative estimate of impacts. For these reasons, the Project would have a *less-than-significant* impact on exposure of the public to hazardous air pollutants. (Draft EIR, p. 4.2-30; see also Draft EIR Appendices 4.2-1 and 4.2-3.)

*Impact 4.2.7: Long-term Exposure of Sensitive Receptors to Air Pollutants:* Potential sensitive receptors in the Project area include residents located to the north and west of the Project site. Because the Project does not have the potential to result in the creation of a CO hot spot at any area intersections or roadways, will not expose the general public to substantial levels of toxic air contaminants, and will not generate significant dust emissions or odor emissions, the Project will not result in an increased exposure of sensitive receptors to localized concentrations of air pollutants. For these reasons, the Project would have a *less-than-significant* impact on long-term exposure of sensitive receptors to air pollutants. (Draft EIR, p. 4.2-30; see also Draft EIR Appendix 4.2-1.)

*Impact 4.2.10: Greenhouse Gas Emissions and Global Climate Change:* Implementation of the Project would result in the emission of greenhouse gases to the atmosphere, potentially contributing to global climate change and the associated consequences of climate change. However, under the SJVAPCD framework, there is no scientific evidence that shows that an individual project can possibly have an individual, direct impact on global climate change. For this reason, the Project would have a *less-than-significant* impact on greenhouse gas emissions and global climate change. (Draft EIR, p. 4.2-46; see also Draft EIR Appendix 4.2-1.)

*Impact 4.2.11: Contribution to Cumulative Greenhouse Gas Emissions and Climate Change:* The Project has the potential to result in a substantial increase in the emission of GHGs from construction activities, generation of vehicle traffic, energy use for store operations, and the use of gasoline-powered landscaping equipment. Implementation of mitigation measures for other impacts as well as project design features will help to reduce Project GHG emissions. With the features discussed above, the GHG emissions from the Project have been reduced by 33.7 percent, which exceeds the 29 percent target established by the SJVAPCD and is therefore consistent with the State of California's ability to meet its AB 32 goals. Thus, the Project's contribution to cumulative GHG emissions is considered *less-than-significant*. (Draft EIR, p. 4.2-46; see also Draft EIR, Appendix 4.2-1.)

## **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to air quality with respect to violating air quality standards

due to emission of airborne asbestos from building demolition, violating air quality standard for near-term local mobile-source carbon monoxide, exposure of public to hazardous air pollutants, long-term exposure of sensitive receptors to air pollutants, greenhouse gas emissions and global climate change and contribution to cumulative greenhouse gas emissions and climate change.

### **3. Biological and Natural Resources**

#### **a. Impacts**

*Impact 4.3.3: Impacts to Migratory Corridors:* There are no identified migratory corridors that traverse the Project site, with the exception of the site potentially being utilized by migratory avian species. Because the site is bounded to the north, west, and east by existing residential and commercial development, the site's viability as a migratory corridor is reduced. For these reasons, the Project would have a *less-than-significant* impact to migratory corridors. (Draft EIR, p. 4.3-23.)

*Impact 4.3.4: Conflicts with Applicable Biological Land Use Plans or Policies:* Policies within the City's General Plan seek to encourage planting of native species, preserve significant stands of vegetation, and enhance the City's tree cover. The two existing mature sycamore trees on the Project site will be retained and will be incorporated into the Project's landscaping. The rest of the existing on-site vegetation and trees will be removed. However, the removal of trees will need to comply with the directives of the policies under the City's General Plan. Moreover, the Project has incorporated native trees and shrubs into its landscaping plan. For these reasons, the Project would have a *less-than-significant* impact on conflicts with applicable biological land use plans or policies. (Draft EIR, p. 4.3-23.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to biological and natural resources with respect to migratory corridors and conflicts with applicable biological land use plans or policies.

### **4. Economics and Blight**

#### **a. Impacts**

*Impact 4.5.2: Cumulative Urban Decay:* There are few other projects planned in the primary trade area that might affect the retail market. The two projects currently in the review process are much smaller and thus are not directly competitive with the Project. Because of their highway-oriented location near the proposed Mitchell Ranch Center, these smaller projects are likely to serve not just the City but others attracted by the proposed store and other region-serving retail in the Project, as well as travelers on State Route 99. Cumulatively with the Project, there is no indication that significant vacancies for existing retail space would result. While there are additional projects in Modesto and Turlock, most of these projects are smaller and, due to distance from the Project site, any impacts in combination with the Project are

unlikely to be substantial. There is a large region-serving project under way in Turlock, but the anchor tenants of this project are in sectors not directly competitive with Walmart. In Modesto, there has been reuse of an existing space by Walmart in an expanded store format having both groceries and general merchandise. The store, however, is at the far north end of Modesto, and thus the trade area for this project will have limited overlap with that of the Project. Although it may take some customers that would otherwise go to the new Walmart store, it will largely compete with the existing Walmart in Modesto, where sales are well above Walmart averages. Any losses incurred by the proposed store in combination with an expanded store in Modesto are not likely to lead to closure and vacancies in Modesto or elsewhere. Furthermore, both Turlock and Modesto continue to grow and are both very large retail markets relative to Ceres, able to absorb vacancies as consumer demand increases over the long term. The development of new commercial projects in the area indicates general economic growth rather than the generation of urban decay. The lack of long-term closures projected due to these projects in combination with the Project and, therefore, the absence of significant urban decay as a result would have a *less-than-cumulatively-considerable* impact. (Draft EIR, pp. 4.5-20 to 4.5-21; see also Draft EIR, Appendix 4.5-1.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to economics and blight with respect to cumulative urban decay.

### **5. Geology and Soils**

#### **a. Impacts**

*Impact 4.6.2: Soil Erosion:* The Project would involve paving and other site improvements, substantially increasing the area of impervious surface (incapable of being penetrated by water), which generate higher levels of urban runoff and have the potential to adversely affect surface and groundwater quality in the area. The Project is subject to coverage under the National Pollutant Discharge Elimination System (NPDES) General Construction Storm Water Permit administered by the State Water Resources Control Board (SWRCB). Therefore, the Project applicant will be required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) meeting the requirements of the General Permit. The SWPPP will specify best management practices (BMPs) such as the scheduling of construction activities for periods of dry weather, the protection of slopes through hydro seeding, mulching, or the use of soil binders, or the protection of waterways through the use of silt fencing or sediment traps and basins, which will avoid soil erosion and associated pollution of waterways. Implementation of the BMPs included in the approved SWPPP will minimize erosion and loss of topsoil on the Project site to the greatest extent feasible. For these reasons, the Project would have a *less-than-significant* impact on soil erosion. (Draft EIR, pp. 4.6-11 to 4.6-12; see also Draft EIR Appendix 4.6-1.)

*Impact 4.6.3: Expansive Soils:* The Project site contains soils of the Hanford sandy loam series. According to the Preliminary Geotechnical Engineering Analysis, Project site soils are nonexpansive. In addition, prior to approval of the final map, the City will require the preparation of a preliminary soil report including soil borings to determine the expansiveness of Project site soils. Should expansive soils be identified on the site, the City will require the preparation of a soil investigation prior to issuance of building permits including recommended corrective action to prevent structural damage to the proposed buildings. For these reasons, the Project would have a *less-than-significant* impact on expansive soils. (Draft EIR, p. 4.6-12; see also Draft EIR Appendix 4.6-1.)

*Impact 4.6.4: Cumulative Geologic Impacts:* Impacts associated with geology and soils are based on existing site-specific conditions that are situated within the subsurface materials that underlie the Project site. These inherent conditions are an end result of natural historical events that have played out through vast periods of geologic time. For these reasons, geologic and soil-related impacts are generally site-specific and are determined by a particular site's geologic and soil characteristics, topography, and proposed land uses. Accordingly, development projects are analyzed on an individual basis and must comply with established requirements of the City, the Regional Water Quality Control Board and the California Building Code as they pertain to protection against known geologic hazards and potential geologic and soil-related impacts. The Project itself does not significantly alter regional geologic conditions or increase geologic risks and hazards to surrounding lands. In addition, although the Project is regional in nature and could, along with other development projects in the vicinity, attract groups of people from outside the area, the low risk for significant ground shaking in the area and the proper design and construction of the proposed structures, in accordance with the above-referenced standards, would not increase the potential to expose such groups to risks associated with seismic activity. While the Project has the potential to result in erosion and the loss of topsoil due to construction activities such as grading, excavation, and soil hauling that could expose Project site soils to wind and water erosion, implementation of BMPs in accordance with the NPDES permit will ensure that the Project's contribution to cumulative geology and soil related impacts would be *less than cumulatively considerable*. (Draft EIR, p. 4.6-13.)

## **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to geology and soils with respect to soil erosion, expansive soils and cumulative geologic impacts.

## **6. Hazards and Hazardous Materials**

### **a. Impacts**

*Impact 4.7.1: Use, Storage, and Transport of Hazardous Materials:* The Project would require the use of a limited amount of hazardous materials during all phases of construction. Heavy machinery used during site preparation may require lubrication and maintenance, and various other construction-related chemicals may be used, such as adhesives, solvents, and

paints. Additionally, the proposed retail stores will likely store and sell limited quantities of hazardous materials commonly used in homes (such as paints, oil, fertilizers) and there is the potential for the operation of a medical clinic within the proposed Walmart store. Other common hazardous materials, such as fertilizers, pesticides, and gasoline, will likely be used during landscaping and maintenance activities. In order to use, store, and sell these materials on site, they will require transport from other areas. However, the Project would ultimately result in development of a commercial use which is not associated with transport or use of large quantities of hazardous materials. Therefore the Project is not likely to generate or attract hazardous materials amounts that exceed the thresholds for regulated substances or otherwise negatively impact school children. In addition, the Walmart portion of the Project will use naturally or integrally colored concrete finishes instead of the more commonly used carpet or vinyl tile finishes. This will significantly reduce the use of chemical cleaners, wax and wax strippers and also addresses the environmental concerns associated with the manufacturing and disposal of these materials which commonly contain polyvinyl chloride. Finally, the Project will be required to comply with federal, state, and local regulations regarding the storage, handling, transport, disposal, and cleanup of hazardous materials. For these reasons, the Project would have a *less-than-significant* impact on the use, storage, and transport of hazardous materials. (Draft EIR, pp. 4.7-21 to 4.7-22.)

*Impact 4.7.2: Hazardous Materials Sites:* A search of government hazardous materials databases determined that no reported hazardous materials sites are located on the Project site. However, a few pole-mounted transformers were observed on the Project site. Electrical transformers and similar equipment may contain hazardous materials such as polychlorinated biphenyls (PCBs) in hydraulic or dielectric insulating fluids. The observed transformers are in good condition with no evidence of releases or staining and will be operated, maintained and repaired by the Turlock Irrigation District (TID), which is subject to Environmental Protection Agency regulations regarding PCB transformers. Therefore, the presence of the transformers does not represent a significant environmental risk to the Project site. In addition, while several hazardous materials sites were identified in close proximity to the Project site, none of the sites is considered to have potentially impacted the Project site, with the possible exception of the Northern Refrigeration Transportation site. However, based upon the distance and groundwater gradient, this site is considered to have a low potential to represent an environmental concern to the Project site or Project. For these reasons, the Project would have a *less-than-significant* impact with respect to hazardous materials sites. (Draft EIR, pp. 4.7-22 to 4.7-24; see also Draft EIR Appendix 4.7-2; Secor International, Phase I Environmental Site Assessment (May 2006).)

*Impact 4.7.4: Lead-Containing Paints:* Potential lead-containing paints (LCPs) were observed in the abandoned house at the western border of the Project site. However, the house has been demolished and demolition was carried out by contractors certified for handling and disposing of LCPs. Moreover, the materials were properly managed and disposed of. Accordingly, there are no longer any structures on the site observed to contain potential LCPs and there is no potential for exposure of persons to risks associated with such paints. For these reasons, the Project would have a *less-than-significant* impact with respect to lead containing

paints. (Draft EIR, p. 4.7-25; see also Draft EIR Appendix 4.7-2; Secor International, Phase I Environmental Site Assessment (May 2006).)

*Impact 4.7.6: Airport Hazards:* The Project is consistent with the applicable standards of the County's Airport Land Use Commission Plan and would result in minimal risk to people and structures on the project site from airport operations. First, while the Project site is located within the Modesto City-County Airport Planning Boundary, the uses proposed for the Project site, including retail stores and restaurants, are compatible uses within this planning boundary, as the potential for aircraft incidents or accidents in the area is low and large gatherings of people are acceptable. In addition, the County's Airport Land Use Commission Plan contains several standards for commercial development within the planning boundary and the Project is in compliance with these standards. Moreover, the Project site is not located within any airport planning area safety zones or airport overlay zones as defined by the City's General Plan and Zoning Ordinance. Finally, no electromagnetic transmissions would be generated on the Project site and only small amounts of common household hazardous materials would be stored on site. For these reasons, the Project would have a *less-than-significant* impact with respect to airport hazards. (Draft EIR, p. 4.7-27.)

*Impact 4.7.7: Risk of Exposure to Hazardous Materials:* Implementation of the Project would result in potential short-term impacts during construction activities associated with exposure to hazards such as contaminated soils, abandoned water wells, and an irrigation pipeline on the Project site. However, hazards and hazardous materials impacts associated with the Project would be site-specific and would not contribute to cumulative hazardous impacts. Cumulative development in the region is not anticipated to result in significant hazards or hazardous materials impacts to the Project site. Because the Project will not combine with any planned growth in the area to form a hazards impact greater or more significant than the Project impact alone the cumulative hazards impacts are considered *less than cumulatively considerable*. (Draft EIR, p. 4.7-28.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to hazards and hazardous materials with respect to the use, storage, and transport of hazardous materials; hazardous materials sites; lead containing paints; airport hazards; and risk of exposure to hazardous materials.

### **7. Hydrology and Water Quality**

#### **a. Impacts**

*Impact 4.8.1: Alter On-site Drainage Patterns:* The Project's proposed stormwater drainage system will consist of underground pipes appropriately sized for the required detention volumes and will incorporate design components to allow the detained storm runoff to infiltrate into the underlying soils. The design of the system is intended to ensure that post-construction stormwater runoff volumes do not exceed pre-construction volumes. Moreover, the soil types on

the Project site are conducive to infiltration. In addition, should it become necessary, the on-site drainage system will connect to the City's storm drain system to allow for the release of retained stormwater runoff between storm events. Finally, to preclude the possibility of the off-site existing drain system from backing up and impacting the intended on-site detention system, a flap gate will be installed at the last manhole prior to the connection to the City's system. Because the Project's proposed stormwater drainage system is of adequate capacity to serve the Project and was designed in accordance with all applicable City, Stanislaus County and TID standards, the Project would have a *less-than-significant* impact with respect to the alteration of on-site drainage patterns. (Draft EIR, p. 4.8-14; see also Baker-Williams Engineering Group Preliminary Drainage Study.)

*Impact 4.8.2: Degrade Surface Water Quality/Violate Water Quality Standards During Construction:* Under the State Water Resources Control Board's ("State Board") new General Permit for Discharges of Storm Water Associated with Construction Activities ("CGP"), the contractor will need to prepare a SWPPP pursuant to Regional Water Quality Control Board (RWQCB) standards and be subject to RWQCB review for each phase of the Project. The SWPPP will include measures designed to reduce or eliminate erosion and runoff into waterways. In the event that a formal SWPPP is not required, the construction documents contain dust and erosion control measures identical to those contained in a SWPPP, and will be implemented as part of standard construction practices. Additionally, the Project will not violate any waste discharge requirements. For these reasons, the Project would have a *less-than-significant* impact with respect to degradation of surface water quality/violation of water quality standards during construction. (Draft EIR, pp. 4.8-15 to 4.8-17; see also Baker-Williams Engineering Group Preliminary Drainage Study.)

*Impact 4.8.4: Degrade Groundwater Quality/Violate Water Quality Standards During Construction:* During the construction phase of the Project, groundwater resources from stormwater runoff will be protected through implementation of an approved SWPPP. The existing irrigation wells on the Project site will either be abandoned consistent with the City's Engineering Standard W-12, or used to irrigate the landscaping associated with the Project. Implementation of the SWPPP and abandonment of the wells in compliance with City Standards minimize the ability of surface contaminants to infiltrate the groundwater. For these reasons, the Project would have a *less-than-significant* impact with respect to degradation of groundwater quality/violation of water quality standards during construction. (Draft EIR, pp. 4.8-19 to 4.8-20; see also Baker-Williams Engineering Group Preliminary Drainage Study.)

*Impact 4.8.5: Degrade Groundwater Quality/Violate Water Quality Standards During Operation:* Once the Project is in operation, stormwater quality will be protected through enforcement of the storm drainage rules and regulations contained in Chapter 13 of the City's Municipal Code and through implementation of the BMPs under the required SWPPP. In addition, an on-site drainage system will allow retained runoff to infiltrate into the underlying soils and infiltration is an effective mechanism for pollutant control. Moreover, the amount of separation between the bottom of the storm drainage retention system and the nearest observed groundwater of 24 feet will most likely be between 10 and 14 feet. This is sufficient to ensure

that the storm water is treated by the soil before coming into contact with any groundwater. The system will also include means to physically separate oils and debris from the storm water before it enters into the system. Any remaining pollutants in Project runoff will not contaminate groundwater supplies. Finally, the Project will not have an impact on groundwater supplies, since groundwater levels in the Turlock Groundwater Basin have essentially remained consistent and unchanged, with outflows generally balanced by inflows to the groundwater basin. For these reasons, the Project would have a *less-than-significant* impact with respect to degradation of groundwater quality/violation of water quality standards during operation. (Draft EIR, p. 4.8-20; see also Baker-Williams Engineering Group Preliminary Drainage Study.)

*Impact 4.8.6: Cumulative Impacts to Water Quality:* Development within the cumulative setting area contributes to an overall increase in the area of impervious surfaces such as roadways, driveways, parking lots, and rooftops, resulting in increased runoff and associated urban pollutants. Development of the Project has the potential to contribute to this cumulative impact by paving a large portion of the Project site for internal circulation and parking and by constructing several large structures with impervious rooftops. Construction of the proposed on-site drainage retention system in accordance with City and County standards and compliance with the statewide Construction General Permit and the requirements of the NPDES permit system, as well as implementation of mitigation measure MM 4.8.3, will minimize the Project's impacts to the local drainage system and water quality. Therefore, the Project's contribution to this cumulative impact is considered *less than cumulatively considerable*. (Draft EIR, p. 4.8-21; see also Baker-Williams Engineering Group Preliminary Drainage Study.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to hydrology and water quality with respect to alteration of on-site drainage patterns, degradation of surface water quality/violation of water quality standards during construction, degradation of groundwater quality /violation of water quality standards during construction, degradation of groundwater quality/violation of water quality standards during operation and cumulative impacts to water quality.

### **8. Land Use, Population and Housing**

#### **a. Impacts**

*Impact 4.9.1: Consistency with Applicable Land Use Plans:* The Project is consistent with the land use designations for the Project site and compatible with the Stanislaus County Airport Land Use Commission Plan (ALUCP). However, General Plan Policy 1.B.11 states that the City shall require development project design to reflect and consider natural features, noise exposure of residents, visibility of structures, circulation, access, and the relationship of the Project to surrounding uses. There are various aspects of the Project design, as submitted in the application and reflected in the Project description, which have the potential to cause excessive noise levels at adjacent residences, create visibility issues for adjacent residents and users of the area, affect circulation and access, and affect the relationship of the Project to surrounding land

uses. These specific impacts were analyzed in various sections of the Draft EIR, including Section 4.1, Aesthetics and Visual Resources; Section 4.10, Noise; and Section 4.13, Transportation and Traffic. Mitigation measures contained in these sections address the impacts created by the Project and ensure that the impacts related to potential inconsistency with General Plan Policy 1.B.11 will be less-than-significant. For these reasons, the Project would have a *less-than-significant* impact with respect to consistency with applicable land use patterns. (Draft EIR, pp. 4.9-10 to 4.9-11.)

*Impact 4.9.2: Adjacent Land Use Compatibility:* The Project is consistent with the General Plan and Specific Plan land use designations for the Project site. Further, the City's General Plan EIR did not identify any significant and unavoidable impacts associated with the adjacency of land uses identified and proposed in the General Plan. While traffic, noise, air quality, and aesthetic/light and glare impacts could result from the Project there is no inherent land use conflict presented by the location of the Project proximate to residential or other land uses in the vicinity. Moreover, potential impacts relating to adjacent land uses, including residential uses and churches, are addressed in the applicable sections of this Draft EIR, including Section 4.1, Aesthetics and Visual Resources; Section 4.2, Air Quality; Section 4.10, Noise; and Section 4.13, Transportation and Traffic. Mitigation measures contained in these sections will minimize Project impacts to adjacent land uses. In addition, where the Project site abuts land zoned for residential uses, the Project would implement site design measures including buffer areas and walls to reduce the potential for land use incompatibility. Finally, the design guidelines also require Project lighting to be shielded and directed downward to prevent light spillage onto adjacent properties. For these reasons, the Project would have a *less-than-significant* impact with respect to adjacent land use compatibility. (Draft EIR, p. 4.9-12.)

*Impact 4.9.3: Population Growth:* The Project does not include the construction of any new homes but it does include the development of a large regional shopping center that would create a substantial number of new jobs in the region, which has the potential to result in direct population growth by attracting workers and their families from outside the area. However, the current unemployment rate in the City may be as high as 23.4 percent, which indicates that the City has an adequate population and worker base available to provide the needed employees for operation of the Project. Therefore, the Project is not expected to result in a significant influx of workers to the City. In addition, the Project would result in the expansion of urban development into a partially undeveloped area at the City's edge. The expansion of roadways and infrastructure associated with the Project has the potential to facilitate additional development and indirectly induce population growth in the area. However, the area surrounding the Project site is currently partially developed and is planned for further urban development as part of the Mitchell Road Corridor Specific Plan and the City's General Plan. Accordingly, the City has already planned for and now encourages development of this area consistent with the General Plan and the Specific Plan and implementation of the Project would not indirectly result in any unplanned growth. For these reasons, the Project would have a *less-than-significant* impact with respect to population growth. (Draft EIR, pp. 4.9-12 to 4.9-13.)

*Impact 4.9.4: Cumulative Conflicts with Applicable Land Use Plans:* The Project will place commercial development adjacent to residential uses, which can result in land use conflicts such as Project noise, odors, increased traffic, and aesthetic impacts. Impacts resulting from the Project due to land use conflicts are less-than-significant. In the cumulative condition, additional commercial development is anticipated in the vicinity of the Project, including hotels. Further, development in the area will be based on buildout of the commercial land uses designated in the City's General Plan and the Mitchell Road Corridor Specific Plan. While commercial development in the vicinity of the Project would result in impacts to surrounding residential uses and contribute to cumulative land use conflicts, these impacts would generally be site-specific. Further, potential land use impacts associated with the Project are site-specific and are consistent with the City's General Plan and the Mitchell Road Corridor Specific Plan. Therefore, the Project would have a *less than cumulatively considerable* contribution to land use impacts. (Draft EIR, pp. 4.9-14 to 4.9-15.)

*Impact 4.9.5: Contribution to Long-Term Population Growth:* In addition to the Project, there is substantial residential and commercial development planned for the City that has the potential to result in direct and indirect population growth. The Project will not individually have a significant impact on the City's population as it will not result in the construction of any new housing or the attraction of a substantial number of new workers from outside the area. Together with other development in the City, the Project does have the potential to contribute to and result in cumulative population growth. Such growth is analyzed in the City's General Plan and EIR. The General Plan EIR determined that population growth impacts that will result as the General Plan area is developed would be less-than-significant as the General Plan is intended to accommodate projected growth rather than create new growth. Therefore, development in the City consistent with the General Plan will have a less-than-significant impact related to population growth and the issue has been fully addressed in the General Plan EIR. The Project is consistent with the General Plan land use designations for the site and will not induce population growth beyond that identified in the City's General Plan EIR. Therefore, the Project's contribution to this impact is *less than cumulatively considerable*. (Draft EIR, p. 4.9-15.)

## **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to land use, population and housing with respect to consistency with applicable land use patterns, adjacent land use compatibility, population growth, cumulative conflicts with applicable land use plans and contribution to long-term population growth.

## **9. Noise**

### **a. Impacts**

*Impact 4.10.1: Increased Off-Site Traffic Noise:* The Project-related noise level increases on individual roadway segments will range from 0 to 3 decibels (dB) over existing levels. Because these increases are below the threshold of significance, based on the existing noise

levels of each segment and the extent of the increase associated with each segment, this increase would not result in a substantial increase in noise levels. At Don Pedro Road west of Mitchell Road, the 3 dB change is less-than-significant because the existing noise level is less than 60 dB; therefore, the increase would need to be 5 dB or greater to be considered significant. For these reasons, the Project would have a *less-than-significant* impact with respect to increased off-site traffic noise. (Draft EIR, pp. 4.10-23 to 4.10-24; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.2: Single Event Noise Generated by Project Trucks on Public Roadways:*

With respect to single-event noise levels and potential sleep disturbance issues, slow-moving trucks (i.e., less than 25 mph) arriving at the site on Don Pedro Road or Service Road, will generate typical Single Event Levels (SEL) of 83 dB at the exterior façade of residences at a distance within 50 feet. Assuming a minimum building façade noise level reduction of 25 dB with windows closed, noise levels inside the nearest residences would be approximately 58 dB SEL. The predicted interior SEL of 58 dB satisfies the target interior SEL criteria of 65 dB. It is further projected that the interior SEL of 58 dB would result in few related sleep awakenings. For these reasons, the Project would have a *less-than-significant* impact with respect to single event noise generated by project trucks on public roadways. (Draft EIR, pp. 4.10-24 to 4.10-25; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.3: Construction-Generated Noise:* During the construction phase of the

Project, noise from construction activities would add to the noise environment in the immediate Project vicinity. Activities involved in construction would generate maximum noise levels ranging from 85 to 90 dB at a distance of 50 feet. The nearest existing residences to the Project site are located approximately 100 feet away. At this distance, maximum noise levels would be expected to be approximately 80 to 85 dB  $L_{max}$  (maximum level). Noise levels in this range would not represent a substantial short-term increase over ambient maximum noise levels, as measured daytime maximum noise levels currently range from 84 to 95 dB at the nearest residences. In addition, construction activities would be temporary in nature and are anticipated to occur only during normal daytime working hours. For these reasons, the Project would have a *less-than-significant* impact with respect to construction-generated noise. (Draft EIR, p. 4.10-25; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.5: On-Site Truck Traffic:* Majors 2, 3, and 4: Truck activity at the proposed Majors 2, 3, and 4 buildings would conservatively consist of approximately 10 truck deliveries per day. About half of the deliveries will be by semi-trailer. It was conservatively assumed that a maximum of 2 semi-trailer truck and 2 medium-duty truck deliveries would occur at these sites during a given hour. The nearest existing residences are located approximately 150 feet west of the truck circulation area for Majors 2, 3, and 4. On-site truck circulation associated with the delivery of goods to the Majors 2, 3, and 4 stores will result in noise levels of 44 dB  $L_{eq}$  (energy equivalent level) and 64 dB  $L_{max}$  at the nearest residences to the west of the site. The predicted noise levels associated with a typical busy hour of on-site truck circulation at the Majors 2, 3, and 4 truck unloading areas will satisfy the City's daytime noise level standards and adjusted nighttime standards. For these reasons, the Project would have a *less-than-significant* impact

with respect to on-site truck traffic. (Draft EIR, pp. 4.10-27 to 4.10-28; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.8: Rooftop Mechanical Equipment Noise - Walmart:* Rooftop mechanical equipment including heating, ventilation, and air conditioning (HVAC) and refrigeration equipment at the proposed Walmart store will result in noise levels of approximately 46 dB L<sub>eq</sub> at the nearest residences to the north and west of the site. All HVAC units would be shielded from view by the project buildings and parapets. The nearest residences to the north are located approximately 200 feet from the HVAC units and 270 feet from the food cold storage refrigeration equipment. At these distances, the predicted noise levels from the combined HVAC and food cold storage equipment would be approximately 46 dB L<sub>eq</sub>. The nearest residences to the west are located approximately 230 feet from the HVAC units and 280 feet from the food cold storage refrigeration equipment. At this distance, the predicted noise levels from the combined HVAC and food cold storage equipment would be approximately 46 dB L<sub>eq</sub> as well. The levels are predicted to be similar at the residences to the north and west due to the similar distances between the food cold storage equipment and those residences, and because the food cold storage equipment is considerably louder than the rooftop heating and air conditioning equipment. The predicted noise levels associated with combined HVAC and food cold storage equipment at the Walmart store satisfy the City's daytime and adjusted nighttime noise level standards. For these reasons, the Project would have a *less-than-significant* impact with respect to rooftop mechanical equipment noise at the Walmart store. (Draft EIR, pp. 4.10-30 to 4.10-31; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.9: Rooftop Mechanical Equipment Noise - Majors 2, 3, and 4:* Rooftop mechanical equipment at the Majors 2, 3, and 4 stores will result in noise levels of approximately 41 dB L<sub>eq</sub> at the nearest residences to the west of those store locations. The HVAC system for maintaining comfortable shopping temperatures within the Majors 2, 3, and 4 buildings will consist of packaged rooftop air conditioning systems. The units will be relatively evenly distributed across the roof of the buildings. These HVAC units would be shielded from view by the project buildings and parapets. Such rooftop HVAC units typically generate noise levels of approximately 45 dB L<sub>eq</sub> at a reference distance of 100 feet from the building, including shielding by the building. The rooftop mechanical equipment for Majors 2, 3, and 4 will not include food cold storage refrigeration equipment. The nearest residences to the west are located approximately 150 feet from the nearest HVAC units. At this distance, the predicted noise levels from the HVAC units would be approximately 41 dB L<sub>eq</sub>. The predicted noise level associated with HVAC equipment at the Majors 2, 3, and 4 stores satisfies the City's daytime and nighttime noise level standards. For these reasons, the Project would have a *less-than-significant* impact with respect to rooftop mechanical equipment noise at Majors 2, 3, and 4. (Draft EIR, pp. 4.10-31 to 4.10-32; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.10: Solid Waste and Recycling Equipment Noise:* The Walmart store will have two trash compactors, and Major 2 will also include a compactor. A steady-state reference noise level of approximately 64 dB can be expected at a distance of 50 feet from the equipment during a typical compactor cycle. With an average cycle time of 60 seconds and an assumed

four compaction operations per hour, the hourly average ( $L_{eq}$ ) at the reference distance of 50 feet would be 52 dB  $L_{eq}$ . The nearest residences are located approximately 130 to 200 feet from the proposed compactors. At those residences, unshielded compactor noise levels would range from 40 to 44 dB  $L_{eq}$ . These predicted noise levels satisfy the City's daytime and nighttime noise level standards, even without consideration of additional noise reduction which may result from compactor enclosures or property line noise barriers. For these reasons, the Project would have a *less-than-significant* impact with respect to solid waste and recycling equipment noise. (Draft EIR, pp. 4.10-32 to 4.10-35; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.11: Parking Lot Sweeping Noise:* The Project's parking lot area would require the usage of a sweeping truck for routine cleaning. The majority of the parking lot is on the south side of the Walmart store. With the sweeping equipment operating in the main parking area, the Walmart building will completely shield sweeper truck noise levels at the residences to the north of the Project site. In addition, the proposed Majors 2, 3, and 4 buildings will provide shielding of sweeper noise in the direction of the residences to the west. With the addition of the noise reduction provided by the 8-foot-tall noise barriers, where required for mitigation, and shielding by intervening Project buildings, parking lot sweeping activities will result in noise levels of approximately 55 dB  $L_{max}$  or less at the nearest residences to the north and west of the site. When operating at more distant locations, sweeper noise would be much lower. At the nearest residence to the east, unshielded parking lot sweeper noise is predicted to be approximately 65 dB  $L_{max}$  or less. The predicted noise level of 65 dB  $L_{max}$  or less at all nearby residences during sweeping operations satisfies the City's daytime and nighttime noise level standards. For these reasons, the Project would have a *less-than-significant* impact with respect to parking lot sweeping noise. (Draft EIR, p. 4.10-35; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.11: Drive-Thru Operations - Walmart, Pads A and B:* The Project includes three drive-thru locations: Walmart (on the west side of the store), Pad A, and Pad B. The nearest noise-sensitive receivers to the Walmart pharmacy drive-thru are apartments located approximately 200 feet to the northwest. The nearest noise-sensitive receivers to the Pad A drive-thru are single-family homes approximately 210 feet to the southeast. The nearest noise-sensitive receiver to the Pad B drive-thru is the residence within the St. Jude's Parish approximately 300 feet to the northeast. Average noise levels for the Project would be considerably lower than the maximum noise levels, even during very busy drive-thru operations. More specifically, average noise levels are estimated to be at least 5 and 10 dB lower than the predicted maximum levels for vehicles idling and speaker usage, respectively and drive-thru vehicles and speakers are predicted to generate average and maximum noise levels that are well below the City's daytime and nighttime noise level standards. For these reasons, the Project would have a *less-than-significant* impact with respect to drive-thru operations at Walmart and Pads A and B. (Draft EIR, pp. 4.10-36 to 4.10-37; see also Draft EIR, Appendix 4.10-1.)

*Impact 4.10.13: Cumulative Traffic Noise:* The Project will generate additional traffic in the Project area, which will lead to higher future traffic noise levels on the local roadway network. The Project-related noise level increase on individual roadway segments will range from 0 to 1 dB over future levels. Because this range of increases is below the thresholds of

significance, the Project's contribution to cumulative traffic noise levels is considered *less than cumulatively considerable*. (Draft EIR, pp. 4.10-37 to 4.10-38; see also Draft EIR, Appendix 4.10-1.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to noise with respect to increased off-site traffic noise, single event noise generated by project trucks on public roadways, construction-generated noise, on-site truck traffic, rooftop mechanical equipment noise at the Walmart store, rooftop mechanical equipment noise at Majors 2, 3, and 4, solid waste and recycling equipment noise, parking lot sweeping noise, drive-thru operations at Walmart and Pads A and B and cumulative traffic noise.

### **10. Agricultural Resources**

#### **a. Impacts**

*Impact 4.11.2: Conflict with Zoning and Land Use:* Although the Project site was formerly used for agricultural practices the property is zoned and designated for Regional Commercial use and is not included in a Williamson Act Contract. Accordingly, the Project will not conflict with existing zoning for agricultural use or a Williamson Act Contract. For these reasons, the Project would have a *less-than-significant* impact with respect to conflict with zoning and land use. (Draft EIR, p. 4.11-12.)

*Impact 4.11.3: Indirect Conversion of Farmland:* The Project will not result in other changes in the existing environment or surrounding vicinity which would result in conversion of farmland beyond that discussed in Impact 4.11.1 (see below). For this reason, the Project would have a *less-than-significant* impact with respect to indirect conversion of farmland. (Draft EIR, p. 4.11-13.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less- than-significant* impacts to agricultural resources with respect to conflict with zoning and land use and indirect conversion of farmland.

### **11. Public Services and Utilities – Municipal Water**

#### **a. Impacts**

*Impact 4.12.2.1: Violation of Water Quality Standards:* Potable water for the Project will be provided from the City's existing municipal water system. The City's 2008 Consumer Confidence Report published by the Public Works Department Water Services Division states that the water supplied by the City meets or exceeds all State and Federal Requirements. All

water provided to the Project site by the municipal system is subject to State and Federal water quality standards. The Project will be a consumer of water and will include standard backflow prevention devices required by the California Plumbing Code to ensure that no cross-contamination can occur between the on-site water system and the public water system. The irrigation well used to provide water for the Project's landscaping will be isolated from the on-site water system and from the public water system. Further, the City requires that all on-site irrigation piping be 'purple pipe' which is intended for the distribution of non-potable water. The design of the purple pipe system is such that the possibility of cross-connection to the potable water supply is minimized. For these reasons, the Project would have a *less-than-significant* impact with respect to violation of water quality standards. (Draft EIR, p. 4.12-15.)

*Impact 4.12.2.2: Need for Expanded Water Treatment Facilities:* The City Engineer stated that the City's water system will be able to supply water to the Project and that sufficient water treatment capacity exists in the existing City system. No additional domestic wells or other treatment facilities will be required to be constructed as a result of the Project. For these reasons, the Project would have a *less-than-significant* impact with respect to the need for expanded water treatment facilities. (Draft EIR, p. 4.12-16.)

*Impact 4.12.2.3: Increased Demand for Water Supplies:* The Project-specific demand for water totals 26,595 gallons per day (gpd) or approximately 9.7 million gallons (mg) annually. Assuming a typical water demand of 200 gallons per person per day and an average of 3.32 persons per household in the City, the Project's daily water demand is roughly equivalent to that required by 40 households. According to these demand rates, the Project would not result in a substantial portion of overall water demand at buildout of the General Plan. The maximum daily demand (MDD) analysis conducted for the Project found that the increased demand of the Project under a MDD condition slightly decreased pressures at the lowest-pressure junction in the water distribution model by about 0.2 pounds per square inch (psi) to 42.9 psi. This decrease in pressures in the system is acceptable. The pressure at the Project site was well above the 40 psi goal at 45.9 psi. The peak hour demand (PHD) analysis conducted for the Project showed that the City's existing water distribution system can provide adequate supply and pressure throughout the entire system under the MDD condition. With the Project demands, the pressures may be reduced by about 0.2 pounds psi in parts of the City, but pressures will remain acceptable. In addition, in the vicinity of the Project site, the system will maintain adequate supply and pressure under peak hour demand and fire protection flow conditions. For these reasons, the Project would have a *less-than-significant* impact with respect to increased demand for water supplies. (Draft EIR, pp. 4.12-16 to 4.12-18.)

*Impact 4.12.2.5: Cumulative Demand for Water Supplies:* An additional 12,477 acre feet of water would be needed to meet the demand as represented by the General Plan at buildout. To meet buildout demands over time the City will either drill more wells and provide the wellhead treatment facilities required, or the City will reduce the number of new wells and supplement with treated TID surface water (i.e., the "conjunctive use" option). The conjunctive use option is the preferred option of both the City and TID and the City is working with TID to provide surface water to meet its long term water needs. While not complete, the TID agreement could

result in between 6,721 to 22,404 acre feet per year. The Project represents a very small and incremental increase in the overall water demand placed on the City and the City has adequate water to meet the needs of the Project. In addition, the City actively works to ensure future water demand for all development within the City's General Plan. Accordingly, this impact is considered *less than cumulatively considerable*. (Draft EIR, p. 4.12-20.)

**b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – municipal water with respect to violation of water quality standards, the need for expanded water treatment facilities, increased demand for water supplies and cumulative demand for water supplies.

**12. Public Services and Utilities – Wastewater**

**a. Impacts**

*Impact 4.12.3.1: Require Construction of Wastewater Treatment Facilities:* The City is able to treat 4.2 million gallons per day (mgd) and dispose of 2.5 mgd at the City's wastewater treatment plant. The City's disposal capacity is augmented through a contract with the City of Turlock to provide 2.0 mgd of wastewater disposal at the City of Turlock wastewater treatment plant. Currently, the City utilizes approximately 1.0 mgd of the contractual capacity with the City of Turlock, and 2.01 mgd of the capacity of the Ceres wastewater treatment plant. Combined, the City has over 1.4 mgd of available wastewater treatment capacity. The Project could generate up to 21,943 gallons of wastewater per day. This estimate of wastewater generation is considered conservative because not all of the water used by the Project will be discharged into the City wastewater treatment system. The Project's demand represents 0.022 mgd. As a result, the Project's estimated 21,943 gallons per day will not require a substantial portion of the available wastewater treatment capacity. For these reasons, the Project would have a *less-than-significant* impact with respect to requiring construction of wastewater treatment facilities. (Draft EIR, p. 4.12-26.)

*Impact 4.12.3.2: Inadequate Capacity or Need for Additional Conveyance Facilities:* Implementation of the Project will increase sewage flows in the City's wastewater conveyance system. A 36-inch sewer line has been constructed along Service Road from Central Avenue to Blaker Road, with a 42-inch pipe continuing on to the Wastewater Treatment Plant. This improvement is now complete and in service. The technical memorandum shows that the improvements will address the wastewater collection system needs of the Project. For these reasons, the Project would have a *less-than-significant* impact with respect to inadequate capacity or need for additional conveyance facilities. (Draft EIR, pp. 4.12-26 to 4.12-27.)

*Impact 4.12.3.3: Cumulative Demands on Sewer Conveyance and Treatment Facilities:* As indicated above under Impacts 4.12.3.1 and 4.12.3.2, the Project will not create a substantial demand on wastewater treatment facilities or collection system. Other development within the City will increase the amount of wastewater treatment demand placed on the City's wastewater

treatment plant, which will be addressed through future construction funded by connection fees. This will ensure that future developments are adequately served to accommodate the wastewater generated. In addition, the City will investigate sending additional treated wastewater to the City of Turlock for disposal in the future if the need arises. Finally, the Project's contribution to cumulative wastewater treatment and disposal demands is not anticipated to preclude the availability of wastewater treatment facilities for approved or pending projects, nor will it trigger future improvements to the collection treatment system. For these reasons, the Project would have a *less-than-cumulatively considerable* impact with respect to cumulative demands on sewer conveyance and treatment facilities. (Draft EIR, pp. 4.12-27 to 4.12-28.)

### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – wastewater with respect to requiring construction of wastewater treatment facilities, inadequate capacity or need for additional conveyance facilities and cumulative demands on sewer conveyance and treatment facilities.

## **13. Public Services and Utilities – Solid Waste**

### **a. Impacts**

*Impact 4.12.4.1: Increased Demand for Solid Waste Service and Landfill Capacity:* The Project would be served by the Fink Road Landfill, which has a permitted maximum disposal rate of 1,500 tons per day and currently receives approximately 409 tons per day. The Project, which would generate an average of 2.97 tons of solid waste per day, would not result in a substantial contribution to the daily capacity of this landfill. The Fink Road Landfill is projected to close in 2021. Although the Fink Road Landfill is projected to close in 2021, the County is currently pursuing a project that would extend the life of the existing landfill by converting the existing road into usable landfill space. Approval of this project would provide an additional five to 15 years of service. In addition, diversion programs instituted by the City and by the applicant may divert additional waste from the landfill. Even without the planned diversion of solid waste and recycling of materials, waste generation of 2.97 tons per day resulting from the Project would not contribute a substantial amount to the permitted daily maximum disposal of 1,500 tons at the Fink Road Landfill. For these reasons, the Project would have a *less-than-significant* impact with respect to increased demand for solid waste service and landfill capacity. (Draft EIR, pp. 4.12-35 to 4.12-37; Final EIR, pp. 3.0-8.)

*Impact 4.12.4.2: On-Site Collection and Storage of Waste Materials:* All development on the Project site will be required to provide areas for the collection and storage of trash and recycling in compliance with the guidelines for used for determining the area required by each on-site building that were discussed in the Draft EIR. In addition, the City's Water Efficient Landscape Guidelines provide requirements for the screening of trash and recycling areas. Under these guidelines, trees, shrubs, and vines are permitted vegetation, in combination with fences or walls, to screen trash and recycling areas from surrounding land uses and public view.

For these reasons, the Project would have a *less-than-significant* impact with respect to on-site collection and storage of waste materials. (Draft EIR, pp. 4.12-37 to 4.12-38.)

*Impact 4.12.4.3: Cumulative Demands for Waste Disposal and Landfill Capacity:* The Fink Road Landfill is anticipated to operate until the year 2021. The County is pursuing a permit change that would increase the capacity at the Fink Road Landfill and is currently in the CEQA process. The County would be expanding capacity on the current plan within the same footprint. The term of the increased landfill capacity will be determined by what is allowed by the permitting agency, which could be anywhere from five to 15 years. In addition, the County has purchased and set aside land for a new landfill but will not be seeking a permit unless the Fink Road Landfill is not permitted to expand. This additional capacity will be supported by “tipping fees” (i.e., dumping fees) charged to all landfill contributors. For these reasons, the Project would have a *less-than-cumulatively considerable* impact with respect to cumulative demands for waste disposal and landfill capacity. (Draft EIR, pp. 4.12-38 to 4.12-39; Final EIR, pp. 3.0-8.)

**b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – solid waste with respect to increased demand for solid waste service and landfill capacity, on-site collection and storage of waste materials and cumulative demands for waste disposal and landfill capacity.

**14. Public Services and Utilities – Electrical**

**a. Impact**

*Impact 4.12.5.1: Increased Demand for Electrical Service and New Electrical Facilities:* The Project would be served by TID. TID has electrical facilities in the area that are more than adequate to accommodate the service requirements for the Project. In addition, no new major electrical facilities or alteration of existing major electrical facilities are required to serve the Project. While rights-of-way and public utility easements may have to be secured along the Project frontages including Mitchell, Service and Don Pedro Roads adjacent to the paved roadway in order to place lines necessary to serve the Project, this is a normal function of the development process and as the Project is adjacent to these roadways, the additional right of way and/or easement is not considered an issue. It is likely that the Project would place a conduit into the proposed buildings in joint trenches within the Project site with other utilities. For these reasons, the Project would have a *less-than-significant* impact with respect to increased demand for electrical service and new electrical facilities. (Draft EIR, pp. 4.12-42 to 4.12-43.)

*Impact 4.12.5.2: Cumulative Demands on Electrical Service Provision and Facilities:* The Project is not anticipated to generate demands for electrical service beyond those planned for by the electric provider. The electrical service provider is TID, which has indicated its ability to serve the Project and will not require the installation of new service lines or other electrical facilities to serve the Project. The existing 12 kilovolt distribution feeder lines will serve the Project site. Therefore, electrical demands resulting from the Project will have a *less than*

*cumulatively considerable* impact on electrical service and facilities. (Draft EIR, pp. 4.12-43 to 4.12-44.)

**b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – electrical with respect to increased demand for electrical service and new electrical facilities and cumulative demands on electrical service provision and facilities.

**15. Public Services and Utilities – Natural Gas**

**a. Impact**

*Impact 4.12.6.1: Increased Demand for Natural Gas Service:* The Project would increase natural gas usage by approximately 0.12 MM therms (121,000 therms) annually, which represents approximately 0.0028 percent of the 2010 natural gas demand for PG&E. Based on the small fraction of power that the Project will demand, the Project does not represent a significant demand on regional energy supply or require for substantial additional capacity. Nor would this projected demand result in a need for new systems or supplies or substantial alterations to the existing natural gas utilities. Moreover, PG&E has adequate facilities to accommodate the service requirements for the Project and no new or alteration of existing major natural gas facilities are anticipated as a part of the Project. It is likely that PG&E would place a conduit into the proposed buildings in joint trenches with other utilities; however, no additional on- or off-site improvements, or additional public rights-of-way, are required. For these reasons, the Project would have a *less-than-significant* impact with respect to increased demand for natural gas service. (Draft EIR, pp. 4.12-46 to 4.12-47.)

*Impact 4.12.6.2: Cumulative Demands on Natural Gas Service Provision:* The Project is not anticipated to generate demands for natural gas service beyond the service capabilities of PG&E. PG&E has indicated their ability to serve the Project and will not require the installation of new service lines or other facilities to serve the Project. Accordingly, natural gas service demands resulting from the Project will have a *less than cumulatively considerable* impact on natural gas service and facilities. (Draft EIR, p. 4.12-47.)

**b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – natural gas with respect to increased demand for natural gas service and cumulative demands on natural gas service provision.

## **16. Public Services and Utilities – School Facilities**

### **a. Impact**

*Impact 4.12.7.1: Impacts on School Facilities:* The Project is anticipated to hire primarily from the local community, resulting in little in-migration. Accordingly, the Project would not substantially increase population within the City. With minimal population growth anticipated as a result of the Project, student enrollment would not be expected to increase substantially within the Ceres Unified School District (CUSD). As such, the Project is not expected to increase long-term demand for schools which would necessitate the expansion of existing facilities or construction of new facilities. Further, new commercial development is required to pay school impact fees, which would fully mitigate impacts to facilities within the CUSD as a result of the Project. For these reasons, the Project would have a *less-than-significant* impact with respect to impacts on school facilities. (Draft EIR, p. 4.12-52.)

*Impact 4.12.7.2: Cumulative Impacts on School Facilities:* The Project would contribute cumulatively to increasing demands and capacity constraints of the local schools within the Ceres Unified School District. As projects are approved and constructed within the CUSD, coordinated planning efforts will need to continue to implement the expansion of facilities. According to California Government Code Section 65996, SB 50 funding represents mitigation for the impacts on schools. Accordingly, this is a *less than cumulatively significant* impact. (Draft EIR, p. 4.12-53.)

### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – school facilities with respect to impacts on school facilities and cumulative impacts on school facilities.

## **17. Public Services and Utilities – Fire and Medical Emergency**

### **a. Impact**

*Impact 4.12.8.1: Substantial Impacts Associated with an Increased Demand for Facilities and Services Related to the Provision of Fire Protection and Emergency Medical Response Services:* The City's Emergency Services/Fire Division will provide fire protection and emergency medical response services to the Project area. The fire station closest to the Project site will serve the Project and this will not require an increase in personnel or infrastructure or significantly affect operations. In addition, sufficient revenues will be generated to provide for increased demands which would result from development, including the Project. Finally, specific standards set for the site, including structures, are found in the California Building Code, the California Fire Code, and in local requirements from the City Building Division and the Emergency Services/Fire Division, which will be applied to the Project as a normal part of the approval process. For these reasons, the Project would have a *less-than-significant* impact with respect to substantial impacts associated with an increased demand for facilities and services

related to the provision of fire protection and emergency medical response services. (Draft EIR, p. 4.12-60.)

*Impact 4.12.8.2: Cumulative Demands on Fire and Emergency Service Provision:* The Project is not anticipated to generate substantial demands on the City's Emergency Services/Fire Division. Further, the Project applicant will contribute to funding for the overall demands placed on the Division through the payment of development impact fees. With the passage of Measure H, the City has indicated that sufficient revenues will be generated to provide for increased demands concerning emergency services that would result from development, including the Project. Also, there is adequate water supply to meet fire flow requirements. Accordingly, the Project will have a *less than cumulatively considerable* impact on fire and emergency service and facilities. (Draft EIR, p. 4.12-61.)

**b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – fire and medical emergency with respect to substantial impacts associated with an increased demand for facilities and services related to the provision of fire protection and emergency medical response services and cumulative demands on fire and emergency service provision.

**18. Public Services and Utilities – Law Enforcement**

**a. Impacts**

*Impact 4.12.9.1: Increased Demand for Additional Law Enforcement Staff:* The Project could add up to an additional 1,584 calls for service and an additional 300 traffic enforcement contacts annually. Based on the anticipated increase in calls for service, the Project could result in the need for an additional two patrol officers, one community service officer, and one fully equipped patrol vehicle at buildout. However, the proper design of buildings, roads, and other parts of the Project would increase the ability of the City's Police Division to enforce the law and respond to public safety issues. Moreover, payment of impact fees and Measure H will ensure that sufficient revenues will be generated to provide for increased demands which would result from development, including the Project. Also, Walmart would include the following security measures: (1) install closed-circuit camera systems (surveillance cameras) inside and outside the store; (2) establish a Risk Control Team, which is a team of associates responsible and trained to identify and correct safety and security issues at the site; (3) provide lighting in the parking areas that will ensure public safety; (4) prohibit consumption of alcohol in the parking lots by having associates regularly "patrol" the parking areas while collecting shopping carts, and report any inappropriate activity to the store managers. (note that per state law, alcohol sales will be limited to the hours of 6 am to 2 am of the following day). For these reasons, the Project would have a *less-than-significant* impact with respect to an increased demand for additional law enforcement staff. (Draft EIR, pp. 4.12-65 to 4.12-66; Final EIR, pp. 2.0-61 – 2.0-62.)

*Impact 4.12.9.2: Construction of Law Enforcement Facilities:* The City's Police Division will provide law enforcement services to the Project area from the City's existing police station. No new police station or substation would need to be constructed to serve the Project site. For these reasons, the Project would have a *less-than-significant* impact with respect to construction of law enforcement facilities. (Draft EIR, pp. 4.12-66 to 4.12-67.)

*Impact 4.12.9.3: Cumulative Demands on Police Service:* While the Project alone would not require the addition of a new substation or station, the Project contributes to the incremental need for an additional police station. However, the City requires the Project to compensate for the cost of law enforcement facilities, personnel, and operations and maintenance through the payment of public facilities fees. The environmental impacts associated with the development of future law enforcement facilities would be evaluated on a project-by-project basis for immediate and cumulative impacts as required by CEQA. The impact fees and additional taxes paid through Measure H will mitigate the Project's contribution to the cumulative law enforcement demand. Accordingly, the Project will have a *less than cumulatively considerable* impact on law enforcement services and facilities. (Draft EIR, p. 4.12-67.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to public services and utilities – law enforcement with respect to an increased demand for additional law enforcement staff, construction of law enforcement facilities and cumulative demands on police service.

### **19. Transportation and Traffic**

#### **a. Impact**

*Impact 4.13.5: Parking Capacity:* The Project will provide 1,206 parking stalls which meet the 1,205 stalls required by the Mitchell Road Specific Plan parking standards. The site plan also shows 36 grocery cart corrals within the parking lot; these are considered unavailable for parking and, therefore, are not included in the parking count. The Project will have a joint access and parking easement that will enable all stalls to be available for any of the retail uses in the Project. As such, the overall project meets the parking requirements. For these reasons, the Project would have a *less-than-significant* impact with respect to parking capacity. (Draft EIR, pp. 4.13-47 to 4.13-48; see also Draft EIR, Appendix 4.13-1.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to transportation and traffic with respect to parking capacity.

## 20. Energy

### a. Impacts

*Impact 4.14.1: Construction Impacts:* Implementation of the Project would involve grading and construction of building pads, roads, structures, and other appurtenant improvements as well as processing improvements. These construction activities would require the use of gasoline, diesel fuel, other fuels, and electricity in order to be completed. Construction of the Project would use electricity and gas as a short-term consequence of construction. The Project is within the service area of TID (electricity) and PG&E (natural gas) and services are available to the Project site. Gas and other fuel is available in the community through a network of existing private distributorships. The power and energy system is considered adequate to handle the demand during construction. Because of the high cost of fuel, construction activities are not anticipated to result in wasteful, inefficient, and unnecessary use of energy as construction contractors would purchase fuel from local suppliers and would conserve the use of their supplies to minimize the cost of constructing the project. For these reasons, the Project would have a *less-than-significant* impact with respect to construction impacts on energy consumption. (Draft EIR, pp. 4.14-10 to 4.14-11.)

*Impact 4.14.2: Operational Impacts:* The Project would result in a gross electricity demand of approximately 0.214 percent of the projected 2010 annual TID electricity demand. The Project would increase natural gas usage by approximately 0.12 MM therms (121,000 therms) annually. This represents approximately 0.0028 percent of the 2010 natural gas demand for PG&E. Based on the small fraction of power of the TID and PG&E demand that the Project represents, the Project does not represent a significant demand on regional energy supply or require for substantial additional capacity. Nor would the Projected demand result in a need for new systems or supplies or substantial alterations to the existing power or natural gas utilities. In addition, the Project incorporates several energy reduction features in order to lessen the demand for electricity. For these reasons, the Project would have a *less-than-significant* impact with respect to operational impacts on energy consumption. (Draft EIR, pp. 4.14-11 to 4.14-12.)

*Impact 4.14.2: Traffic-Related Energy Impacts:* While the Project is expected to result in a potential of 13,550 “new” weekday vehicle trips daily and 7,650 “new” weekend vehicle trips per weekend day, these trips are not necessarily new but more likely re-routed trips which are currently traveling to other sources of retail/grocery uses in the area and already consuming gasoline. In addition, the Project is not likely to produce an increase in population as would a residential development. Other than additional trucks to serve the expanded store, additional vehicles from an increased population is unlikely. In fact, implementation of the Project may result in a decrease in gasoline consumption from vehicles emissions due to the availability of retail and grocery shopping at one location. As such, the actual increase in “new” vehicle trips resulting from Project implementation is most likely much less than projected. For these reasons, the Project would have a *less-than-significant* impact with respect to traffic-related energy impacts. (Draft EIR, p. 4.14-13.)

*Impact 4.14.4: Cumulative Energy Use Impacts:* The Project, as well as construction in other communities and businesses in the City and the surrounding region, would depend upon

the regional suppliers of energy in the future. The demand for energy at completion of Project construction would not by itself be sufficient to trigger the need for new electric or gas generation facilities. However, implementation and operation of the Project in combination with other projects within the TID and PG&E planning areas could result in a substantial increase on regional electricity or natural gas demand relative to the availability of supply such that impacts would be significant or require substantial additional capacity. The Project is consistent with long range planning in the City and the region as a whole, the City has policies that require coordination of new development with both PG&E and TID, and both providers have indicated that they can serve the Project. Future projects will undergo similar environmental review and coordination with the service providers to determine the extent of power demand. This continual coordination process, coupled with energy use reduction strategies designed to address greenhouse gas emissions, will ensure that the types of development being considered are consistent with the service plans of both PG&E and TID. Accordingly, the Project's incremental contribution to cumulative energy impacts would be *less than cumulatively considerable*. (Draft EIR, pp. 4.14-14 to 4.14-15.)

#### **b. Finding**

The City Council finds, based on the Final EIR and the whole record, that the Project will result in *less-than-significant* impacts to energy with respect to construction impacts on energy consumption, operational impacts on energy consumption, traffic-related energy impacts and cumulative energy use impacts.

### **C. Less-Than-Significant Impacts With Mitigation Incorporated**

The Final EIR determined that the Project has potentially significant environmental impacts in the areas discussed below. The Final EIR identified feasible mitigation measures to avoid or substantially reduce some or all of the environmental impacts in these areas. Based on the information and analyses set forth in the Final EIR, the Project impacts will be *less-than-significant* with identified feasible mitigation measures and design standards incorporated into the Project.

#### **1. Aesthetics and Visual Resources**

##### **a. Impact 4.1.3: Increase of Nighttime Light and Glare**

###### **(1) Impacts and Mitigation**

Implementation of the Project would introduce new sources of nighttime lighting and glare, resulting in increased ambient nighttime lighting levels. Mitigation Measure 4.1.3 addresses this potential impact and is:

**MM 4.1.3:** The Project applicant shall maintain a lighting plan and photometric diagram that reduces light spillage at the Project's property lines to a level of no more than 2.0 foot-candles, as measured at adjacent property lines along Don Pedro Road.

(Draft EIR, pp. 4.1-36 to 4.1-37.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.1.3, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project will result in the construction of a Walmart store and several retail stores and restaurants on the Project site, and will introduce new sources of artificial light to the Project area with night lighting levels typical of commercial/retail development. New light sources include, but are not limited to, parking lot lighting, lighting for the new retail facilities, street lighting, lighting associated with signs or advertisements, landscape and accent lighting, and additional light generated by automobiles. At least one store (i.e., the Walmart store) is expected to be open 24 hours a day. Stationary light sources have the potential to adversely affect residents through “spillover” into adjacent properties. Most residences in the vicinity of the Project occur adjacent to or across the street from the Project site. The close proximity of these residences to the Project site makes it probable that these residences will be impacted by sources of light and glare resulting from the Project. New light sources would also result in a greater overall level of nighttime lighting, thus reducing night sky visibility and affecting the general character of the existing community. Further impacts may occur from increased nighttime vehicle trips in the vicinity of the Project.

As part of the Project approval process, the Project applicant has submitted a conditional use permit, with exhibits that include a complete lighting concept for the Project. The Project also must comply with the City’s lighting guidelines to minimize impacts from nighttime lighting. The lighting arrangement and layout shows that the light poles adjacent to residential uses will be at a lower brightness, 44,000 lumens, as opposed to the 110,000-lumen light poles located elsewhere on the Project site. In addition, the light poles adjacent to residential uses will be installed with a light shield to prevent light directly shining into the adjacent residential properties. The photometric plan for the Project shows light spillage at most key areas to be less than 2.0 foot candles, except one instance where the intensity at the property line exceeds 2.0 foot-candles, at the western driveway on Don Pedro. Moreover, implementation of the above mitigation measure would ensure reduction of nighttime light impacts on adjacent residential properties to levels that are considered *less-than-significant* and no other significant impacts associated with nighttime light and glare are expected. These facts support the City’s finding. (Draft EIR, pp. 4.1-36 to 4.1-37.)

**b. Impact 4.1.5: Cumulative Addition to Area Light and Glare**

**(1) Impacts and Mitigation**

Implementation of the Project, in combination with other projects in the area, could result in a substantial increase in light and glare in the Project area. Mitigation Measure 4.1.3, which is also described above, addresses this potential impact and is:

*MM 4.1.3: The Project applicant shall maintain a lighting plan and photometric diagram that reduces light spillage at the Project's property lines to a level of no more than 2.0 foot-candles, as measured at adjacent property lines along Don Pedro Road.*

(Draft EIR, pp. 4.1-36 to 4.1-37 and 4.1-39.)

**(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.1.3, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

**(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project will include many sources of light including parking lot lights, storefront security lighting, display or advertisement lighting, landscaping and accent lighting, and light from increased vehicle traffic. There are other planned developments in the Project area, located to the south of the Project site, including two proposed hotels. These developments will have similar impacts, contributing to light and glare sources in the vicinity of the Project. These other projects, in addition to the Project, would result in increased lighting and glare, light spillage into residential areas, and greater ambient nighttime lighting. It is the goal of the City, as addressed in the General Plan and the Mitchell Road Corridor Specific Plan, to develop the Mitchell Road Corridor into a commercial hub and entryway to the City. Additional commercial projects that may be approved based on land use designations of the General Plan and Specific Plan will introduce further sources of light and glare from similar sources, including increased traffic and outdoor lighting associated with commercial uses.

However, the Project, as well as all other development projects in the area, will be required to comply with the lighting guidelines contained in the General Plan and in the Mitchell Road Corridor Specific Plan. The Project will also be required to comply with the mitigation measure described above. Implementation of the City’s guidelines and the imposition of

mitigation measures based on those guidelines will minimize the impacts of light and glare impacts from the Project and other projects in the area. The Mitchell Road Corridor Specific Plan promotes the transition of this area for intensification of commercial uses, and the City recognizes that there will be a resulting increase in light and glare commensurate with an evolving urban environment. Such impacts, as regulated by the City, are considered *less than cumulatively considerable* and *less-than-significant*. These facts support the City's finding. (Draft EIR, p. 4.1-39.)

## 2. Air Quality

### a. Impact 4.2.2: Violate an Air Quality Standard or Contribute Substantially to an Existing or Projected Air Quality Violation

#### (1) Impact and Mitigation

Implementation of the Project would result in short-term emissions of criteria air pollutants from construction equipment operation and soil disturbances, potentially violating or contributing to an existing violation of one or more air quality standards. Mitigation Measures 4.2.2a – 4.2.2e address this potential impact and are:

*MM 4.2.2a:* The following measures shall be implemented, in addition to the requirements of SJVAPCD Regulation VIII, at the Project site during all construction activities:

- Limit traffic speeds on unpaved roads to 15 miles per hour (mph);
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent;
- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;
- Install wind breaks at windward side(s) of construction areas;
- Suspend excavation and grading activity when winds exceed 15 mph; and
- Limit area subject to excavation, grading, and other construction activity at any one time. Soil exposure shall not exceed an area in which improvements can be completed during a single construction season.
- The applicant shall use periodic watering for short-term stabilization of disturbed surface area and haul roads to minimize visible fugitive dust emissions. Watering, with complete coverage, shall occur at least three times a day, preferably in the mid-morning, afternoon and after work is done for the day.

*MM 4.2.2b:* Pollutant emissions shall be minimized by maintaining equipment engines in good condition and in proper tune according to manufacturer's specifications, and during smog season (May through October) by not allowing construction equipment to be left idling for more than five minutes (per California law). Contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by the California Air Resources Board (CARB) (diesel fuel with sulfur content of 15 ppm by weight or less).

*MM 4.2.2c:* Graded site surfaces shall be stabilized upon completion of grading when subsequent development is delayed or expected to be delayed more than 30 days, except when such a delay is due to precipitation that dampens the disturbed surface sufficiently to eliminate visible fugitive dust emissions.

*MM 4.2.2d:* Contractor agreements shall specify that existing power sources (e.g., power poles) or clean-fuel generators shall be used rather than temporary power generators.

*MM 4.2.2d:* During construction of the Project, only low-VOC paints and coatings as defined in SJVAPCD Rule 4601 shall be used.

(Draft EIR, pp. 4.2-23 to 4.2-25; FEIR 3.0-3 – 3.0-4.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.2.2, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The construction of the Project would result in the temporary generation of emissions resulting from site grading and excavation, road paving, motor vehicle exhaust associated with construction equipment and worker trips, and the movement of construction equipment, especially on unpaved surfaces. As shown in Draft EIR Table 4.2-1, emissions resulting from Project construction would not exceed criteria pollutant thresholds established by the SJVAPCD.

Even though the Project will not exceed the threshold for PM<sub>10</sub>, Project construction activities will be required to comply with District Regulation VIII, a series of fugitive dust control measures. In addition, the SJVAPCD’s *Guide for Assessing and Mitigating Air Quality Impacts* contains enhanced and additional control measures that provide a greater degree of PM<sub>10</sub> reduction than Regulation VIII for construction sites of significant size.

Therefore, emissions of criteria air pollutants during the Project's construction phase would be *less-than-significant*. These facts support the City's finding. (Draft EIR, pp. 4.2-22 to 4.2-25; Final EIR, pp. 3.0-3 – 3.0-4; see also Draft EIR, Appendix 4.2-1.)

**b. Impact 4.2.4: Violate Air Quality Standards Due to Long-Term Operational Emissions of Criteria Air Pollutants**

**(1) Impact and Mitigation**

Implementation of the Project would result in long-term emissions of criteria air pollutants from mobile and area sources that could violate or substantially contribute to an existing violation of one or more air quality standards. Mitigation Measures 4.2.4a and 4.2.4b address this potential impact and are:

*MM 4.2.4a:* All buildings on the Project site shall be designed and constructed to exceed minimum statewide energy requirements (Title 24). Measures may include, but are not limited to, the following:

- Incorporate skylights into building designs to utilize natural daylight;
- Utilize computer-controlled daylight sensors and electronic dimming ballasts;
- Use high-efficiency light bulbs in all lighting fixtures;
- Use light-emitting diodes (LEDs) in exterior signage;
- Use energy-efficient appliances and HVAC systems;
- Use low-emission water heaters and/or central water heating systems;
- Increase building insulation; and
- Use automated controls for HVAC systems or centralized energy management systems.

*MM 4.2.4b:* All buildings on the Project site shall utilize Energy Star compliant (highly reflective) and high emissivity roofing (emissivity of at least 0.9 when tested in accordance with ASTM 408) for a minimum of 75 percent of the roof surface to reduce energy demands associated with air conditioning and to minimize the urban heat island effect.

(Draft EIR, p. 4.2-28.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.2.4a through 4.2.4b, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Vehicle emissions will account for the majority of the Project’s operation emissions. As these vehicles travel on paved roads, they would also be a source of fugitive emissions due to the generation of road dust. Combustion emissions would be generated by the use of natural gas. Landscape maintenance equipment would generate emissions from fuel combustion and evaporation of unburned fuel. Finally, as part of normal, ongoing building maintenance, the Project will result in emissions resulting from the evaporation of solvents contained in paints, varnishes, primers, and other surface coatings. The total emissions from the Project exceed the SJVAPCD’s thresholds for reactive organic gasses (ROG) and oxides of nitrogen (NO<sub>x</sub>). In addition, the Project would emit a significant amount of particulate matter (PM)<sub>10</sub> and PM<sub>2.5</sub> that would contribute to the SJVAPCD’s existing air quality violations for particulate matter.

Implementation of transportation and traffic mitigation measure MM 4.13.6 (see below) would require the construction of pedestrian and bicycle facilities within and adjacent to the Project site. This measure may reduce mobile source emissions by accommodating alternative modes of transportation in the project vicinity. In addition, the Walmart (Major 1) portion of the Project would incorporate numerous energy efficiency measures that would exceed California Title 24 requirements and the remainder of the Project also includes energy saving features. The resulting reduction in energy use would reduce the Project’s area source emissions. Moreover, the Project’s contribution to a potential urban heat island effect in the region would be minimized through the use of a white membrane roof on the proposed Walmart building. Further, the Project proposes extensive site landscaping that would increase shade and reduce evapotranspiration to further minimize potential warming associated with development of the Project.

Finally, the Project will be required to comply with SJVAPCD Rules 4601 and 9510, which would reduce Project emissions of ROG associated with building maintenance and reduce Project emissions of operational NO<sub>x</sub> by 33 percent over 10 years and emissions of operational PM<sub>10</sub> by 50 percent over 10 years. After release of the Draft EIR, the applicant submitted its ISR application in compliance with SJVAPCD Rule 9510. The application also demonstrates that the Project's operational emissions will be *less-than-significant*.

These facts support the City's finding. (Draft EIR, pp. 4.2-26 to 4.2-28; Final EIR, Appendix C; see also Draft EIR, Appendix 4.2.1.)

**c. Impact 4.2.8: Objectionable Odors Affecting a Substantial Number of People**

**(1) Impact and Mitigation**

Implementation of the Project may result in receptors located in the vicinity of the Project being exposed to odorous emissions. Mitigation Measure 4.2.8 addresses this potential impact and is:

*MM 4.2.8: Signage shall be provided on-site that prohibits the idling of trucks, including the use of auxiliary power units, for more than five minutes. Further, the Project shall pay for parking restrictions on the south side of Don Pedro Road as directed by the City of Ceres. These restrictions will include designating the south side of Don Pedro Road between Mitchell Road and the northwestern property corner of the Project as a “no parking” zone through the use of signs and/or curb painting.*

(Draft EIR, pp. 4.2-31 to 4.2-32.)

**(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.2.8, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

**(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project does not contain land uses typically associated with emitting objectionable odors. As discussed above, odors associated with the Project construction or restaurant uses would be *less-than-significant* and no mitigation is required. However, the parking and idling of trucks near the loading dock and/or along Don Pedro Road could result in unnecessary odors associated with vehicle idling. Odors can also arise during construction from the use of adhesives, concrete, paint, paving, and other building materials. Typically these odors are short-lived and only observed locally, often only while within the buildings or Project area during construction.

While offensive odors rarely cause any physical harm, they still can be very unpleasant, leading to considerable distress among the public and often generating citizen complaints to local governments and regulatory agencies. California state law regulates the idling time of stationary vehicles to five minutes. There is also a concern that trucks could be parked along Don Pedro Road, closer to the homes than the proposed Walmart loading dock, waiting for delivery to the Project. The above mitigation measure is designed to ensure that trucks cannot be parked along Don Pedro Road behind the Project, as well as prohibit them from idling or using auxiliary power units for more than five minutes. By restricting or prohibiting truck parking along the south side of Don Pedro Road, the potential for odors emanating from diesel emissions to affect the adjacent homes is considered *less-than-significant*. These facts support the City's finding. (Draft EIR, pp. 4.2-31 to 4.2-32; see also Draft EIR, Appendix 4.2.1.)

### **3. Biological and Natural Resources**

#### **a. Impact 4.3.1: Impacts to Migratory Birds or Raptors**

##### **(1) Impact and Mitigation**

Implementation of the Project could result in adverse effects, either directly or through habitat modifications that may affect species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulation, or by the California Department of Fish and Game or the United States Fish and Wildlife Service. Mitigation Measure 4.3.1 addresses this potential impact and is:

*MM 4.3.1:* If construction activities occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the Project applicant shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area (no less than 500 feet outside Project boundaries) no more than 30 days prior to ground disturbance or tree removal. If active nests are located during preconstruction surveys, USFWS and/or CDFG shall be notified regarding the status of the nests. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with USFWS and/or CDFG). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 500 feet around the nest for Swainson's hawk, 100 feet around the nest for other raptors, and 50 feet around the nest for other migratory birds) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (September 1 through February 28).

(Draft EIR, p. 4.3-22.)

##### **(2) Finding**

"Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR."

(CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.3.1, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Nesting and foraging habitat for two special-status avian species are known to occur on the Project site: the Cooper's hawk and the Swainson's hawk. Foraging habitat onsite is limited due to the highly disturbed cropland vegetation, much of which has been heavily disked on a regular basis, thereby eliminating habitat necessary for the prey base for these hawks. The limited habitat on the Project site may support migrating bird species which are protected by the Migratory Bird Treaty Act (MBTA). Removal of trees and construction activities on the Project site may result in the loss of trees utilized for nesting by sensitive avian species. Construction activities in the vicinity of active nests that may occur within the two sycamore trees that will be retained as part of the Project could potentially disturb any nesting species and cause them to abandon their nests. The loss or disturbance of active nests or direct mortality is prohibited by the MBTA and California Fish and Game Code Section 3503.5. Therefore this impact is considered potentially significant. However, implementation of the above mitigation measure would reduce potential impacts to migratory birds and raptors to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.3-21 to 4.3-22; see also Draft EIR, Appendices 4.3-1 to 4.3-5.)

## **b. Impact 4.3.6: Contribution to Regional Habitat Conversion**

### **(1) Impact and Mitigation**

Implementation of the Project, in combination with other development projects in the area, may contribute to the regional conversion of habitat and impacts to biological resources. Mitigation Measure 4.3.1, which is also described above, addresses this potential impact and is:

*MM 4.3.1:* If construction activities occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the Project applicant shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area (no less than 500 feet outside Project boundaries) no more than 30 days prior to ground disturbance or tree removal. If active nests are located during preconstruction surveys, USFWS and/or CDFG shall be notified regarding the status of the nests. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with USFWS and/or CDFG). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 500 feet around the nest for Swainson's hawk, 100 feet around the nest for other raptors, and 50

feet around the nest for other migratory birds) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (September 1 through February 28).

(Draft EIR, pp. 4.3-22 and 4.3-24 to 4.3-25.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.3.1, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Potential development of the City and Stanislaus County would further increase impacts to biological resources by removing habitat areas, directly injuring or resulting in take of special-status species, or destroying potential nesting habitat. Future development would also increase indirect impacts on adjoining land areas. These impacts would contribute to cumulative impacts on biological resources in the region, including increased urbanization, habitat fragmentation, and water pollution. The Project and other projects in the region could result in potentially significant cumulative impacts to migratory birds and raptors and sensitive bat species. Due to the previous uses on the site and the fact that the site is not in its natural condition, the site does not constitute a critical or sensitive habitat resource in the context of the cumulative setting. The Project may result in site-specific impacts to raptors and nesting migratory birds as identified under Impact 4.3.1. Implementation of the mitigation measure described above would reduce the overall contribution to cumulative biological resource impacts resulting from construction of the Project. Therefore, the Project’s contributions to the potential loss and/or restriction of biological resources in the region are considered *less than cumulatively considerable*. These facts support the City’s finding. (Draft EIR, pp. 4.3-24 to 4.3-25; see also Draft EIR, Appendices 4.3-1 to 4.3-5.)

#### **4. Cultural Resources**

##### **a. Impact 4.4.1: Loss of Unknown Prehistoric and Historic Resources and Human Remains**

###### **(1) Impact and Mitigation**

Implementation of the Project could result in impacts to previously undiscovered prehistoric resources, historic resources, and human remains. Mitigation Measures 4.4.1a and 4.4.1b address this potential impact and are:

*MM 4.4.1a:* If, during the course of implementing the Project, cultural resources (i.e., prehistoric sites, historic sites, and/or isolated artifacts) are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery. The City shall consider mitigation recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The Project applicant shall be required to implement any mitigation necessary for the protection of cultural resources.

*MM 4.4.1b:* If, during the course of implementing the Project, human remains are discovered, all work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and the County Coroner must be notified according to Section 5097.98 of the PRC and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.

(Draft EIR, pp. 4.4-11 to 4.4-12.)

###### **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.4.1a and 4.4.1b, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Archaeological and historical investigations did not identify any prehistoric sites, historic sites, significant historic buildings/structures, isolated artifacts, or human remains within Project boundaries. There is a possibility, however, of unanticipated and accidental archaeological discoveries during ground-disturbing Project-related activities because of previous Native American, Euroamerican, and subsequent development of the City. The mitigation measures described above address the unanticipated discovery of cultural resources and human remains. Implementation of these mitigation measures would reduce impacts to undiscovered cultural resources and human remains to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.4-11 to 4.4-12.)

#### **b. Impact 4.4.2: Loss of Unknown Paleontological Resources**

##### **(1) Impact and Mitigation**

Implementation of the Project could result in the potential damage or destruction of undiscovered paleontological resources. Mitigation Measure 4.4.2 addresses this potential impact and is:

*MM 4.4.2: If, during the course of implementing the Project, any paleontological resources (fossils) are discovered, work shall be halted immediately within 50 feet of the discovery and the City of Ceres Planning Division shall be immediately notified. At that time, the City will coordinate any necessary investigation of the discovery with a qualified paleontologist. The City shall consider the mitigation recommendations of the qualified paleontologist for any unanticipated discoveries of paleontological resources. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The Project applicant shall be required to implement any mitigation necessary for the protection of paleontological resources.*

(Draft EIR, p. 4.4-13.)

##### **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.4.2, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

A search of the University of California, Berkeley Museum of Paleontology collections database did not identify any evidence of paleontological resources within Project boundaries. Paleontological resources have been identified in Stanislaus County, but the Project site does not appear sensitive for paleontological resources because of its urban context and the level of disturbance across the site. Though it is not likely that ground-disturbing activities associated with the Project would reach any geological formations that could contain significant paleontological resources, there is a possibility of unanticipated and accidental paleontological discoveries during ground-disturbing Project-related activities. The mitigation measure described above addresses the inadvertent discovery of significant paleontological resources. Implementation of this mitigation measure would limit impacts on paleontological resources to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.4-12 to 4.4-13.)

#### **c. Impact 4.4.3: Loss of Prehistoric Resources, Historic Resources, and Human Remains**

##### **(1) Impact and Mitigation**

Implementation of the Project, along with other development projects in the City and Stanislaus County, could result in disturbance of cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts and features) and human remains. Mitigation Measures 4.4.1a and 4.4.1b, which are also described above, address this potential impact and are:

*MM 4.4.1a:* If, during the course of implementing the Project, cultural resources (i.e., prehistoric sites, historic sites, and/or isolated artifacts) are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery. The City shall consider mitigation recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The Project applicant shall be required to implement any mitigation necessary for the protection of cultural resources.

*MM 4.4.1b:* If, during the course of implementing the Project, human remains are discovered, all work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and the County Coroner must be notified according to

Section 5097.98 of the PRC and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.

(Draft EIR, pp. 4.4-11 to 4.4-14.)

**(2) Finding**

"Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR." (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.4.1a and 4.4.1b, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

**(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Implementation of the Project may contribute to the cumulative loss of prehistoric resources, historic resources, and human remains in the City and Stanislaus County through the inadvertent discovery of these resources. This contribution could be considerable when combined other development in the City and Stanislaus County. Implementation of the mitigation measures described above address the identification and protection of significant prehistoric and historic resources and human remains and would reduce impacts to these resources and human remains to a less than cumulatively significant level. These facts support the City's finding. (Draft EIR, pp. 4.4-11 to 4.4-14.)

**d. Impact 4.4.4: Paleontological Resources**

**(1) Impact and Mitigation**

Implementation of the Project, along with other development in the City and Stanislaus County, could result in disturbance of paleontological resources (i.e., fossils and fossil formations). Mitigation Measures 4.4.1a and 4.4.1b, which are also described above, address this potential impact and are:

*MM 4.4.1a:* If, during the course of implementing the Project, cultural resources (i.e., prehistoric sites, historic sites, and/or isolated artifacts) are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery. The City shall consider mitigation

recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The Project applicant shall be required to implement any mitigation necessary for the protection of cultural resources.

*MM 4.4.1b:* If, during the course of implementing the Project, human remains are discovered, all work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and the County Coroner must be notified according to Section 5097.98 of the PRC and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.

(Draft EIR, pp. 4.4-11 to 4.4-14.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.4.1a and 4.4.1b, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Implementation of the Project may contribute to the cumulative loss of paleontological resources in the City and Stanislaus County through the inadvertent discovery of these resources. This contribution could be considerable when combined with other past, present, and foreseeable development in the City and Stanislaus County. Implementation of the mitigation measures described above addresses the inadvertent discovery of significant paleontological resources and would reduce impacts to undiscovered paleontological resources to less than cumulatively significant. These facts support the City's finding. (Draft EIR, pp. 4.4-11 to 4.4-14.)

## 5. Economics and Blight

### a. Impact 4.5.1: Urban Decay

#### (1) Impact and Mitigation

Implementation of the Project may result in closure of competing businesses, which may increase the inability of property owners to lease vacant buildings, potentially resulting in physical deterioration and urban decay. Mitigation Measure 4.5.1 addresses this potential impact and is:

*MM 4.5.1:* In addition to the requirement that a vacant building monitoring fee pursuant to Ceres Municipal Code Chapter 9.40 be paid, the property owner (and any subsequent owner) shall 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 (via bond or otherwise) for abatement of visual indications of blight on the property if and when the property owner fails to adequately maintain the property in good condition and abate elements of deterioration, which shall include:

- Remove graffiti;
- Repair broken windows and exterior structural elements;
- Maintain existing landscaping; and
- Frequently clean up litter on the property.

(Draft EIR, p. 4.5-19.)

#### (2) Finding

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.5.1, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

#### (3) Facts in Support of Finding

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project is estimated to achieve total annual sales of approximately \$156 million. Sales in the general merchandise component of the proposed Walmart are estimated at \$90.9

million, and sales in the supermarket-equivalent component are estimated at \$32.2 million. Annual restaurant sales in the proposed shopping center are estimated at \$4.9 million. For the remainder of the Project, where the retail mix is unknown, retail sales are estimated at \$28.0 million annually. The total capture from existing outlets when the Project becomes operational is estimated at \$112.7 million annually, with \$81.8 million of this coming from existing general merchandise stores, \$21.6 million from existing food stores, \$3.7 million from existing restaurants, and the remainder coming from other types of retail outlets. As the population of the City and surrounding areas grows according to projections, the level of sales captured from existing outlets necessary to reach benchmark levels is estimated to decline slightly to \$111.7 million in 2012. Overall, when the Project is operational, there will be an estimated decline of \$93.0 million, or 24 percent of the baseline total, for the retail store categories assumed to be represented in the Project (this excludes automotive retail and service stations).

- General Merchandise Stores:

Most of the decline will be in the general merchandise category, where sales declines are estimated at \$75.0 million, or 55 percent of the estimated baseline figure. However, for the most part, this total represents sales that are going to the existing Walmart, which is slated for closure; thus, losses at remaining general merchandise outlets (e.g., Kmart) would only constitute a small portion of overall lost sales and interviews with local store representatives indicated their perception is that a certain segment of the population chooses not to shop at Walmart and will continue to shop at Kmart or other stores as long as those options are available. The new Walmart store may also attract some limited sales from other general merchandise stores, particularly the chain drugstores. These stores, however, are more convenience-oriented and have proven competitive with the existing Walmart with its pharmacy. Moreover, local representatives for the Rite-Aid store (also the chain pharmacy closest to the Project) believe that their overall business would not be impacted substantially by the proposed store.

Since the Project is assumed to capture shoppers from outside the City, there may be impacts on general merchandise stores beyond City limits. The two such outlets most likely to lose sales are the existing Walmart's in Modesto and Turlock, as some shoppers currently going to those two stores may prefer the new center. In some cases, the drive time to the new store will be similar to driving to either of those locations (e.g., for residents of Keyes or Modesto south of the Tuolumne River). Like the existing Walmart, these two stores both appear to have sales well above Walmart's national average. The estimated capture from outside the primary trade area is approximately \$9.1 million, a level of sales loss either of these stores could sustain even individually. For other outlets, the impacts are likely to be diffused among a wide range of outlets due to distance and differences in product mix and market positioning, such that impacts on other individual outlets are not likely to be substantial. In summary, while the capture is great in this category, most of it will take the form of a shifting of sales from the existing Walmart to the Project. Furthermore, as population continues to grow in the primary and secondary trade areas, sales at existing stores should rebound to higher levels.

- Food Stores:

It is estimated that, when the proposed Walmart store's grocery component becomes operational, it would capture approximately \$16.3 million of estimated baseline food store sales, or approximately 16 percent of baseline sales in the City. While some stores could sustain a 16 percent loss, the impacts may be concentrated on those competitors that are closest and in a similar market niche. In the short term, if sales losses are focused on particular stores, there is some risk of closure for an existing supermarket in the City. Based on proximity and current performance, the store most at risk is Richland Market. However, because of a variety of factors, including different "break-even" and profit thresholds for different operators, as well as different levels of sales currently, it is not possible to state with a great degree of certainty which of the existing food stores is most likely to be impacted to the point of closure by the Project. If any store does close, that store's sales would then be distributed among the remaining competitors, making additional closures less likely. The demand for food stores should recover somewhat within a few years.

Outside the primary trade area, the food stores most likely to be affected by the Project are those in the periphery, particularly the Keyes Supermarket, which is only 2.2 miles from the Project site. This independent store has a deteriorated appearance and low sales levels, appearing to function primarily as a convenience-oriented store for nearby residents. Based on county assessor records, the store is managed and owned by the same family that owns the property. Thus the supermarket may not require the level of return otherwise required to support a rent or mortgage payment. In any case, this supermarket's primary asset is convenience to local residents of Keyes; it is extremely unlikely that shoppers from other locales are frequenting this store. While the proposed store is slightly closer to Keyes than the Safeway in Turlock, Keyes residents seeking a larger store, higher quality, or better prices already have a number of nearby options. The Keyes Supermarket will still have its primary advantage, convenience, and while it may continue to underperform industry norms, it cannot be assumed that the Project will lead to closure of this store.

The other supermarkets in the periphery are the two Latino-oriented markets on Crow's Landing Road west of State Route 99. These stores are distant enough and specialized enough that the impacts of the Project should be minimal. Beyond the City and the periphery, impacts are likely to be more diffused, with impacts on individual stores at levels where closure cannot be an assumed outcome. The WinCo in Modesto is probably the store in the secondary market area most like the Project's grocery section in terms of being a region-serving store. While the sales levels for this store are unknown, WinCo stores typically have very strong sales and compete successfully with Walmart stores having grocery components and other Walmart stores selling groceries in other markets (e.g., Stockton). WinCo representatives indicated that they expect that a Walmart store in the City having a grocery component would have some impact on their sales but did not indicate that closure was likely.

- Eating and Drinking Places:

The Project includes two pad spaces with the potential to accommodate a fast-food restaurant and one other pad suitable for a sit-down restaurant or general retail use. Overall, eating and drinking places showed a net estimated decline in sales of 4 percent from current sales levels if the Project is built. In just a couple of years after becoming operational, however, population growth is projected to generate enough additional demand that existing outlets should recover to above current levels. The sales impacts in the City are likely to be distributed broadly among a large number of outlets, so no particular restaurant could be determined to be at risk of closure as a result of the Project. In any case, growth in the market should lead to recovery within a few years of Project opening, so any impacts would be very short term. Impacts outside the primary trade area would be diffused and negligible for any specific outlet.

- Other Store Types:

Losses of sales from baseline levels in this category are expected to be minimal, due in part to the limited sales among the other outlet types and the resulting capture of substantial leakage. In just a couple of years after the Project is expected to be operational, demand in this catch-all category would allow sales at existing outlets to recover to above current levels. While it is possible that there could be outlets at the Project that would compete directly with existing outlets in a given specialty store subcategory, there are no additional known tenants for the proposed center beyond the Walmart at this time. Assessing any possible impacts due to more specific types of retailers would thus be speculative. Overall, due to the minimal overall losses for a short period of time among other store types, impacts are assumed to be negligible and no particular outlets either inside or outside the primary market area can be presumed to be at risk of closure as a result of the Project.

- Downtown Area:

The downtown area has a limited number of retail outlets. The retailers currently downtown are generally small local merchants likely taking advantage of lower rents, who have survived by maintaining a different market focus not directly competitive with the types of retailers in the larger and newer retail centers found throughout Stanislaus County. As a result, the existing retail outlets in the downtown are not expected to face closure with the addition of the Project to the retail inventory, since it is similar to the existing newer centers in its market positioning. In any retail market, existing retail space may be vacated due to functional obsolescence or the general cycle of retail closures and openings over time. Thus any retail market is likely to have a certain amount of vacant space due to normal turnover and changes in retailing, and vacancies alone do not necessarily indicate urban decay or physical deterioration.

- Potential for Physical Deterioration and Urban Decay:

Outside the primary trade area, the overall retail sector in neighboring cities is so large that impacts are likely to be diffused across the broad range of stores there. In fact, the closure of the existing Walmart may lead to increased sales at similar outlets in Modesto, as some

Modesto residents will find that stores in Modesto would then be more conveniently located than the proposed new store in the City.

Within the primary trade area, the Project has the potential to lead to the closure of an existing supermarket in the City, resulting in a possible vacant retail space. The grocery store most at risk of closure is Richland Market because of its recent performance levels and proximity to the Project. However, the shopping center in which Richland Market is located is doing well, is well maintained, and has a strong second anchor, Richland Ace Hardware. The shopping center is located at the intersection of two major streets in Ceres and is surrounded by residential uses. This makes it an ideal location for a neighborhood-serving shopping center; therefore, this shopping center is likely to attract different tenants than those that would be located at the Project site, which is more likely to attract regional-serving tenants. As an older center, it is also more likely to attract tenants looking for lower rent than the Project. Therefore, the center is well-positioned in a different market niche than the Project. Finally, in the event the supermarket does close, existing City ordinances would require that the building be maintained while the building is vacant.

The City has a fairly stable retail market with few vacant built spaces. There are vacant parcels suitable for retail/commercial uses in the City, but none of these parcels exhibit signs of decay, they are simply vacant and awaiting future use. The largest and possibly only vacant space that can be expected to be created by the Project will be due to the closure of the existing Walmart. Closure of this store represents a substantial increase in the amount of vacant retail inventory, and the space may prove difficult to re-tenant, especially in the short term. This property presents the potential for urban decay, depending on the property owner's ability to find a new tenant and the City's willingness and ability to enforce ordinances regarding upkeep of the physical property (a vacant property is not by definition subject to urban decay, but only at risk of that condition).

However, the City's Municipal Code contains numerous restrictions and standards for the maintenance of vacant buildings to avoid public nuisances such as blight, and to protect surrounding property values. While these regulations provide for monitoring and enforcement by the City, due to the size and nature of the building that will be vacated as a result of the Project, these existing regulations may not sufficiently minimize the potential for blight and urban decay. Implementation of the mitigation measure described above would enable the City to more effectively enforce the provisions of the Municipal Code as it would apply to a vacant building and site as large as the existing Walmart, further minimizing the potential for blight and urban decay to occur as a result of Walmart vacating the structure. Implementation of this mitigation measure would reduce the impact to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.5-13 to 4.5-19; see Also Draft EIR, Appendix 4.5-1.)

## 6. Geology and Soils

### a. Impact 4.6.1: Ground Failure

#### (1) Impact and Mitigation

Implementation of the Project may expose people, structures, and development to ground failure from seismic activity or unstable soils. Mitigation Measure 4.6.1 addresses this potential impact and is:

*MM 4.6.1:* The Project shall comply with the recommendations of the Preliminary Geotechnical Engineering Analysis prepared by Consolidated Engineering Laboratories in June 2006. These recommendations include the following:

- Existing Structures and Trees – All existing structures to be abandoned shall be demolished and foundations entirely removed or cut off. Any existing trees that are to be abandoned shall have their major root systems removed. Additionally, buried objects from past land use activities that are encountered during construction shall be removed.
- Loose Near-Surface Soil – The presence of loose near-surface soil will require over-excavation and compaction in the building pad areas.
- Underground Utility/Trench Excavation – Due to the sandy soils at the Project site, trench walls may not stand vertical during and after excavation. All Project contractors shall be notified of the potential for sloughing of utility trench and foundation excavation sidewalls.
- Winter Grading – If grading occurs during the rainy season, unstable subgrade conditions may be encountered. Project site soils shall be treated/stabilized prior to grading or other soil-disturbing activities during the winter months.
- Seismic Considerations – The site is located proximal to a seismically active region. At a minimum, the building designs shall comply with the latest edition of the California Building Code.

(Draft EIR, pp. 4.6-10 to 4.6-11; see also Draft EIR, Appendix 4.6-1.)

#### (2) Finding

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.6.1, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The project site is located in the San Joaquin Valley, which has experienced significant historical and, in some areas, recent subsidence due primarily to groundwater pumping. Although the Project site is not likely susceptible to seismic activity due to the distance to active faults, the potential for seismic activity does exist. Significant subsidence in an area can affect building foundations and roadways if they are not properly designed. However, adherence to the recommendations made in the geotechnical analysis for the Project will ensure that the soils between ground level and a depth of five feet are free of debris, incursion by roots and capable of being compacted as needed to support construction. Implementation of the mitigation measure described above reduces this impact to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.6-10 to 4.6-11; see also Draft EIR, Appendix 4.6-1.)

## **7. Hazards and Hazardous Materials**

### **a. Impact 4.7.3: Hazards Associated with Past Agricultural Operations**

#### **(1) Impact and Mitigation**

Pesticide application associated with past agricultural operations may have impacted the Project site. Mitigation Measure 4.7.3 addresses this potential impact and is:

*MM 4.7.3: A Phase II Environmental Site Assessment report shall be prepared to determine the extent and exact nature of any pesticide or chemical residues present on the project site. Soils shall be taken from throughout the site to test pesticide contamination (chlorinated pesticides using EPA Test Method 8081 and 8082). If samples reveal concentrations of pesticide residue in excess of acceptable thresholds, actions shall be taken to remediate soil contamination to within the American Society for Testing and Materials (ASTM) International standards. Such actions could include excavation and disposal of contaminated soils from the site or bioremediation. A qualified Phase II Environmental Assessor shall be retained to develop and carry out a remediation plan, if necessary.*

(Draft EIR, pp. 4.7-24 to 4.7-25.)

#### **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.7.3, which has been required

in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project site and surrounding area have been used extensively for agricultural production in the past and have been subject to repeated pesticide use. Because the site has been historically used for agricultural operations, residual pesticide contamination may exist in on-site soils as well as in groundwater. Further site review is needed to determine the specific contaminants and the extent and level of pesticides that exist on the project site. Implementation of the mitigation measure described above would identify the nature and extent of contamination, if any, on the Project site and require its removal or treatment prior to construction activities, thereby eliminating potential exposure of people to hazardous substances. The impacts after mitigation would be *less-than-significant*. These facts support the City's finding. (Draft EIR, pp. 4.7-24 to 4.7-25; see also Secor International, Phase I Environmental Site Assessment (May 2006).)

#### **b. Impact 4.7.5: Abandonment of Wells, Irrigation Infrastructure, and Septic Systems**

##### **(1) Impact and Mitigation**

The Project site contains several old septic systems, wells for domestic and irrigation purposes as well as abandoned irrigation facilities. If not properly abandoned, these facilities could create a physical hazard. Mitigation Measures 4.7.5a, 4.7.5b and 4.7.5c address this potential impact and are:

*MM 4.7.5a:* The Project applicant shall obtain a permit from the City Building Division for the destruction and closure of all wells on the Project site in accordance with Chapter 13.05 of the City's Municipal Code. The Project applicant shall destroy all wells in accordance with the conditions of the permit and with the California Water Well Standards contained in Department of Water Resources Bulletins 74-81 and 74-90, prior to project construction.

*MM 4.7.5b:* The Project applicant shall remove and plug all irrigation facilities on the Project site to the satisfaction of Turlock Irrigation District standards prior to Project construction.

*MM 4.7.5c:* Prior to issuance of grading permits, any and all septic tanks on the Project site shall be abandoned under permit from the Stanislaus County Department of Environmental Resources.

(Draft EIR, p. 4.7-26.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.7.5a, 4.7.5b and 4.7.5c, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

One water well and four irrigation wells of unknown age were observed on the Project site. Furthermore, it can be assumed that other wells associated with the three buildings that have been demolished potentially exist on the Project site. Additionally, an irrigation pipeline runs from east to west at the approximate midpoint of the Project site. This pipeline, and any other irrigation facilities that may be discovered on the Project site, has been abandoned and may be removed and plugged in accordance with TID standards. If properly abandoned, the wells and irrigation facilities will not represent a concern to the Project site or Project.

No evidence of any cesspools or any leach fields and septic tanks other than what would have been associated with homesites were observed on the Project site. However, it is reasonable to assume that potential exists for the occurrence of cesspools, leach fields, and/or septic tanks due to the historic rural residential use of the site. Implementation of the mitigation measures described above would ensure proper abandonment and destruction of all wells, irrigation infrastructure, and septic tanks prior to construction activities, thereby eliminating potential exposure of people to related physical hazards. This impact after mitigation would be *less-than-significant*. These facts support the City’s finding. (Draft EIR, pp. 4.7-54 to 4.7-26; see also Secor International, Phase I Environmental Site Assessment (May 2006).)

## **8. Hydrology and Water Quality**

### **a. Impact 4.8.3: Degrade Surface Water Quality/Violate Water Quality Standards During Operation**

#### **(1) Impact and Mitigation**

Operation of the Project will introduce sediments and other contaminants typically associated with urban development into stormwater runoff, potentially resulting in the degradation of downstream water quality. Mitigation Measure 4.8.3 addresses this potential impact and is:

*MM 4.8.3:* Prior to approval of an improvement plan, the Project proponent shall provide a list of City-approved best management practices (BMPs) to be implemented on the site during operation of the Project that will protect receiving waters from urban contaminants in runoff. The BMPs shall be consistent with RWQCB guidelines and shall be obtained from the California Stormwater Quality Association's Stormwater Best Management Practice (BMP) Handbooks. At least 85 to 90 percent of annual average stormwater runoff from the site shall be treated per the standards in the 2003 California Stormwater Best Management Practices Handbooks. BMPs may include, but are not limited to, the following:

- Route drainage from paved surfaces either through swales, buffer strips, or sand filters or treat with a filtering system prior to discharge to the storm drain system;
- Use permeable pavement in parking areas and other low traffic areas;
- Direct downspouts to infiltration trenches;
- Provide stenciling or labeling of all storm drain inlets within and adjacent to the project site with prohibitive language such as "NO DUMPING";
- Cover loading dock areas, or design drainage to preclude urban run-on and runoff;
- Prohibit direct connections into storm drains from depressed loading docks. These areas should drain into water quality inlets, an engineered infiltration system, or an equally effective alternative;
- Design trash container areas so that drainage from adjoining roofs and pavement is diverted around the areas to avoid run-on. This might include berming or grading the waste storage areas to prevent run-on of stormwater;
- Use lined bins or dumpsters to reduce leaking of liquid waste;
- Provide roofs, awnings, or attached lids on all trash containers to minimize direct precipitation and prevent rainfall from entering containers;
- Pave trash storage areas with an impervious surface to mitigate spills;
- Do not locate storm drains in immediate vicinity of the trash storage areas; and
- Post signs on all dumpsters informing users that hazardous materials are not to be disposed of therein.

(Draft EIR, pp. 4.8-18 to 4.8-19.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.8.3, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project would convert the approximately 26.3-acre undeveloped site to urban uses. While the site plan includes some permeable surfaces (e.g., landscaped areas), the conversion to urban uses would substantially increase the impervious surface area, which in turn would increase runoff from roadways, parking areas, rooftops, and other surfaces that could contain oil and grease, heavy metals, chemicals, and other urban pollutants. Runoff from landscaped areas could also contribute chemicals from fertilizers, pesticides, and herbicides.

The stormwater runoff from the roof drains and the parking lot will be retained and stored in a series of oversized pipes that are designed to infiltrate the runoff, which is treated through gravel bed and wrapped in filter fabric, around the perforated pipes and dry wells. In order to prevent clogging of the system and ensuring the treatment of the first flush, the runoff from the parking lot will be pretreated by conveying the surface water through biofiltration grass swales in the landscape islands and perimeter landscaping areas, to the extent practical. Other areas of the parking lot will drain to catch basins with a sump and hooded outlet pipes. The sump will allow settlement of the sediments, and the hooded outlet pipe will prevent floatable material from entering the system. In addition, the inlets that collect runoff from garden center areas will be equipped with catch basin inserts in order to pre-treat and filter the runoff. The insert will consist of a series of trays, with the top tray serving as an initial sediment trap, and the underlying trays comprised of media filters. All catch basins and roof downspouts will have screens to collect larger particles and trash prior to entering the system.

The oversized pipes are sized to retain the volume of a 50 year storm event and meter the overflow through smaller pipes that connect to the existing storm drain systems along Mitchell Rd and Don Pedro Rd. The connection to the public system will incorporate a flap gate which will prevent reverse flow of water from the public line into the Project.

The City regulates pollutants in its storm drain system through Chapter 13, Water and Sewer, of the Municipal Code. This chapter includes storm drainage rules and regulations that are designed to protect water quality by prohibiting discharge of certain pollutants and requiring practicable measures to reduce pollutants. However, the Municipal Code does not identify best management practices that projects like the Project must implement. Therefore, further

mitigation is required to ensure Project impacts to surface water quality are reduced. Implementation of the mitigation measure described above would ensure that adequate BMPs are implemented during Project operation to minimize polluted runoff entering downstream drainages. The impact will be *less-than-significant* with mitigation. These facts support the City's finding. (Draft EIR, pp. 4.8-16 to 4.8-19.)

## **9. Noise**

### **a. Impact 4.10.4: On-Site Truck Traffic - Walmart**

#### **(1) Impact and Mitigation**

Implementation of the Project would result in on-site truck circulation noise from truck deliveries to the Walmart store. Mitigation Measure 4.10.4 addresses this potential impact and is:

*MM 4.10.4:* The following requirements shall be applied to the Project:

- Solid noise barriers shall be constructed behind the Walmart loading dock area between the two site accesses to Don Pedro Road, and also along the western site boundary to provide shielding to the existing apartment buildings to the west. The barriers shall be 8 feet in height (except where a reduction in height is required for sight distance within clear vision triangles), and shall be constructed of concrete masonry unit (CMU) block with at least three lbs./square foot surface density. Blocks shall be fully grouted. This measure is predicted to reduce noise from Walmart-generated on-site truck circulation by at least 5dB, thereby reducing noise levels to 42 dB L<sub>eq</sub> and 63 dB L<sub>max</sub> at the nearest residences.

(Draft EIR, pp. 4.10-26 to 4.10-27.)

#### **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.10.4, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

#### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

On-site truck circulation associated with the delivery of goods to the proposed Walmart store during a typical busy hour is predicted to result in noise levels of 47 dB  $L_{eq}$ , 68 dB  $L_{max}$ , and 79 dB SEL at the nearest residences to the north of the site. Truck traffic for the Walmart store will be routed to the rear (north end) of the Walmart store via Don Pedro Road. The on-site truck route would include trucks entering the Project site through entrances on Don Pedro Road, traveling along the northern side of the Walmart store to access loading bays, and exiting through access along Don Pedro Road. The nearest existing residences are located approximately 100 feet north and 140 feet west of truck passby areas while the trucks are on site.

Heavy truck passbys en route to the loading dock areas are expected to be relatively brief and produce a typical Single Event Level (SEL) of approximately 78 dB at a distance of 100 feet. The typical  $L_{max}$  level due to a heavy truck passby is approximately 68 dB at a distance of 100 feet. Medium-duty truck passbys generate typical SEL and  $L_{max}$  values which are 5 dB lower than heavy trucks, or 73 and 65 dB, respectively, at a reference distance of 100 feet. Should a heavy and medium-duty truck pass within 100 feet of the nearest residences to the north at the same time, the combined SEL from both trucks would equal 79 dB SEL.

The predicted noise levels associated with a typical busy hour of on-site truck circulation on the Walmart project site satisfy the City's daytime noise level standards of 55 dB  $L_{eq}$  and 70 dB  $L_{max}$  at the nearest residential uses to the proposed Walmart, but would exceed the City's nighttime standard of 65 dB  $L_{max}$ . The predicted exterior noise level of 79 dB SEL at the nearest residential building façades during heavy truck passages on site would be reduced to 54 dB SEL within residences with windows closed, which would satisfy the Project's 65 dB sleep disturbance criterion.

However, ambient conditions in the Project vicinity are currently elevated, which results in the City's 45 dB  $L_{eq}$  nighttime standard being increased to 50 dB  $L_{eq}$  during nighttime hours. Despite this increased nighttime noise limit, on-site circulation could still exceed the City's nighttime average noise level standard, and this impact is considered significant. Implementation of the mitigation measure described above will ensure that impacts associated with Walmart-generated on-site truck circulation are minimized to reduce conflicts with surrounding residential uses. This impact is reduced to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.01-25 to 4.10-27; see also Draft EIR, Appendix 4.10-1.)

## **b. Impact 4.10.6: Loading Dock Operations - Walmart**

### **(1) Impact and Mitigation**

Implementation of the Project would result in increased noises due to the delivery of goods to the Walmart store. Mitigation Measure 4.10.6 addresses this potential impact and is:

See MM 4.10.4. (Draft EIR, pp. 4.10-26 to 4.10-27.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.10.4, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The primary noise sources associated with the loading dock areas located behind the proposed Walmart store are the heavy trucks stopping (air brakes), backing into the loading docks (backup alarms), pulling out of the loading docks (engines accelerating), and short-term refrigeration unit operation. Heavy truck unloading will occur directly from the truck to the building, and sealed rubber gaskets will be provided at the truck docks to reduce noise from loading and unloading activities.

The proposed loading dock configuration for the Walmart store would locate the nearest loading docks approximately 185 feet from the closest residential uses. The predicted average noise levels associated with a typical busy hour of loading dock activity at the Walmart loading dock area satisfy the City’s daytime noise level standard, but would exceed the City’s nighttime standard. However, implementation of the mitigation measure described above to mitigate noise as a result of on-site truck traffic, requires construction of solid noise barriers behind the Walmart loading dock area between the two site accesses to Don Pedro Road, and along the western site boundary. In addition to mitigating on-site truck traffic, this mitigation measure is predicted to reduce noise levels from loading dock activities by at least 5 dB at the nearest residences, thereby reducing noise levels to 41 dB  $L_{eq}$  and 65 dB  $L_{max}$  at the nearest residences during the most restrictive nighttime hours. Accordingly, implementation of the mitigation measure will reduce loading dock noise to acceptable levels and impacts caused by loading dock operations is also reduced to a level of *less-than-significant*. These facts support the City’s finding. (Draft EIR, pp. 4.10-28 to 4.10-29; see also Draft EIR, Appendix 4.10-1.)

### **c. Impact 4.10.7: Loading Dock Operations - Majors 2, 3, and 4**

#### **(1) Impact and Mitigation**

Implementation of the Project would result in increased noise levels at loading docks for Majors 2, 3, and 4 stores. Mitigation Measures 4.10.7a, 4.10.7b and 4.10.7c address this potential impact and are:

*MM 4.10.7a:* The following requirements shall be applied to the Project:

- A solid noise barrier shall be constructed between the truck unloading areas of Majors 2, 3 and 4 and the nearest residence to the west. The barrier shall be 8 feet in height (except where a reduction in height will be required for sight distance within clear vision triangles), and shall be constructed of concrete masonry unit (CMU) block with at least three lbs/square foot surface density. Blocks shall be fully grouted. This measure is predicted to reduce noise from Majors 2, 3 and 4 unloading activities by at least 6 dB, thereby reducing noise levels to 40 dB L<sub>eq</sub> and 65 dB L<sub>max</sub> at the nearest residences during nighttime unloading activities.

OR

*MM 4.10.7b:* The following requirements shall be applied to the Project:

- Loading and unloading activities behind Majors 2, 3, and 4 shall be limited to daytime hours (7 am – 10 pm).

OR

*MM 4.10.7c:* If the City determines that the parcel has ceased to be considered by the City as having a noise sensitive use prior to implementation of either MM 4.10.7a or 4.10.7b, the City may consider the impact to have been reduced to a level that is *less-than-significant* and waive both of those mitigation options.

(Draft EIR, pp. 4.10-29 to 4.10-30.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.10.7a, 4.10.7b and 4.10.7c, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The predicted noise levels associated with a typical busy hour of loading dock activities at the Majors 2, 3, and 4 truck unloading areas will satisfy the City’s daytime noise level standards, but would exceed the City’s nighttime standards. This impact is potentially significant, as long as the adjacent parcel is considered residential. Under the scenario of continued residential use, two optional mitigation measures are presented that will reduce the impact on nighttime standards to a *less-than-significant* level.

Although the use of the parcel to the west of this area has a history of residential use, it is noted that the parcel is zoned R-C, Regional Commercial, District, and that its probable future use will be commercial. The parcel also is in an alignment that could be used to extend the potential future road south from Don Pedro Road on the west side of the proposed shopping center. Therefore, the historic use of that parcel as a residence may not continue and, if the use is determined to be changed prior to the time that the impact from the Project to a “residence” would otherwise need to be mitigated, the City could determine that the potential impact is resolved and would not need to require mitigation as otherwise presented in options MM 4.10.7a or MM 4.10.7b above. Therefore, mitigation measure MM 4.10.7c, is a provision whereby the City could determine that the potential significance of the impact is resolved by a change in use of the adjacent parcel and further mitigation is not necessary. Implementation of either mitigation measure MM 4.10.7a, MM 4.10.7b, or MM 4.10.7c will result in this impact being reduced to a level of *less-than-significant*. These facts support the City’s finding. (Draft EIR, pp. 4.10-29 to 4.10-30; see also Draft EIR, Appendix 4.10-1.)

## **10. Public Services and Utilities – Municipal Water**

### **a. Impact 4.12.2.4: Depletion of Groundwater Supplies**

#### **(1) Impact and Mitigation**

Implementation of the Project would result in increased consumption of municipal water, which is currently supplied by wells pumping groundwater. Mitigation Measure 4.12.2.4 addresses this potential impact and is:

*MM 4.12.2.4: All buildings on the Project site shall be equipped with sensor-activated restroom lavatories to reduce water usage.*

(Draft EIR, p. 4.12-19.)

#### **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.12.2.4, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

#### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

Since water will be allowed to percolate into the ground rather than running off the impervious surface, the impact to groundwater recharge as a result of the Project is less-than-significant. In addition, the City has adopted water-efficient guidelines and standards for commercial projects which require the use of drought-tolerant plant species and water-conserving irrigation methods and the Project will be required to comply with these guidelines and standards. Moreover, the Project incorporates water saving features into its design, including a stormwater retention system specifically designed to allow water to percolate into the soil, low-flow toilets, sensor-activated restroom fixtures and high-efficiency dishwashing operations to reduce the Project's demand for potable water. Implementation of the mitigation measure described above would further reduce water demands of the Project by discouraging wasteful water use in project restroom facilities. Accordingly, the Project will result in a *less-than-significant* impact on groundwater supply. These facts support the City's finding. (Draft EIR, pp. 4.12-18 to 4.12-19.)

**b. Impact 4.12.2.6: Cumulative Depletion of Groundwater Levels**

**(1) Impact and Mitigation**

Implementation of the Project, along with other development within the City and communities overlying the Turlock Groundwater Subbasin, would contribute to depletion of groundwater supplies and interference with natural recharge of the aquifer. Mitigation Measure 4.12.2.4, which is also described above, addresses this potential impact and is:

*MM 4.12.2.4: All buildings on the Project site shall be equipped with sensor-activated restroom lavatories to reduce water usage.*

(Draft EIR, p. 4.12-19 and 4.12-21 to 4.12-22.)

**(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.12.2.4, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

**(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The City has adopted water-efficient guidelines and standards for commercial projects which require the use of drought-tolerant plant species and water-conserving irrigation methods. A conceptual landscaping plan has been prepared for the Project in accordance with these

standards and guidelines, thereby reducing the Project's demand for irrigation water. Implementation of the mitigation measure described above would further reduce water demands of the proposed Project by discouraging wasteful water use in Project restroom facilities. In addition, cumulative water demand throughout the City and the subbasin is addressed through the City's participation in the groundwater basin association, and through the payment of water connection fees. Accordingly, the Project's incremental contribution to this cumulative impact is considered *less than cumulatively considerable* with mitigation. These facts support the City's finding. (Draft EIR, pp. 4.12-21 to 4.12-22.)

## **11. Transportation and Traffic**

### **a. Impact : Potential to Exceed Level of Service Standards for Designated Roads or Highways**

#### **(1) Impact and Mitigation**

Implementation of the Project could exceed a level of service standard established by the City of Ceres or Caltrans for the following intersections: East Whitmore/Mitchell Road, Don Pedro Road/Mitchell Road, Service Road/Mitchell Road and Rhode Road/Mitchell Road. Mitigation Measures 4.13.2a, 4.13.2b, 4.13.2e, and 4.13.2f address this potential impact and are:

*MM 4.13.2a:* The Project applicant shall modify Mitchell Road on the northbound approach to East Whitmore Avenue to provide a second left-turn lane, in conjunction with signal timing modifications. This improvement can be constructed within the existing right-of-way.

*MM 4.13.2b:* The Project applicant shall install a traffic signal at the intersection of Don Pedro Road and Mitchell Road. The signal shall include pedestrian signals and actuation. The signal shall be interconnected and coordinated with the proposed signal at the Mitchell Road entry to the project and to the City's Mitchell Road traffic signal interconnect system to minimize vehicle queue spill back through the area.

*MM 4.13.2e:* The Project applicant shall construct a second eastbound left-turn lane on Service Road to Mitchell Road, extend the northbound left-turn lane to provide at least 325 feet of vehicle storage, make signal modifications to provide protected east-west left-turn phasing, and pay for the City to evaluate the traffic signal timing six months subsequent to the issuance of the final certificate of occupancy of Walmart (Major 1) to ensure optional traffic flows through the intersection based on current conditions. This improvement may also require relocation of the existing traffic signal.

*MM 4.13.2f:* If the work has not already been completed by another project, the Project applicant shall install a traffic signal and realign Rhode Road as required. If the work has already been completed by another project, the Project shall reimburse the City its pro-rata share of the improvement.

(Draft EIR, pp. 4.13-29 to 4.13-36.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.13.2a, 4.13.2b, 4.13.2e and 4.13.2f, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The East Whitmore/Mitchell Road intersection operates at acceptable service levels in both the weekday AM and Saturday peak hours, although it operates at a deficient LOS F in the weekday PM peak hour in the Existing No Project condition. The Existing Plus Project condition would worsen the existing LOS F during the weekday PM peak hour, increasing delay by more than 5 seconds, and result in LOS F conditions during the Saturday peak hour. The recommended mitigation to Mitchell Road northbound is the provision of a second left-turn lane along with signal timing modifications. This improvement would provide additional capacity for the northbound left-turn movement and result in acceptable intersection operations 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.

The Don Pedro Road/Mitchell Road unsignalized intersection operates at an overall acceptable service level under the Existing No Project conditions and would continue to operate at an overall acceptable service level under the Existing Plus Project condition. However, the side-street movement operates at a deficient LOS E during the weekday AM peak hour and LOS F during the PM peak and Saturday peak hour. Implementation of mitigation measure MM 4.13.2b will reduce delay times for the side street turning movements at this intersection by installing a traffic signal, resulting in an acceptable level of service. With mitigation, this impact is reduced to a less-than-significant level.

The Service Road/Mitchell Road intersection currently operates acceptably under the Existing No Project condition. Under the Existing Plus Project Condition, 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. However, the Project will be required to construct a series of improvements that would result in acceptable intersection operations as the improvements provide additional intersection capacity, reducing the Project impact to a less-than-significant level.

The Rhode Road/Mitchell Road unsignalized intersection currently operates at an overall acceptable level of service under Existing No Project conditions, although the side-street movements operate deficiently. Under the Existing Plus Project condition, 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 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.

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 and a southbound right-turn pocket and relocating the intersection north of its current location to facilitate the eventual implementation of the Service Road/Mitchell Road interchange improvements. These improvements would result in an intersection configuration that would provide sufficient capacity to accommodate traffic from both the Ceres Gateway Center and the Project. Should the Project develop prior to the Ceres Gateway Center, the intersection should be located further north, which would provide additional weaving distance for vehicles exiting SR 99, and install a traffic signal at the resulting relocated intersection. The right-of-way for the realignment has already been dedicated, and the improvement plans for the traffic signal and realigned roadway have already been approved by the City. Implementation of the alternative improvements would result in acceptable intersection operations, as the improvements would provide additional intersection capacity, reducing the Project impacts to a *less-than-significant* level.

These facts support the City's finding. (Draft EIR, pp. 4.13-28 to 4.13-36; see also Draft EIR, Appendix 4.13-1.)

### **b. Impact 4.13.3: Construction-Related Traffic Impacts**

#### **(1) Impact and Mitigation**

Implementation of the Project could substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). Mitigation Measure 4.13.3 addresses this potential impact and is:

*MM 4.13.3:* The Project applicant shall develop a construction management plan for review and approval by the City of Ceres Public Works Department. The plan shall include at least the following items:

- Development of a construction truck route that would appear on all construction plans to limit truck and auto traffic on nearby residential streets;
- Comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hour traffic hours, detour signs if required, land

closure procedures, sidewalk closure procedures, cones for drivers, and designated construction access routes;

- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur;
- Location of construction staging areas for materials, equipment, and vehicles;
- Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety, and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the Project applicant; and
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager.

(Draft EIR, pp. 4.13-42 to 4.13-43.)

## **(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.13.3, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

## **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project’s construction phase is anticipated to last 14 months. Impacts to transportation and traffic resulting during the construction phase of the Project include the potential to disrupt traffic flows, blocking lanes in area roadways, and contributing to decreased levels of service and/or increased volumes of traffic in fewer lanes. Traffic impacts during Project construction can also include disruption of alternative modes of transportation, such as blocking bicycle or pedestrian pathways or public transit lanes on area roadways. Additional impacts may result during the construction phase of the Project, when there are heavy-duty construction vehicles sharing the roadway with normal vehicle traffic. This can create impacts due to incompatible uses and hazards. Impacts resulting to transportation and traffic due to Project construction will be temporary in nature; however, this impact is considered potentially significant.

Implementation of the mitigation measure described above would reduce the Project's temporary construction impacts by informing the public of construction schedules, possible detours, and timing to allow the public to select alternate routes in advance of construction periods. By ensuring adequate advance notice of closures and construction, and providing alternate pedestrian/bicycle routes as necessary to support possible closures and construction, this temporary construction impact is reduced to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.13-41 to 4.13-42; see also Draft EIR, Appendix 4.13-1.)

**c. Impact 4.13.4: Site Circulation and Access**

**(1) Impact and Mitigation**

Implementation of the Project could result in inadequate emergency access at the following intersections: Don Pedro Road/Driveway 1, Don Pedro Road/Driveway 2 and Service Road/Right-In/Left-Out Driveway 6 (Westernmost Service Road Driveway). Mitigation Measures 4.13.4a, 4.13.4b and 4.13.4c address this potential impact and are:

*MM 4.13.4a:* If El Camino Avenue is realigned in the future, provide a right turn only exit from the site to the realigned El Camino Avenue, and restrict Don Pedro Road/Driveway 1 to inbound movements only through the use of signage and striping.

*MM 4.13.4b:* If El Camino Avenue is realigned in the future, Don Pedro Road should be restriped to provide a two-way left-turn lane to allow vehicles entering this driveway to pull out of the through lane.

*MM 4.13.4c:* This driveway shall be restricted to right-in/right-out/left-out operations. At such time as the interchange improvements are installed, the right-out and left-out access at this location shall be removed and the median modified accordingly. When this occurs, the westerly driveway (6) will become right-in only.

(Draft EIR, pp. 4.13-47 to 4.13-45.)

**(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measures 4.13.4a, 4.13.4b and 4.13.4c, which have been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

### **(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Don Pedro Road/Driveway 1 intersection is projected to operate at acceptable service levels as currently proposed. It is planned as a minor site driveway, primarily providing access to the loading dock area behind the Walmart (Major 1) and, to less extent deliveries to Majors 2, 3, and 4, and Shops 3. However, given the projected levels of traffic for the other driveways, some drivers of delivery vehicles may prefer to use this driveway. While provision of a left-turn pocket to allow delivery vehicles to turn into the site without blocking traffic would maintain traffic flow on Don Pedro Road, it could also encourage more vehicles to use Don Pedro Road. With the potential to realign El Camino Avenue along the western boundary of the site, connecting to Don Pedro Road with construction of the Service Road/SR 99 interchange, the resulting Don Pedro Road/El Camino Avenue intersection would be located less than 50 feet from Driveway 1, possibly causing access hazards. With implementation of mitigation measure MM 4.13.4a, conflicts between vehicles turning from the driveway and El Camino Avenue to Don Pedro Road will be minimized to a less-than-significant level.

The Don Pedro Road/Driveway 2 intersection is projected to operate at acceptable service levels as currently proposed. It is planned as a minor site driveway that would primarily provide access to the loading dock area behind the Walmart building. Should El Camino Avenue be realigned as shown on the site plan, it is recommended that this section of Don Pedro Road be restriped to provide a two-way left-turn lane to allow vehicles entering this driveway to pull out of the through lane. With the realignment of El Camino Avenue, traffic volumes are projected to increase on Don Pedro Road as El Camino would provide a more direct route from the central business district to the Project site. Providing a separated left turn movement into this driveway through implementation of mitigation measure MM 4.13.4b would ensure that vehicles turning left from Don Pedro Road into this site do not spill back from this driveway to Mitchell Road, potentially impeding through traffic on Mitchell Road and would reduce this impact to a less-than-significant level.

The Service Road/Right-in/Right-out/Left-out Driveway 6 intersection would operate acceptably as planned under Existing Plus Project conditions. The proposed design provides sufficient vehicle storage to accommodate the projected 95th percentile vehicle queues for exiting vehicles under Existing Plus Project conditions. With the increased traffic volumes on Service Road there would be too few gaps to accommodate southbound left-turning traffic from the driveway, resulting in high delay and long queues for this movement. Implementation of mitigation measure MM 4.13.4c will increase the gaps in traffic, allowing for turning movements which reduces the amount of queuing, thereby reducing this impact to a less-than-significant level.

These facts support the City's finding. (Draft EIR, pp. 4.13-45 to 4.13-47; see also Draft EIR, Appendix 4.13-1.)

**d. Impact 4.13.6: Adopted Alternative Transportation Policies, Plans, or Programs**

**(1) Impact and Mitigation**

Implementation of the Project may conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks). Mitigation Measure 4.13.6 addresses this potential impact and is:

*MM 4.13.6: In development of the final site plan, the Project applicant shall:*

- Consult with Ceres Area Transit and City staff regarding the final location of transit amenities prior to approval of the site plan;
- Provide pedestrian connectivity between building entrances and planned transit stops;
- Ensure pedestrian connectivity to transit and other planned pedestrian facilities with development of any sound walls proposed within the Project site;
- Construct sidewalks wide enough to comfortably accommodate two-way pedestrian travel (minimum of 5 feet);
- Consult with City of Ceres staff to determine the type of bicycle facility that should be accommodated on Service Road along the project frontage and provide sufficient right-of-way; and
- Orient bicycle parking for both patrons and employees of the Project.

(Draft EIR, p. 4.13-49.)

**(2) Finding**

“Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.” (CEQA Guidelines, § 15091, subd. (a)(1).) Mitigation Measure 4.13.6, which has been required in or incorporated into the Project, will reduce the significant environmental impact to a *less-than-significant* level.

**(3) Facts in Support of Finding**

The following facts indicate that the identified impact will be reduced to a *less-than-significant* level. These facts are a summary of the facts contained in the administrative record as a whole and are not an exclusive recitation of the facts supporting the finding.

The Project would include improvements to Mitchell Road and Service Road, including roadway paving and construction of sidewalks, curbs, and gutters along the southern and eastern property lines. A bus pullout is proposed on the west side of Mitchell Road, just south of Don Pedro Road. Based on the City Bikeway Plan contained in the General Plan, Class II or III bicycle facilities are planned on Service Road, El Camino Avenue, and Central Avenue. Construction of the Project would not necessarily preclude the construction on these facilities; however, the Project applicant should discuss with the City the ultimate bicycle facilities planned along the Project frontage so that these facilities can be accommodated within the planned roadway cross-section.

A Class I bicycle path is proposed along the Ceres Main Canal, east of and parallel to Mitchell Road. Pedestrian paths connecting the main roadway to the site are shown on the Project site plan. A potential transit stop is shown on the Mitchell Road project frontage, north of the main driveway. Ceres Area Transit should be consulted to determine if other transit amenities, such as a bus shelter, should be provided on the Project frontage. Implementation of the mitigation measure described above will allow for expansion of the transit alternatives for the site and reduce this impact to a *less-than-significant* level. These facts support the City's finding. (Draft EIR, pp. 4.13-48 to 4.13-49; see also Draft EIR, Appendix 4.13-1.)

#### **D. Significant Environmental Impacts That Cannot be Mitigated to a Less-than-Significant Level**

The following significant impacts would not be mitigated to a less-than-significant level, even with the implementation of the identified mitigation measures set forth herein. No mitigation is feasible that would mitigate this impact to a less-than-significant level. The City has determined that the impacts identified below are acceptable because of overriding economic, social or other considerations, as described in the Statement of Overriding Considerations. As required by CEQA, a Statement of Overriding Considerations is presented in Section XI below in addition to these findings.

##### **1. Air Quality**

###### **a. Impact 4.2.9: Contribution to Cumulative Air Quality Standard Violations**

###### **(1) Impact and Mitigation**

Implementation of the Project would not individually result in significant emissions of criteria air pollutants but may result in a cumulatively considerable impact to the existing regional air quality conditions. There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, p. 4.2-33; Final EIR, pp. 2.0-43 – 2.0-46, 3.0-3, FEIR Appendix C; see also Draft EIR, Appendix 4.2-1.)

## **(2) Finding**

There are no additional feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

## **(3) Facts in Support of Finding**

The Project's long-term ROG, NO<sub>X</sub>, and particulate matter emissions would not be significant on an individual project basis. The Project incorporates mitigation measures and design features that would reduce emissions to a less-than-significant level; therefore, no further mitigation is required.

SJVAPCD considers any proposed project that would individually have a significant air quality impact to also have a significant cumulative air quality impact except in the case of carbon monoxide (CO) and hazardous air pollutant (HAP) emissions, to which different standards of significance apply. It is reasonable to assume that numerous projects may be under construction simultaneously with the Project throughout the air basin. As all projects will be subject to the same rules and regulations as the Project, it is also reasonable to assume that similar mitigation measures will be applied by the various agencies with jurisdiction over the projects. These mitigation measures include dust control, restrictions on construction equipment, and modifications to the building and landscaping plans similar to the Project. The Project would incorporate mitigation measures and design features and although similar mitigation measures would be applied to other projects within the District, it is reasonable to assume that cumulatively these projects may result in significant and unavoidable impacts.

Therefore, the Project's cumulative impact to air quality from operational emissions is considered cumulatively considerable and significant and unavoidable. (Draft EIR, p. 4.2-33; Final EIR, pp. Final EIR, pp. 2.0-43 – 2.0-46, 3.0-3, FEIR Appendix C; see also Draft EIR, Appendix 4.2-1.)

## **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the "Statement of Overriding Considerations" (Section XI).

### **2. Agricultural Resources**

#### **a. Impact 4.11.1: Conversion of Prime Farmland**

##### **(1) Impact and Mitigation**

Implementation of the Project would result in the conversion of approximately 16.7 acres of Prime Farmland to nonagricultural uses, which would constitute the loss of an irreplaceable

resource. There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, p. 4.11-12.)

## **(2) Finding**

There are no feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

## **(3) Facts in Support of Finding**

The Project site was formerly used for agricultural practices and a 16.7-acre portion of the Project site is designated as Prime Farmland by the Department of Conservation Farmland Mapping and Monitoring Program; however, the site has not been in active production for a number of years. Additionally, the Project site is largely bound by commercial and residential uses to the north, west and east and a proposed commercial development to the south. Although the Project site has not been actively utilized for agricultural production in recent years, the Project will result in the conversion of approximately 16.7 acres of Prime Farmland to nonagricultural uses, reducing the amount of Important Farmland by approximately 0.004 percent in Stanislaus County.

The Mitchell Road Corridor Specific Plan (1989) designates the Project site for urban use (Regional Commercial). Consistent with this designation, the City's General Plan (1997) designates the Project site for urban development and the General Plan EIR (1996) identified the conversion of agricultural land to urban uses as a significant and unavoidable consequence of adopting and implementing the General Plan. The City adopted a finding that the 1997 General Plan would result in the conversion of approximately 3,000 acres of land classified as Prime Farmland and Farmland of Statewide Importance to urban development, and that this significant and unavoidable impact was outweighed by the benefits of implementing the General Plan. The Project would contribute to, but would not exceed, the loss of agricultural land considered and overridden when the 1997 General Plan was adopted. However, implementation of the Project would result in the loss of agricultural land, including Prime Farmland, which is considered significant and unavoidable. (Draft EIR, p. 4.11-12.)

Some commenters have suggested that this impact be mitigated through the purchase of agricultural easements. The City finds that an agricultural easement is not a feasible mitigation measure for the following reasons. First, since the City, in adopting the General Plan and Mitchell Road Corridor Specific Plan, has already identified the loss of agricultural land within the City as a significant and unavoidable impact and adopted a statement of overriding considerations for that impact, no further mitigation is required for this impact.

Second, the purchase of agricultural easements does not mitigate the impact to a less than significant level. The purchase of agricultural easements merely preserves existing farmland elsewhere. It does not reduce or eliminate the conversion of the Project site from agricultural land to non-agricultural uses nor does it create new farmland to replace the lost farmland.

Finally, the development of the Project site with commercial uses is consistent with the City's goals of protecting agricultural uses by encouraging urban development in appropriate areas and avoiding leapfrog development. The Project site is located close to Highway 99 and is a relatively small site surrounded by development. The site has not been used for agricultural production for several years and the City's long-term vision for the site as expressed in the General Plan and Mitchell Road Corridor Specific Plan is commercial development. Requiring an agricultural easement to develop this site would be inconsistent with the City's land use goals and policies. Furthermore, City does not have a program that requires the use of conservation easements.

For these reasons, the City finds that an agricultural easement would not be feasible mitigation.

#### **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the "Statement of Overriding Considerations" (Section XI).

#### **b. Impact 4.11.4: Cumulative Impacts to Agricultural Resources**

##### **(1) Impact and Mitigation**

Implementation of the Project would contribute to cumulative impacts on agricultural lands, which is a cumulatively considerable impact. There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, p. 4.11-14.)

##### **(2) Finding**

There are no feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

##### **(3) Facts in Support of Finding**

Implementation of the Project would result in the conversion of approximately 16.7 acres of land classified as Prime Farmland. There are a number of other projects in the City and surrounding area that will likely also result in the loss of Important Farmlands depending on their individual locations. In particular, the City is preparing a specific plan for a large area located west of the City in unincorporated Stanislaus County. This area is almost entirely classified as Important Farmland. Therefore, the Project, in combination with other projects, would result in a cumulatively considerable impact to the agricultural resources of the region and would contribute to the statewide loss of farmland.

The Final EIR for the City's General Plan (1996) determined that buildout of the General Plan would result in the conversion of approximately 3,000 acres of land designated as Prime Farmland or Farmland of Statewide Importance, including the Project site, to urban uses. This impact was determined to be significant and unavoidable. Implementation of the Project would contribute to this anticipated loss and to the ongoing conversion of farmland to urbanized uses in Stanislaus County, the greater Central Valley region, and the state.

Because the Project would permanently convert Prime Farmland to nonagricultural uses, it would significantly contribute to the cumulative loss of farmland in Stanislaus County and the State as a whole. Therefore, the Project would have a cumulatively considerable contribution to this significant and unavoidable impact. (Draft EIR, p. 4.11-14.)

#### **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the "Statement of Overriding Considerations" (Section XI).

### **3. Transportation and Traffic**

#### **a. Impact 4.13.1: Increase in Traffic Surrounding the Project**

##### **(1) Impact and Mitigation**

Implementation of the Project could cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system surrounding the Project (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections). There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, pp. 4.13-27 to 4.13-28; see also Draft EIR, Appendix 4.13-1.)

##### **(2) Finding**

There are no feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

##### **(3) Facts in Support of Finding**

On Don Pedro Road, east of El Camino Avenue, the Project is expected to increase daily traffic volumes by approximately 120 vehicles per day (vpd) through the neighborhood. This increase in traffic of approximately 12 percent would generally not be noticeable to residents on this portion of Don Pedro Road. 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 physically

accommodate this amount of traffic, the increase in traffic might make it more difficult for residents to back out of driveways and onto Don Pedro Road. There are approximately six driveways serving parcels on the north side of Don Pedro Avenue along the Project frontage that would experience degraded driveway access.

Traffic calming measures, such as curb extensions, traffic circles, speed humps, speed feedback signs, and similar physical changes to the roadway, can be installed to address impacts associated with an increase in traffic. These measures are intended to reduce vehicle speeds, increase the gaps between vehicles, and generally discourage use of the roadway as a shortcut to gain access to the Project site. Traffic calming measures would only be installed in existing neighborhoods after the City has discussed the measures with the neighborhood. Other issues, such as emergency vehicle access, on-street parking, and driveway locations, are balanced against the neighborhood's concern over the increase in traffic. Mitigation measure MM 4.13.1 provides for the preparation and implementation of a traffic calming plan in conjunction with the Project.

Even with the traffic calming measures described in mitigation measure MM 4.13.1, it cannot be known with certainty that the vehicle reduction will occur. As a result, this impact would remain significant and unavoidable. (Draft EIR, pp. 4.13-27 to 4.13-28; see also Draft EIR, Appendix 4.13-1.)

#### **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the "Statement of Overriding Considerations" (Section XI).

##### **b. Impact 4.13.2: Exceed Level of Service Standards**

###### **(1) Impact and Mitigation**

Implementation of the Project could exceed a level of service standard established by the City or Caltrans for designated roads or highways including the intersections of Service Road/Moffett Road, Service Road/El Camino Avenue, Northbound State Route (SR) 99/Off-Ramp/On-Ramp/Mitchell Road and Southbound SR 99/On-Ramp/Off-Ramp/Mitchell Road. There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, pp. 4.13-28 to 4.13-41; see also Draft EIR, Appendix 4.13-1.)

###### **(2) Finding**

There are no feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

### (3) Facts in Support of Finding

Service Road/Moffett Road: This unsignalized intersection operates at an overall acceptable service level under the Existing No Project conditions and would continue to operate at an overall acceptable service level under the Existing Plus Project condition. Neither the peak hour volume nor delay signal warrant would be satisfied 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 onto Service Road during the PM peak hour. This would result in deficient operations for the side-street movement. MM 4.13.2c requires that the Project applicant widen, in accordance with existing improvement plans already approved by the City, the southbound approach of Moffett Road to the Service Road intersection to allow striping of a left turn lane. The mitigation measure would widen the southbound approach to provide separate left- and right-turn lanes and would reduce delay for vehicles turning from Moffett Road onto Service Road. 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-turning vehicles to bypass left-turning vehicles, reducing delay for right-turn movements. However, even with this alternative improvement in place, this impact would remain significant in the Existing Plus Project condition. In addition, there are no other feasible alternative mitigation measures to reduce the impact to a less-than-significant level. Accordingly, this impact remains significant and unavoidable.

Service Road/El Camino Avenue: This unsignalized intersection operates at an overall acceptable service level under the Existing No Project conditions and would continue to operate at an overall acceptable service level under the Existing Plus Project condition. Neither the peak hour volume nor the delay signal warrant would be satisfied under the Existing Plus Project condition. The side-street movements also operate acceptably; however, the addition of Project traffic would result in LOS F for the vehicles turning from El Camino Avenue to Service Road during the PM peak hour. This would result in deficient operations for the side-street movement. Mitigation is proposed that would require the Project applicant to widen and restripe the southbound approach to provide separate left- and right-turn lanes for vehicles turning from El Camino Avenue onto Service Road and widen and restripe Service Road to provide a westbound right-turn lane. In addition, the southbound left-turn pocket should accommodate one vehicle (approximately 25 feet). While these improvements would reduce delay and improve intersection operations, the resulting LOS E exceeds the LOS D standard for the intersection. In addition, there are no other feasible alternative mitigation measures to reduce the impact to a less-than-significant level. Accordingly, this impact remains significant and unavoidable.

Northbound SR 99 Off/On-Ramp/Mitchell Road: This unsignalized intersection currently operates at an overall acceptable level of service under the Existing No Project Condition as only the northbound movements and westbound left-turn movements (which are minimal) are stop-controlled. However, given the close proximity of this intersection to the Southbound SR 99 On/Off-Ramp/Mitchell Road and Rhode Road/Mitchell Road intersections, which are projected to operate deficiently under the Existing Plus Project condition, vehicle queues 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. Mitigation is proposed that would require the Project applicant to provide improvement plans to Caltrans and to the City that eliminates westbound left-turn movement for non-emergency vehicles, eliminates the stop-control for the northbound movement, and modifies striping. If approved by Caltrans, the Project applicant shall construct the improvement. Construction of these improvements would provide additional intersection capacity, resulting in acceptable intersection operations and reducing the project impact to a less-than-significant level. While these improvements would reduce impact to a less-than-significant level, neither the Project applicant nor the City has the ability to guarantee the approval of these improvements or the timing of their construction, as they are within the Caltrans right-of-way. As a result, this impact remains significant and unavoidable.

Southbound SR 99 On/Off-Ramp/Mitchell Road: This unsignalized intersection currently operates at acceptable levels of service under the Existing No Project condition, although the side-street movements operate deficiently. Under the Existing Plus Project condition, the addition of Project traffic would increase delay for these movements and worsen operations for the already deficient side-street movement. The addition of Project traffic would also cause overall unacceptable operations during the weekday PM and Saturday afternoon peak hours. Further, the peak hour signal warrants would be satisfied at this intersection prior to the addition of Project traffic. Mitigation is proposed that would require the Project applicant to provide improvement plans to Caltrans and to the City that install a 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, and modify striping. If approved by Caltrans, the Project applicant shall construct the improvement. Implementation of the improvements would result in acceptable intersection operations as the improvement provides additional intersection capacity, reducing the Project impact to a less-than-significant level. While these improvements would reduce the impacts to a less-than-significant level, neither the Project applicant nor the City has the ability to approve the design exception, nor can the City guarantee the approval of these improvements or the timing of their construction. As a result, this impact remains significant and unavoidable.

(Draft EIR, pp. 4.13-28 to 4.13-41; see also Draft EIR, Appendix 4.13-1.)

#### **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the “Statement of Overriding Considerations” (Section XI).

**c. Impact 4.13.7: Cumulative Demands on Traffic**

**(1) Impact and Mitigation**

Implementation of the Project may cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or reduction in level of service) at various intersections including Service Road/Central Avenue, Service Road/Lucas Road, Service Road/El Camino Avenue, Service Road/Mitchell Road, Northbound SR 99/Off-Ramp/On-Ramp/Mitchell Road and Southbound SR 99/On-Ramp/Off-Ramp/Mitchell Road during the cumulative plus project condition. There are no feasible mitigation measures that would reduce this impact to a level of less-than-significant. (Draft EIR, pp. 4.13-53 to 4.13-62; see also Draft EIR, Appendix 4.13-1.)

**(2) Finding**

There are no feasible mitigation measures that would substantially lessen the severity of the significant effect or reduce that effect to a less-than-significant level. Therefore, the impact would remain significant and unavoidable.

**(3) Facts in Support of Finding**

Service Road/Central Avenue: This intersection is projected to operate deficiently in the Cumulative Without Project condition in the AM peak hour. Under the Cumulative Plus Project condition, the addition of Project traffic would increase average delay by more than 5 seconds during the AM peak hour and result in deficient operations (LOS E) during the PM peak hour, which is considered a significant impact. Mitigation is proposed that would require the Project applicant to contribute its fair share toward the construction of improvements that would result in acceptable intersection operations, including construction of a third eastbound and a third westbound through lane (on Service Road), construction of a southbound right-turn-only lane on Central Avenue, and construction of a second westbound left-turn lane on Service Road and associated receiving lanes. Eventual implementation of these improvements would result in LOS D operations, as additional intersection capacity would be provided reducing the Project impact to a less-than-significant level. Because the remainder of the funding has not been identified, collection of fair share fees from the Project may not result in construction of the improvements. Should right-of-way and funding not be available to construct these improvements, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

Service Road/Lucas Road: This unsignalized intersection is projected to operate deficiently in the Cumulative Without Project condition during the weekday AM and PM, and Saturday peak hours. Under the Cumulative Plus Project Condition, the addition of Project traffic would increase side-street delay by more than 30 seconds. Peak hour signal warrants are satisfied prior to the addition of Project traffic. The addition of Project traffic would worsen operations during the weekday AM and PM, and Saturday peak hours, resulting in a

cumulatively considerable impact. Mitigation is proposed that would require the Project applicant to pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements. As part of the interchange improvement project, this intersection would be realigned to connect with Moffett Road and the resulting intersection would operate at acceptable service levels, reducing this impact to *less than cumulatively considerable*. However, neither the City nor the Project applicant can control the timing or implementation of the mitigation. Therefore, payment of fees towards the construction of the Interchange Project will not fully mitigate this impact. In addition, there are no other feasible alternative mitigation measures to reduce the impact to a less-than-significant level. Accordingly, this impact remains significant and unavoidable. Since payment of fees towards the SR-99 Interchange improvements will not fully mitigate this impact and no other feasible mitigation is available, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

Service Road/El Camino Avenue: This unsignalized intersection is projected to operate deficiently in the Cumulative Without Project condition during the weekday AM and PM, and Saturday peak hours. Under the Cumulative Plus Project condition, the addition of Project traffic would increase side-street delay by more than 30 seconds. Peak hour signal warrants are satisfied prior to the addition of Project traffic. The addition of Project traffic would worsen operations during the weekday AM and PM, and Saturday peak hours. This is considered a cumulatively considerable impact. Mitigation is proposed that would require the Project applicant to pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements. As part of the interchange improvement project, this intersection would be realigned to connect with Moffett Road and the resulting intersection would operate at acceptable service levels, reducing this impact to *less than cumulatively considerable*. Since payment of fees towards the SR-99 Interchange improvements will not fully mitigate this impact and no other feasible mitigation is available, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

Service Road/Mitchell Road: This intersection is projected to operate deficiently in the Cumulative Without Project condition during the weekday AM and PM peak hours. Under the Cumulative Plus Project condition, the addition of Project traffic would worsen operations during the weekday AM and PM peak hours, increasing average delay by more than 5 seconds, and result in deficient operations during the Saturday peak hour. This is considered a significant impact. Mitigation is proposed that would require the Project applicant to pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements. As part of the interchange improvement project, this intersection would be realigned to connect with Moffett Road and the resulting intersection would operate at acceptable service levels, reducing this impact to *less than cumulatively considerable*. Since payment of fees towards the SR-99 Interchange improvements will not fully mitigate this impact and no other feasible mitigation is available, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

Northbound SR 99/Off-On-Ramp/Mitchell Road: This unsignalized intersection is projected to operate deficiently in the Cumulative Without Project condition during the weekday PM peak hour. Under the Cumulative Plus Project condition, the addition of Project traffic would increase side-street delay by more than 30 seconds during the PM peak hour and result in deficient operations during the Saturday peak hour. This is considered a significant impact. The peak hour signal warrants would be satisfied at this intersection prior to the addition of project traffic. Implementation of mitigation measure MM 4.13.2g would result in acceptable intersection operations, reducing the Project impact to a less-than-significant level. However, implementation may require a Caltrans design exception. As neither the City nor the applicant can control the timing of the improvement, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

Southbound SR 99/On/Off-Ramp/Mitchell Road: This unsignalized intersection is projected to operate deficiently in the Cumulative Without Project condition during the weekday AM and PM, and Saturday peak hours. Under the Cumulative Plus Project condition, the addition of Project traffic would increase side-street delay by more than 30 seconds which is considered a significant impact. The peak hour signal warrants would be satisfied at this intersection prior to the addition of Project traffic. Implementation of mitigation measure MM 4.13.2h would result in acceptable intersection operations, reducing the Project impact to a less-than-significant level. However, implementation may require a Caltrans design exception. As neither the City nor the applicant can control the timing of the improvement, the Project would have a cumulatively considerable contribution to traffic at this intersection resulting in a significant and unavoidable impact.

(Draft EIR, pp. 4.13-28 to 4.13-41; see also Draft EIR, Appendix 4.13-1.)

#### **(4) Statement of Overriding Considerations**

The City Council has found that the Project benefits outweigh the significant unavoidable impacts of the Project. The full discussion can be found in the “Statement of Overriding Considerations” (Section XI).

### **VIII. FINDINGS REGARDING ALTERNATIVES**

Public Resources Code Section 21002, a key provision of CEQA, provides that “public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]” The same statute states that the procedures required by CEQA “are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”

Where a lead agency has determined that, even after the adoption of all feasible mitigation measures, a project as proposed will still cause one or more significant environmental effects that cannot be substantially lessened or avoided, the agency, prior to approving the

project as mitigated, must first determine whether, with respect to such impacts, there remain any project alternatives that are both environmentally superior and feasible within the meaning of CEQA. Although an EIR must evaluate this range of *potentially* feasible alternatives, an alternative may ultimately be deemed by the lead agency to be “infeasible” if it fails to fully promote the lead agency’s underlying goals and objectives with respect to the project. (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.) “[F]easibility” under CEQA encompasses ‘desirability’ to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors.” (*Ibid.*; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Thus, even if a project alternative will avoid or substantially lessen any of the significant environmental effects of the project, the decision-makers may reject the alternative if they determine that specific considerations make the alternative infeasible.

Section 5 of the Draft EIR discussed several alternatives to the Project in order to present a reasonable range of options. The alternatives evaluated included:

- Alternative 1: No Project Alternative: The City would not approve the Project and the Project site would continue in its existing undeveloped state until the Project site is developed with other regional commercial land uses as anticipated in the Mitchell Road Corridor Specific Plan.
- Alternative 2: Site Redesign Alternative: The Project, as proposed, would be developed under a more dense development pattern with an eastward orientation.
- Alternative 3: Proposed Project with Interchange and El Camino Avenue Realignment Alternative: The Project would be developed on a smaller portion of the Project site and be realigned with a more eastward orientation to accommodate changes related to the potential State Route 99/Mitchell Road/Service Road interchange and El Camino Avenue realignments.
- Alternative 4: Off-Site Alternative: The Project, as proposed, would be developed on an alternative site located approximately 1,000 feet southeast of the Project site in the City.

The City Council recognizes that some comments on the Draft EIR either expressly or impliedly sought the inclusion of additional alternatives to the Project. Specifically, the commenters raised questions whether the reconfiguration of uses on the property would substantially reduce or avoid impacts of the project, especially those impacts on Don Pedro Road and the adjacent neighborhood. As shown in the Master Response in the FEIR, however, none of these proposed alternatives would substantially reduce or avoid the impacts of the project and, in some cases, would have the potential to increase impacts. As such, for the reasons stated in the FEIR, the City Council rejects further consideration of these alternatives.

As is evident from the specific response given to such suggestions, City staff and consultants spent large amounts of time carefully considering and weighing proposed alternatives. In no instance did the City fail to take seriously a suggestion made by a commenter.

The City Council finds that a good faith effort was made to evaluate all feasible alternatives in the EIR that are reasonable alternatives to the Project and could feasibly obtain the basic objectives of the Project, even when the alternatives might impede the attainment of the Project objectives and might be more costly. As a result, the scope of alternatives analyzed in the EIR is not unduly limited or narrow. The City Council also finds that all reasonable alternatives were reviewed, analyzed and discussed in the review process of the EIR and the ultimate decision on the Project. (See, e.g., Draft EIR, pp. 5.0-1 to 5.0-120.)

#### **A. Significant and Unavoidable Impacts of the Project**

The EIR summarized the significant and unavoidable impacts of the Project. Significant effects related to air quality, agricultural resources, and transportation and circulation that cannot be avoided would occur. The significant unavoidable impacts are as follows:

- Air Quality: Implementation of the Project, even with mitigation, has the potential to result in a cumulatively considerable impact to the existing regional air quality conditions, which is a significant and unavoidable impact to air quality.
- Agricultural Resources: Implementation of the Project would result in the conversion of approximately 16.7 acres of Prime Farmland to nonagricultural uses and would contribute to cumulative impacts on agricultural lands, thus resulting in significant and unavoidable impacts to agricultural resources.
- Transportation and Circulation: Development of the Project could cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system surrounding the Project (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections) and, even with the implementation of traffic calming mitigation measures, it cannot be known with certainty that the vehicle reduction will occur. In addition, development of the Project could exceed a level of service standard established by the City of Ceres or Caltrans for the unsignalized intersections at Service Road/Moffett Road, Service Road/El Camino Avenue, Northbound State Route 99 Off/On-Ramp/Mitchell Road, Southbound State Route 99 On/Off-Ramp/Mitchell Road and at the intersection of Service Road/Mitchell Road. As a result, impacts to transportation and circulation in these respects would remain significant and unavoidable. Finally, the Project may cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or reduction in level of service), during the cumulative plus Project condition at the Service Road/Central Avenue, Service Road/Moffett Road,

Service Road/El Camino Avenue, Service Road/Mitchell Road, Northbound State Route 99 Off/On-Ramp/Mitchell Road and Southbound State Route 99 On/Off-Ramp/Mitchell Road intersections. This would have a cumulatively considerable contribution to traffic thus resulting in a significant and unavoidable impact.

(Draft EIR, pp. 2.0-8 to 2.0-35; 4.2-21 to 4.2-42; 4.11-12; 4.13-27 to 4.13-62.)

## **B. Project Objectives**

The Project objectives are as follows:

- To construct a regional retail center within the City of Ceres that will reduce market leakage to other jurisdictions.
- To promote development within the City that is context-sensitive and enhances the quality of life for the residents of Ceres.
- To construct a regional commercial center with convenient highway and roadway access which will provide safe and efficient customer, contractor, emergency, and delivery vehicle ingress and egress.
- To support development applications that are consistent with existing land use designations for regional commercial and retail uses.
- To provide a source of significant new sales tax revenue to Ceres.
- To provide new retail employment opportunities to residents of Ceres and the surrounding areas.
- To support development applications that comply with and fulfill the objectives of the General Plan, the Zoning Ordinance, the Mitchell Road Corridor Specific Plan, and all other applicable codes, plans, and ordinances of Ceres.
- To support development applications that do not conflict with the planned Mitchell/Service Road Interchange Project.
- To protect the economic viability of the Ceres downtown area.

(Draft EIR, p. 3.0-9.)

## **C. Analysis of Alternatives**

### **1. The No Project Alternative**

#### **a. Description of the Alternative**

The No Project Alternative was analyzed in Section 5 of the Draft EIR. The No Project Alternative would allow the Project site to continue in the site's existing undeveloped state until the Project site is developed with other regional commercial land uses as anticipated in the Mitchell Road Corridor Specific Plan. (Draft EIR, p. 5.0-4.)

#### **b. Comparison to the Project**

The No Project Alternative would have the potential to lessen impacts caused by delivery truck and loading dock noise. In addition, related traffic volume may be reduced in proportion to any potential reductions in Project size. However, these impacts would not be avoided or even substantially lessened under the No Project Alternative. All other impacts would be similar to the Project. The significant and unavoidable impacts to air quality, agriculture, and transportation and circulation would persist and would not be significantly reduced by this alternative. Because the No Project Alternative contemplates future commercial development of the Project site, it may meet some of the Project objectives. However, because there currently is not a proposal to construct such a project, it is uncertain what, if any, project objectives may be met. (Draft EIR, pp. 5.0-13 to 5.0-22.)

#### **c. Finding**

The City rejects this alternative for the following reasons (CEQA Guidelines, § 15091, subd. (a)(3)):

First, because the Project site is designated for Regional Commercial (RC) land uses in the General Plan and Mitchell Road Corridor Specific Plan, it is reasonable to assume that the site would develop with other regional commercial land uses as anticipated in the General and Specific Plans at some point in the foreseeable future. Thus, the No Project Alternative considers the potential regional commercial development that could occur on the site, even if the Project is not completed. If, as envisioned by the General and Specific Plans, commercial development were proposed for the site, the No Project Alternative would have the same or similar impacts on the environment as the Project, and would not be expected to reduce the significant environmental impacts of the Project to less-than-significant levels.

Second, although the No Project Alternative contemplates future development of the Project site with other regional commercial land uses as anticipated in the General Plan and the Mitchell Road Corridor Specific Plan, there is currently no proposal to construct such a project. Accordingly, it is uncertain whether the No Project Alternative would maximize utilization of the Project site or meet the following Project objectives:

*Fiscal Objectives:* It is uncertain whether the No Project Alternative would develop a regional shopping center that would reduce market leakage to other jurisdictions, provide a source of significant new sales tax revenue to the City, provide new retail employment opportunities to residents of the City and the surrounding areas or protect the economic viability of the City's downtown area. As explained in the economic analysis performed for the Project, the Project is estimated to generate new store sales of \$156 million in 2011. (Draft EIR, p. 4.5-13 to 4.2-14.) These net new sales would allow the Walmart store to capture some of the leakage in specialized retail sales. (Draft EIR, p. 4.5-10.) Because there is currently no proposal to construct another regional commercial center on the Project site, however, it is uncertain whether the No Project Alternative would capture any leakage thus resulting in an increase in sales tax revenues for the City. In addition, it is also uncertain whether the No Project Alternative would result in new job opportunities. The Project, on the other hand, would be expected to result in a net increase in employment within the City by approximately 205 new jobs. (Draft EIR, p. 4.12-35.)

*Land Use Objectives:* It is uncertain whether the No Project Alternative would design a project with convenient highway and roadway access which will provide safe and efficient customer, contractor, emergency, and delivery vehicle ingress and egress. It is also uncertain whether the No Project Alternative would result in a project that complies with and fulfills the objectives of the General Plan, the Zoning Ordinance, the Mitchell Road Corridor Specific Plan, and other applicable codes, plans and ordinances of the City. Finally, it is uncertain whether this alternative would design a project that does not conflict with the planned Mitchell/Service Road Interchange Project. As explained in the Draft EIR, the City's General Plan designates the site as RC, and Zoning for the Project area is established by the Development Regulations section of the Mitchell Road Corridor Specific Plan. The Project is not only consistent with those general designations, it is also consistent with the goals and policies applicable to the site. (Draft EIR, pp. 4.9-3 to 4.9-8.) Because there is currently no proposal to construct another regional commercial center on the Project site, it is uncertain whether the No Project Alternative would meet this, or any of the Project's other, land use objectives.

*Retail Needs Objective:* It is uncertain whether the No Project Alternative would promote development within the City that is context-sensitive and enhances the quality of life for the residents of the City. The Project, on the other hand, would provide a regional commercial shopping center in an appropriate location within the City, thus adding to the convenience of the City's shoppers, and potentially reduce travel lengths for those shoppers. Because there is currently no proposal to construct another regional commercial center on the Project site, it is uncertain whether the No Project Alternative would achieve this objective.

Finally, the No Project Alternative would require the City to forego Project benefits. (See generally Section XI.D below for a discussion of Project benefits.) Under the No Project Alternative, it is uncertain whether the City would receive the additional tax revenue from the Project and the public improvements associated with the Project would not be constructed.

## **2. Site Redesign Alternative**

### **a. Description of the Alternative**

The Site Redesign Alternative was analyzed in Section 5 of the Draft EIR. The Site Redesign Alternative considers development of the Project site under a more-dense development pattern that would not reduce the overall square footage of the development. The configuration for this alternative would be similar to the Project, albeit with a more eastward orientation and Major 1 (the Walmart store) would be reconfigured to face Mitchell Road instead of facing Service Road. (Draft EIR, p. 5.0-5.)

### **b. Comparison to the Project**

The Site Redesign Alternative would have the potential to lessen impacts caused by delivery truck, loading dock, rooftop mechanical equipment and on-site trash and cardboard compacting equipment noise. All other impacts would be similar to the Project. The significant and unavoidable impacts to air quality, agriculture, and transportation and circulation would persist and would not be significantly reduced by this alternative. (Draft EIR, pp. 5.0-5, 5.0-13 to 5.0-22.)

### **c. Finding**

The City rejects this alternative for the following reasons (CEQA Guidelines, § 15091, subd. (a)(3)):

First, the Site Redesign Alternative would not substantially lessen the Project's significant effects. This alternative is intended to lessen noise and visual impacts to residences across Don Pedro Road caused by delivery truck, loading dock, rooftop mechanical equipment and on-site trash and cardboard compacting equipment. With this alternative, however, 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. Moreover, to accommodate safe operations and offer all of the same departments and services as the Project, parking would need to be reduced to approximately 100 spaces below Code requirements.

Second, although the Site Redesign Alternative contemplates a shopping center-style commercial development on the Project site, there is currently no proposal to construct a project that is configured in this manner. Accordingly, it is uncertain whether the No Project Alternative would meet the Project's fiscal, land use and retail need objectives discussed above.

Third, because this alternative is not supported by an actual application, it would not be developed and would likely result in underutilization of the site for a substantial period of time into the future. Under such a scenario, the City would not receive any additional tax revenue from the commercially zoned site for the foreseeable future. The alternative, then, is undesirable and infeasible from a policy standpoint.

Finally, the Project site itself is too narrow to allow the Walmart store to face Mitchell Road. Reconfiguring the site plan in this manner would require the parking lot to run parallel to the store, which would create an unsafe condition for pedestrians as they would need to cross multiple lanes of traffic and attempt to maneuver between parked cars to reach the store entrances.

### **3. Proposed Project with Interchange and El Camino Avenue Realignment Alternative**

#### **a. Description of the Alternative**

The Proposed Project with Interchange and El Camino Avenue Realignment Alternative was analyzed in Section 5 of the Draft EIR. This alternative considers development on a smaller portion of the Project site that would be realigned with a more eastward orientation to accommodate changes related to the potential State Route 99/Mitchell Road/Service Road interchange and El Camino Avenue realignments. The proposed Project with Interchange and El Camino Avenue Realignment Alternative would reduce the overall square footage to approximately 258,000 square feet, thus reducing the number of parking spaces required. However, the Project's floor area ratio (FAR) would be maintained. (Draft EIR, pp. 5.0-5 to 5.0-6.)

#### **b. Comparison to the Project**

The Proposed Project with Interchange and El Camino Avenue Realignment Alternative, due to its reduced size and eastward orientation, would have the potential to lessen impacts on air quality; hydrology and water quality; noise; public services; and transportation and circulation. However, these impacts would only be relatively reduced, not avoided or substantially lessened under the Proposed Project with Interchange and El Camino Avenue Realignment Alternative. All other impacts would be similar to the Project. The significant and unavoidable impacts to air quality, agriculture, and transportation and circulation would persist and would not be significantly reduced by this alternative. (Draft EIR, pp. 5.0-5 to 5.0-6 and 5.0-13 to 5.0-22.)

#### **c. Finding**

The City rejects this alternative for the following reasons (CEQA Guidelines, § 15091, subd. (a)(3)):

First, although the Proposed Project with Interchange and El Camino Avenue Realignment Alternative contemplates a shopping center-style commercial development on the

Project site, it is smaller in size than the Project. Accordingly, it would not meet the Project's fiscal, land use and retail need objectives to the same degree as the Project.

Second, the Proposed Project with Interchange and El Camino Avenue Realignment Alternative is not supported by an actual application so it would not be developed and, therefore, would likely result in underutilization of the site for a substantial period of time into the future. Under such a scenario, the City would not receive any additional tax revenue from the commercially zoned site for the foreseeable future. The alternative, then, is undesirable and infeasible from a policy standpoint.

#### **4. The Off-Site Alternative**

##### **a. Description of the Alternative**

The Off-Site Alternative would involve the development of the Project on a site approximately 1,000 feet southeast of the Project site, east of Mitchell Road and south of Service Road. The Off-Site Alternative site is approximately 23.48 acres on five parcels and a portion is occupied by several residences. The other portion is currently vacant and used for agriculture. Development activities would occur to the same extent as the Project and the alternative would be expected to accommodate all of the uses associated with the Project; however, under the Off-Site Alternative, the overall square footage of the buildings would be reduced. Further, the alternative would require a major realignment of Rhode Road, which currently bisects the site and would also require land assembly of the five parcels. (Draft EIR, p. 5.0-6.)

##### **b. Comparison to the Project**

The Off-Site Alternative would have the potential to generate fewer overall impacts on aesthetics; air quality; hydrology and water quality; noise; agriculture; public services; and transportation and circulation. However, these impacts would only be relatively reduced, not avoided or substantially lessened under the Off-Site Alternative. All other impacts would be similar to the Project. The significant and unavoidable impacts of the Project on air quality, agriculture, and traffic and circulation would persist, and this alternative would not significantly reduce them. (Draft EIR, pp. 5.0-13 to 5.0-22.)

##### **c. Finding**

The City rejects this alternative for the following reasons (CEQA Guidelines, § 15091, subd. (a)(3)):

First, the Off-Site Alternative would not meet the Project objectives to the same degree as the Project.

*Fiscal Objectives:* The Off-Site Alternative may not meet the Project objectives to develop a regional shopping center that would reduce market leakage to other jurisdictions, provide a source of significant new sales tax revenue to the City, provide new retail employment

opportunities to residents of the City and the surrounding areas or protect the economic viability of the City's downtown area to the same degree as the Project. The Off-Site Alternative would construct a smaller-scale retail establishment, thus resulting in fewer fiscal benefits to the City. (Draft EIR, p. 5.0-6.)

*Land Use Objective:* The Off-Site Alternative may not meet the Project objective to design a project with convenient highway and roadway access which will provide safe and efficient customer, contractor, emergency, and delivery vehicle ingress and egress to the same degree as the Project. The Off-Site Alternative would require major realignment of Rhode Road, which currently bisects the site and would also require that any access to Moore Road from the site cross the irrigation channel that runs along the east side of the site between the site and Moore Road. Accordingly, it may be difficult to fulfill this objective. (Draft EIR, p. 5.0-6.)

*Retail Objectives:* Walmart does not own, control, or otherwise have access to the proposed site. Therefore, Walmart may not be able to develop on this site, resulting in this alternative not being able to promote development within the City that enhances the quality of life for the residents of the City to the same degree as the Project.

Second, the Off-Site Alternative is not supported by an actual application so it would not be developed and, therefore, would likely result in underutilization of the site for a substantial period of time into the future. Under such a scenario, the City would not receive any additional tax revenue from the commercially zoned site for the foreseeable future. The alternative, then, is undesirable and infeasible from a policy standpoint.

## **5. Environmentally Superior Alternative**

CEQA requires the identification of the environmentally superior alternative in the EIR. Because the No Project Alternative contemplates future development of the Project site with regional commercial land uses as anticipated in the Mitchell Road Corridor Specific Plan, this alternative would have the same or similar environmental impacts as the Project. Accordingly, the No Project Alternative is not the environmentally superior alternative. The Proposed Project with Interchange and El Camino Avenue Realignment Alternative would have the fewest environmental impacts. Therefore, the Proposed Project with Interchange and El Camino Avenue Realignment Alternative is the Environmentally Superior Alternative. However, as discussed above, this alternative's degree of "superiority" is marginal and there are no feasible alternatives to the Project that would avoid or substantially lessen all of the significant and unavoidable impacts associated with the Project.

## **IX. GROWTH-INDUCING IMPACTS**

A project may be growth-inducing if it directly or indirectly fosters economic or population growth or additional housing, removes obstacles to growth, taxes community service facilities, or encourages or facilitates other activities that cause significant environmental effects. (CEQA Guidelines Section 15126(g).) Under CEQA, induced growth is not considered necessarily detrimental or beneficial. Induced growth is considered a significant impact only if it

directly or indirectly affects the ability of agencies to provide needed public services, or if it can be demonstrated that the potential growth could significantly affect the environment in some other way.

The City Council finds that the Project would not significantly induce further growth or remove obstacles to future growth. Moreover, the City Council finds that any induced growth would not affect the City's ability to provide needed public services, or otherwise significantly affect the environment for several reasons. First, while the Project does include the development of a large regional shopping center that would create a substantial number of new jobs in the region, as of February 2010 (California EDD), the current unemployment rate in the City was relatively high at 23.4 percent, which indicates that the City has an adequate population and worker base available to provide the needed employees for operation of the Project. Therefore, the Project will not likely result in a significant influx of workers to the City.

Second, the Project is consistent with the General Plan land use designations for the site and will not induce population growth beyond that identified in the City's General Plan EIR.

Third, because the Project site is within an area of the City that is already undergoing urban development as part of the Mitchell Road Corridor Specific Plan and the City General Plan, any planning and development of infrastructure to serve the Mitchell Road Corridor is already underway. Therefore, the Project will not, by itself, result in the construction of major infrastructure improvements that do not already exist and that would trigger additional development within the vicinity of the Project.

Fourth, the Project will not induce secondary effects on growth such as increased demand on other community and public services and infrastructure; increased traffic and noise; and adverse environmental impacts such as degradation of air and water quality; degradation or loss of plant and animal habitat; and conversion of agricultural and open space land to developed uses because the Project site is virtually surrounded by parcels already designated for, and substantially undergoing, development. Accordingly, infrastructure to serve the Project will not directly open areas for development that are not already designated for development pursuant to the City's General Plan. Finally, it should be noted that the Project would not directly induce population growth through the provision of new dwelling units because it does not contain any residential uses.

For these reasons, the Project would not result in any growth-inducing impacts. These facts support the City's finding. (Draft EIR, pp. 6.0-6 to 6.0-7.)

## **X. FEASIBILITY OF MITIGATION MEASURES PROPOSED IN COMMENTS ON THE DRAFT EIR**

During the public comment period, the City received comments suggesting additional mitigation measures. As explained in the Final EIR (Responses to Comments), most of these suggestions were found to be inappropriate because they were duplicative, did not address the impact, or were infeasible. Some measures were changed per comments, but the changes were

insignificant and did not alter the level of significance determination or accompanying analysis. The City Council commends its staff for their careful consideration of all of the lengthy public comments received and particularly its careful evaluation of the proposed mitigation measures. The Council agrees with staff's analysis in all respects.

Throughout this entire process, the Council and staff have remained cognizant of the legal obligation under CEQA to substantially lessen or avoid significant environmental effects to the extent feasible. The City recognizes, moreover, that comments frequently offer thoughtful suggestions regarding how a commenter believes that a particular mitigation measure can be modified, changed significantly, or added, in order to more effectively, in the commenter's eyes, reduce the severity of environmental effects. The City is also cognizant, however, that, with the exception of new language included in the Final EIR, the mitigation measures in the Draft EIR intended to avoid, minimize, rectify, reduce, compensate for, or substantially lessen significant environmental effects of the Project represents the fruit of extensive staff and consultant experience in countless projects. Thus, in considering proposed changes to mitigation measures, the City, in determining whether to accept such language, either in whole or in part, has considered the following factors, among others: (i) whether the proposed language relates to a significant and unavoidable environmental effect of the Project, or instead relates to an effect that can already be mitigated to less-than-significant levels; (ii) whether the proposed language represents a clear improvement, from an environmental standpoint, over the draft language that a commenter seeks to replace; (iii) whether the proposed language would essentially duplicate language already in place elsewhere within the mitigation measures identified for the Project; (iv) whether the proposed language appears to be feasible from an economic, technical, legal, or other standpoint; (v) whether the proposed language is consistent with the Project objectives.

For instance, one commenter recommended the use of permanent agricultural conservation easements to compensate for the direct loss of agricultural land. First, no mitigation is required here because the impact of conversion of agricultural land to non-agricultural uses was already disclosed, and overridden by the City in the adoption of the General Plan and the certification of the General Plan EIR. The project's impacts will not exceed the impacts disclosed in the General Plan EIR. Second, a conservation easement does not mitigate for the loss of agricultural land since it does not replace the lost agricultural land. Finally, development of the Project site with commercial uses is consistent with the City's goals and policies of protecting agricultural uses in appropriate areas and the City does not have a program that requires the use of conservation easements. (Final EIR, pp. 2.0-27.)

Another commenter suggested that the EIR evaluate the feasibility of using a Voluntary Emission Reduction Agreement ("VERA") to mitigate impacts to air quality. However, since the project would already be below air district thresholds with regards to direct project emissions, the implementation of VERA is unnecessary and would not serve to substantially reduce or avoid the projects significant and unavoidable impact to cumulative air quality conditions. (Final EIR, pp. 2.0-46 – 2.0-47.)

Other commenters recommended that the City require construction of a solid sound barrier along Don Pedro Road (with no vehicle access) to mitigate noise impacts to nearby residences. This is not required, however, because the noise analysis concludes that noise impacts to residents across Don Pedro Road would be less than significant so no further mitigation is required. (Final EIR, pp 2.0-9.)

Finally, a commenter recommended that the City evaluate the use of solar energy on the Project site. The CARB Scoping Plan, the CAPCOA white paper, and the Attorney General's Office do not mandate that new projects install photovoltaic systems, but rather allow the lead agencies to determine which strategies are most appropriate on a case-by-case basis. It should be noted that technology can only provide a small percentage of the store's electrical needs and is only economically feasible in the short term. Requiring solar panels would be inconsistent with CEQA's requirement that mitigation measures be roughly proportional to the impacts of the project. Moreover, there are more effective ways to promote non-carbon energy. For instance, TID (electricity) PG&E (natural gas), which are the existing energy providers to the Walmart store, are subject to the terms of AB 32's Renewable Portfolio Standards and, therefore, must obtain 33% of energy from renewable resources. Furthermore, Walmart has analyzed climate conditions, load capacity, economic conditions, energy prices, as well as local, state and federal renewable energy policies and programs. Due to these items, Walmart has determined that solar is not feasible at this time. Because Walmart's solar program is a pilot program, Walmart will continue to work with its solar partners to look for additional opportunities for solar on this Project. (Final EIR, pp. 2.0-84.)

As is evident from the specific responses given to specific suggestions, City staff and consultants spent large amounts of time carefully considering and weighing proposed mitigation measures. In no instance did the City fail to take seriously a suggestion made by a commenter or fail to appreciate the effort that went into the formulation of suggestions.

## **XI. STATEMENT OF OVERRIDING CONSIDERATIONS**

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council has balanced the economic, legal, social, technological, and other benefits of the Project against the significant and unavoidable impact associated with the Project, and has adopted all feasible mitigation measures. (See Section IX.D above.) The City Council has also examined potentially feasible alternatives to the Project, none of which would both meet most of the project objectives and result in substantial reduction or avoidance of the project's significant and unavoidable impacts. (See Section VII above.) The City Council hereby adopts and makes the following Statement of Overriding Considerations regarding the significant and unavoidable impact of the Project and the anticipated economic, legal, social, technological, and other benefits of the Project.

### **A. Significant and Unavoidable Impacts**

Based on information contained in the Record and in the EIR, the City Council has determined that the Project would result in significant and unavoidable impacts to: (1) air quality

due to cumulative impacts; (2) agricultural resources due to conversion of Prime Farmland; (3) agricultural resources due to cumulative impacts; (4) transportation and circulation due to increase in traffic; (4) transportation and circulation due to level of service standards; and (5) transportation and circulation due to cumulative impacts. (Draft EIR, pp. 2.0-7 to 2.0-43.)

## **B. Finding**

The City Council has considered all potentially feasible mitigation measures to substantially lessen or avoid the Project's significant and unavoidable impacts. The Council finds that there are no feasible mitigation measures that would reduce the identified impacts. (See Section IX.D above.)

The City Council has also considered all potentially feasible alternatives to the Project. The City Council finds that there are no feasible alternatives that would reduce the above significant and unavoidable impacts to a less-than-significant level. (See Section VII above.)

The Project's impacts discussed above, therefore, remain significant and unavoidable.

## **C. Overriding Considerations**

After review of the entire administrative record, including, but not limited to, the Final EIR, the staff report, applicant submittals, and the oral and written testimony and evidence presented at public hearings, the City Council finds that specific economic, legal, social, technological and other anticipated benefits of the Project outweigh the significant and unavoidable impacts, and therefore justify the approval of this Project notwithstanding the identified significant and unavoidable impacts. (Pub. Resources Code, § 21081; CEQA Guidelines, § 15093.) The benefits are addressed in detail in Section XI.D below.

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible (including the incorporation of feasible mitigation measures), and finds that the remaining significant unavoidable impacts of the Project, which are described above in Section IX.D, are acceptable because the benefits of the Project set forth below in Section XI.D outweigh it. The City Council finds that each of the overriding considerations expressed as benefits and set forth below in Section XI.D constitutes a separate and independent ground for such a finding. Any one of the reasons for approval cited below is sufficient to justify approval of the Project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City Council will stand by its determination that each individual reason is sufficient by itself. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this Section XI, and in the documents found in the Record of Proceedings, as defined in Section III.

## **D. Benefits of the Project**

The City Council has considered the EIR, the public record of proceedings on the Project and other written materials presented to and prepared by the City, as well as oral and written testimony received, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the following substantial public benefits:

### **1. The Project Would Generate Sales Tax Revenue For the City.**

The sales generated by the Project would generate greater sales tax revenues for the City than would otherwise be generated by the site. These revenues would go to the City's General Fund, which is the primary funding source for the construction, operation and maintenance of a number of essential City services, programs and facilities including fire and police services, recreation programs, and administrative functions, among other things.

The economic analysis performed for the Project indicates that the City has weak sales in more specialized retail categories (for example, apparel stores, home furnishings/appliances, and specialty retail) with room for growth. This means that the City's residents have to drive farther, at more inconvenience, to obtain their needed goods than they would if they had a convenient location to obtain them within the City. The presence of additional outlets in the City in these sectors would serve to bring local shoppers back to Ceres, which would, in turn, raise sales tax revenues to help alleviate deficit and enable the City to provide essential public services, such as police and fire protection, to its citizens. (Draft EIR, p. 4.5-10; see also Draft EIR, Appendix 4.5-1.)

### **2. The Project Would Increase the City's Employment Base and Create Diverse Employment Opportunities for City Residents.**

The Project would generate diversity in employment opportunities, including temporary construction jobs as well as hundreds of permanent full-time and part-time jobs. (Draft EIR, p. 4.12-35.) The development of the Project will also provide opportunities for City residents to open and operate local businesses within the Project—which provide a strong draw to the shopping center. These local businesses will also provide additional jobs for City residents, thus not only enabling local entrepreneurs to get started, but providing a number of entry level jobs for local residents. Consequently, it is reasonably expected that the City and its residents would enjoy the economic and social benefits from added employment opportunities offered by the Project.

### **3. The Project Would Provide Buffers and Transitions between Commercial Uses and Adjacent Residential Uses.**

The Project's design orients buildings away from residences, provides screening between the site and residences and completes/upgrades street improvements (including sidewalks and landscaping) between the site and the adjacent neighborhood. Views from the adjacent residential homes toward the Project site would be partially shielded by the placement of various

trees and shrubs along the edge of the site, separating the differing land use types while maintaining visual and aesthetic qualities. An 8-foot-high solid masonry wall with landscape buffer will be provided where the Project site abuts residential uses, and Don Pedro Road will separate the existing residential uses to the north of the Project site, and the proposed future road will separate the existing residential uses to the west of the Project site.

#### **4. The Project Would Provide an Attractive Gateway Development to the City.**

The Project will be adjacent to the intersection of two major access points to the City: Mitchell Road and SR 99. Accordingly, implementation of the Project, combined with other commercial development in the vicinity (for example, the Ceres Gateway Center) will create a regional commercial center and promote this area as a gateway to the City. With the construction of the entry monument included as a condition of approval for the Project, the Project would provide an attractive gateway development to this portion of the City.

The Project is designed and laid out in a manner to facilitate vehicular and pedestrian circulation to and throughout the site. The Project will include buildings of varying size, massing, and architectural elements to provide visual interest. Although Major 1 (the Walmart store) is a large building, the massing of this building has been dramatically downscaled by variations in building height and the use of architectural features and materials. A pedestrian-friendly environment is emphasized in the center. The front of the Walmart store includes architectural elements such as canopies, ornamental lighting including pedestrian-level lighting, landscape planters, benches, windows, and awnings. Other buildings on the Project site will also utilize varying building heights with ornamental and façade characteristics to create projections from the building to create visual interest. The site incorporates a small plaza/seating area at the southeast corner of the site. All storage and loading functions are appropriately screened from adjacent roadways and uses. The site incorporates landscape screening to soften the transition from adjacent roadways and uses.

The Project would use quality materials to provide buildings that meet or exceed architectural design requirements. The primary building materials are painted split-face concrete masonry units (CMU), integrally colored split face concrete masonry units, and painted exterior insulation finish system (EIFS). Split-face CMU provides a highly durable, textured finish. EIFS is an energy-efficient, durable, textured surface over an insulation system, providing insulation outside the exterior structure of a building and forming a complete envelope around the building with foam insulation, which reduces air infiltration and decreases energy consumption. EIFS is resistant to fading, cracking, mold and mildew. It also does not accumulate dirt, so it always looks freshly painted. Project conditions include provisions for the ongoing maintenance of buildings and landscaping to avoid a run-down or deteriorated appearance. The initial development of the site will include development of all hardscape and landscaping throughout the site to avoid an interim unfinished appearance. (Draft EIR, pp. 4.1-2 to 4.1-27.)

**5. The Project Would Feature Numerous Energy Conserving Measures.**

The Project would incorporate numerous energy-conserving features. For instance, the Walmart store would include features such as the following: daylight harvesting system, occupancy sensors, LED signage and refrigeration illumination, centralized energy management system, energy efficient HVAC units, a dehumidifying system, white roofs, use of non-ozone-depleting refrigerant, heat reclamation system, high efficiency urinals and toilets, sensor-activated low flow bathroom sinks and environmentally friendly materials and finishes.

**6. The Project Would Provide Attractive Landscaping Providing Amenities Onsite and as Viewed From Adjacent Streets.**

The Project's landscape design would provide screening, shade, delineation of space, and accents and focal points. A mix of various trees, ranging in size and type from large evergreen and deciduous trees to small flowering trees and conifers will be planted on the Project site. Parking and hardscape will be shaded with a ratio of at least one tree for every eight parking spaces. Views from the adjacent residential homes to the north toward the Project site would be partially shielded by bermed landscaping including trees and shrubs along the edge of the site, separating the differing land use types while maintaining visual and aesthetic qualities. Views from the adjacent residential project to the west will be buffered by an enhanced masonry wall with trees growing beyond to further buffer the buildings. Views along Mitchell Road and Service Road toward the Project site will include landscaping involving a mix of trees, shrubs, vines, perennials, ground covers, and lawn.

**7. The Project Would Fulfill a General Plan Goal of Creating a Regional Commercial Center that Provides Quality Goods and Services.**

The General Plan designates this site for a Regional Commercial Center and the Project would fulfill that goal. The Project would provide quality grocery goods and services to the Project area and surrounding neighborhoods. For example, although Walmart is a national retailer, it specifically tailors the merchandising mix of its individual stores in order to meet the demands and needs of the surrounding area. In addition, the Project will bring additional quality goods and services in the form of several other retail stores and restaurants.

**8. The Project Would Increase Retail Activity in the Project Area.**

Because the Project will include a Walmart store, as well as space for other retailers, the Project could draw additional retailers to the City (i.e., those on the Project site), thereby increasing retail activity in the Project area. Specifically, a shopping center that is anchored by a Walmart store will likely to attract smaller retailers providing their own special services and goods. These smaller retailers see the benefit of locating near a Walmart store due to the increased customer activity in the area. This could benefit the surrounding area.

## **9. The Project Would Be a Good Member of the Community.**

Walmart will be an active corporate member of the community. Walmart is anticipated to take a role in assisting schools, non-profits, and important community efforts in the City. Walmart has a demonstrated track record of supporting local schools and non-profit organizations. It is likely that other retailers in the shopping center will provide similar benefits to the community.

## **10. The Project Would Contribute to the Physical Identity of the Area and Result in Improvements to a Major Corridor.**

The Project would result in a regional commercial center along the major corridor of Mitchell Road within the City and would include the installation of sidewalks, street trees, an improved circulation system, and other structural elements that will contribute to the physical identity of the area as a commercial corridor. Moreover, the Project would result in full utilization of an underutilized parcel within a commercial area of the City in accordance with the City's vision for the area.

### **E. Determination and Adoption of Statement of Overriding Considerations**

The City Council has weighed the economic, legal, social, technological, and other benefits of the Project, as set forth above in Section XI.D, against the significant unavoidable impacts of the Project identified in the EIR (and discussed above in Section XI.A).

The City Council hereby determines that those benefits outweigh the risks and adverse environmental impacts of the Project, and further determines that the Project's significant unavoidable impacts are acceptable.

Accordingly, the City Council adopts the Statement of Overriding Considerations, recognizing that significant unavoidable impacts will result from implementation of the Project. Having (i) adopted all feasible mitigation measures, as discussed in the Environmental Impact Report; (ii) rejected alternatives to the Project, as discussed in the Environmental Impact Report; and (iii) recognized the significant unavoidable impacts of the Project, the City Council hereby finds that each of the separate benefits of the Project, as stated herein, is determined to be unto itself an overriding consideration, independent of other benefits, that warrants approval of the Project and outweighs and overrides its significant unavoidable impacts, and thereby justifies the approval of the Mitchell Ranch Center Project.

## EXHIBIT B

### MITCHELL RANCH MITIGATION MONITORING AND REPORTING PROGRAM

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<b>4.1 Aesthetics and Visual Resources</b>			
MM 4.1.3: The project applicant shall maintain a lighting plan and photometric diagram that reduces light spillage at the project's property lines to a level of no more than 2.0 foot-candles, as measured at adjacent property lines along Don Pedro Road.	Prior to issuance of building permit.	City of Ceres Planning and Building Division	
<b>4.2 Air Quality</b>			
<p><b>MM 4.2.2a:</b> The following measures shall be implemented, in addition to the requirements of SJVAPCD Regulation VIII, at the project site during all construction activities:</p> <ul style="list-style-type: none"> <li>• Limit traffic speeds on unpaved roads to 15 miles per hour (mph);</li> <li>• Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent;</li> <li>• Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;</li> <li>• Install wind breaks at windward side(s) of construction areas;</li> <li>• Suspend excavation and grading activity when winds exceed 15 mph; and</li> <li>• Limit area subject to excavation, grading, and other construction activity at any one time. Soil exposure shall not exceed an area in which improvements can be completed during a single construction season.</li> <li>• The applicant shall use periodic watering for short-term stabilization of disturbed surface area and haul roads to minimize visible fugitive dust emissions. Watering, with complete coverage, shall occur at least three times a day, preferably in the mid-morning, afternoon and after work is done for the day.</li> </ul>	Mitigation shall be implemented throughout project construction phase. The noted mitigations will appear on the grading or street improvement plans as Air Quality requirements.	City of Ceres Public Works Department – Engineering Division	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<b>MM 4.2.2b:</b> Pollutant emissions shall be minimized by maintaining equipment engines in good condition and in proper tune according to manufacturer's specifications, by not allowing construction equipment to be left idling for more than five minutes (per California law). Contractor shall ensure use of low-sulfur diesel fuel in construction equipment as required by the California Air Resources Board (CARB) (diesel fuel with sulfur content of 15 ppm by weight or less).	<i>Mitigation shall be implemented throughout project construction phase.</i>	<i>City of Ceres Public Works Department – Engineering Division</i>	
<b>MM 4.2.2c:</b> Graded site surfaces shall be stabilized upon completion of grading when subsequent development is delayed or expected to be delayed more than 30 days, except when such a delay is due to precipitation that dampens the disturbed surface sufficiently to eliminate visible fugitive dust emissions.	<i>Mitigation shall be implemented throughout project construction phase.</i>	<i>City of Ceres Public Works Department – Engineering Division</i>	
<b>MM 4.2.2d:</b> Contractor agreements shall specify that existing power sources (e.g., power poles) or clean-fuel generators shall be used rather than temporary power generators.	<i>Mitigation shall be implemented throughout project construction phase.</i>	<i>City of Ceres Public Works Department – Engineering Division</i>	
<b>MM 4.2.2e:</b> During construction of the proposed project, only low-VOC paints and coatings as defined in SJVAPCD Rule 4601 shall be used.	<i>Mitigation shall be implemented throughout project construction phase.</i>	<i>City of Ceres Planning and Building Division</i>	
<b>MM 4.2.4a:</b> All buildings on the project site shall be designed and constructed to exceed minimum statewide energy requirements (Title 24). Measures may include, but are not limited to, the following: <ul style="list-style-type: none"> <li>• Incorporate skylights into building designs to utilize natural daylight</li> <li>• Utilize computer-controlled daylight sensors and electronic dimming ballasts</li> <li>• Use high-efficiency light bulbs in all lighting fixtures</li> <li>• Use light-emitting diodes (LEDs) in exterior signage</li> <li>• Use energy-efficient appliances and heating, ventilation, and air conditioning (HVAC) systems</li> <li>• Use low-emission water heaters and/or central water heating systems</li> <li>• Increase building insulation</li> <li>• Use automated controls for HVAC systems or centralized energy management systems</li> </ul>	<i>Prior to issuance of building permits.</i>	<i>City of Ceres Planning and Building Division</i>	
<b>MM 4.2.4b:</b> All buildings on the project site shall utilize Energy Star compliant (highly reflective) and high emissivity roofing (emissivity of at least	<i>Prior to issuance of building permits</i>	<i>City of Ceres Planning and Building</i>	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
0.9 when tested in accordance with ASTM 408) for a minimum of 75 percent of the roof surface to reduce energy demands associated with air conditioning and to minimize the urban heat island effect.		Division	
<b>MM 4.2.8:</b> Signage shall be provided on-site that prohibits the idling of trucks, including the use of auxiliary power units, for more than five minutes. Further, the proposed project shall pay for parking restrictions on the south side of Don Pedro Road as directed by the City of Ceres. These restrictions will include designating the south side of Don Pedro Road between Mitchell Road and the northwestern property corner of the proposed project as a "no parking" zone through the use of signs and/or curb painting.	Mitigation shall appear on the improvement plans and be completed prior to the issuance of a certificate of occupancy for Major 1.	City of Ceres Public Works Department – Engineering Division	
<b>4.3 Biological and Natural Resources</b>			
<b>Migratory Birds or Raptors</b>  <b>MM 4.3.1:</b> If construction activities occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the project applicant shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area (no less than 500 feet outside project boundaries) no more than 30 days prior to ground disturbance or tree removal. If active nests are located during preconstruction surveys, USFWS and/or CDFG shall be notified regarding the status of the nests. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with USFWS and/or CDFG). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 500 feet around the nest for Swainson's hawk, 100 feet around the nest for other raptors, and 50 feet around the nest for other migratory birds) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (September 1 through February 28).	Prior to construction and site grading activities.	City of Ceres Public Works Department – Engineering Division, Planning and Building Division	
<b>4.4 Cultural Resources</b>			
<b>MM 4.4.1a:</b> If, during the course of implementing the project, cultural resources (i.e., prehistoric sites, historic sites, and/or isolated artifacts) are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a	As a condition of project approval, and implemented during ground-disturbing construction activities	City of Ceres Planning and Building Division, Public Works Department –	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<p>professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery.</p> <p>The City shall consider mitigation recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of cultural resources.</p>		Engineering Division	
<p><b>MM 4.4.1b:</b> If, during the course of implementing the project, human remains are discovered, all work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and the County Coroner must be notified according to Section 5097.98 of the PRC and Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.</p>	As a condition of project approval, and implemented during ground-disturbing construction activities.	City of Ceres Planning and Building Division, Public Works Department – Engineering Division	
<p><b>MM 4.4.2:</b> If, during the course of implementing the project, any paleontological resources (fossils) are discovered, work shall be halted immediately within 50 feet of the discovery, and the City of Ceres Planning Division shall be immediately notified. At that time, the City will coordinate any necessary investigation of the discovery with a qualified paleontologist.</p> <p>The City shall consider the mitigation recommendations of the qualified paleontologist for any unanticipated discoveries of paleontological resources. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of paleontological resources.</p>	As a condition of project approval, and implemented during ground-disturbing construction activities.	City of Ceres Planning and Building Division, Public Works Department – Engineering Division	
<b>4.5 Economics and Blight</b>			
<p><b>MM 4.5.1:</b> In addition to the requirement that a vacant building monitoring fee pursuant to Ceres Municipal Code Chapter 9.40 be paid, the</p>	Mitigation shall commence once the building is vacated	City of Ceres Planning and Building	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<p>property owner (and any subsequent owner) shall 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 (via bond or otherwise) for abatement of visual indications of blight on the property if and when the property owner fails to adequately maintain the property in good condition and abate elements of deterioration, which shall include:</p> <p>Remove graffiti</p> <p>Repair broken windows and exterior structural elements</p> <p>Maintain existing landscaping.</p> <p>Frequently clean up litter on the property</p>	<p>and shall end upon its re-tenanting or demolition.</p>	<p>Division, Code Enforcement</p>	
<b>4.6 Geology and Soils</b>			
<p><b>MM 4.6.1:</b> The project shall comply with the recommendations of the Preliminary Geotechnical Engineering Analysis prepared by Consolidated Engineering Laboratories in June 2006 (see <b>Appendix 4.6-1</b>). These recommendations include the following:</p> <ul style="list-style-type: none"> <li>• <u>Existing Structures and Trees</u> – All existing structures to be abandoned shall be demolished and foundations entirely removed or cut off. Any existing trees that are to be abandoned shall have their major root systems removed. Additionally, buried objects from past land use activities that are encountered during construction shall be removed.</li> <li>• <u>Loose Near-Surface Soil</u> – The presence of loose near-surface soil will require over excavation and compaction in the building pad areas.</li> <li>• <u>Underground Utility/Trench Excavation</u> – Due to the sandy soils at the project site, trench walls may not stand vertical during and after excavation. All project contractors shall be notified for the potential for sloughing of utility trench and foundation excavation sidewalls.</li> <li>• <u>Winter Grading</u> – If grading occurs during the rainy season, unstable subgrade conditions may be encountered. Project site soils shall be treated/stabilized prior to grading or other soil disturbing activities during the winter months.</li> <li>• <u>Seismic Considerations</u> – The site is located proximal to a seismically active region. As a minimum, the building designs shall comply with the latest edition of the Uniform Building</li> </ul>	<p>Ongoing during project construction and mitigation shall be noted on the improvement plans.</p>	<p>City of Ceres Public Works Department – Engineering Division, Planning and Building Division</p>	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
Code, California Building Code, and International Building Code.			
<b>4.7 Hazards and Hazardous Materials</b>			
<b>MM 4.7.3:</b> A Phase II Environmental Site Assessment report shall be prepared to determine the extent and exact nature of any pesticide or chemical residues present on the project site. Soils shall be taken from throughout the site to test pesticide contamination (chlorinated pesticides using EPA Test Method 8081 and 8082). If samples reveal concentrations of pesticide residue in excess of acceptable thresholds, actions shall be taken to remediate soil contamination to within ASTM International standards. Such actions could include excavation and disposal of contaminated soils from the site or bioremediation. A qualified Phase II Environmental Assessor shall be retained to develop and carry out a remediation plan, if necessary.	Prior to issuance of grading permits.	City of Ceres Planning and Building Division	
<b>MM 4.7.5a:</b> The project applicant shall obtain a permit from the City of Ceres Building Division for the destruction and closure of all wells on the project site in accordance with Chapter 13.05 of the City's Municipal Code. The project applicant shall destroy all wells in accordance with the conditions of the permit and with the California Water Well Standards contained in Department of Water Resources Bulletins 74-81 and 74-90, prior to project construction.	Prior to issuance of building permits.	City of Ceres Public Works Department – Engineering Division, Planning and Building Division	
<b>MM 4.7.5b:</b> The project applicant shall remove and plug all irrigation facilities on the project site to the satisfaction of Turlock Irrigation District standards prior to project construction.	Show on improvement plans prior to issuance of building permits.	City of Ceres Public Works Department – Engineering Division, Planning and Building Division, Turlock Irrigation District	
<b>MM 4.7.5c:</b> Prior to issuance of grading permits, any and all septic tanks on the project site shall be abandoned under permit from the Stanislaus County Department of Environmental Resources.	Prior to issuance of grading or building permits.	Stanislaus County Department of Environmental Resources and City of Ceres Public Works Department –	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
		Engineering Division, Planning and Building Division	
<b>4.8 Hydrology and Water Quality</b>			
<p><b>MM 4.8.3:</b> Prior to approval of an improvement plan, the project proponent shall provide a list of City-approved best management practices (BMPs) to be implemented on the site during operation of the proposed project that will protect receiving waters from urban contaminants in runoff. The BMPs shall be consistent with RWQCB guidelines and shall be obtained from the California Stormwater Quality Association's Stormwater Best Management Practice (BMP) Handbooks. At least 85 to 90 percent of annual average stormwater runoff from the site shall be treated per the standards in the 2003 California Stormwater Best Management Practices Handbooks. BMPs may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>Route drainage from paved surfaces either through swales, buffer strips, or sand filters or treat with a filtering system prior to discharge to the storm drain system.</li> <li>Use permeable pavement in parking areas and other low traffic areas.</li> <li>Direct downspouts to infiltration trenches.</li> <li>Provide stenciling or labeling of all storm drain inlets within and adjacent to the project site with prohibitive language such as "NO DUMPING."</li> <li>Cover loading dock areas, or design drainage to preclude urban run-on and runoff.</li> <li>Prohibit direct connections into storm drains from depressed loading docks. These areas should drain into water quality inlets, an engineered infiltration system, or an equally effective alternative.</li> <li>Design trash container areas so that drainage from adjoining roofs and pavement is diverted around the areas to avoid run-on. This might include berming or grading the waste storage areas to prevent run-on of stormwater.</li> <li>Use lined bins or dumpsters to reduce leaking of liquid waste.</li> <li>Provide roofs, awnings, or attached lids on all trash containers to minimize direct precipitation and prevent rainfall from</li> </ul>	Show on the improvement plans prior to their approval.	City of Ceres Public Works Department – Engineering Division	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<p>entering containers.</p> <ul style="list-style-type: none"> <li>Pave trash storage areas with an impervious surface to mitigate spills</li> <li>Do not locate storm drains in immediate vicinity of the trash storage areas.</li> <li>Post signs on all dumpsters informing users that hazardous materials are not to be disposed of therein.</li> </ul>			
<b>4.10 Noise</b>			
<p><b>MM 4.10.4:</b> The following requirements shall be applied to the project:</p> <p>Solid noise barriers, as indicated in <b>Figure 4.10-3</b>, shall be constructed behind the Walmart loading dock area between the two site accesses to Don Pedro Road, and also along the western site boundary to provide shielding to the existing apartment buildings to the west. The barriers shall be 8 feet in height (except where a reduction in height is required for sight distance within clear vision triangles), and shall be constructed of concrete masonry unit (CMU) block with at least three lbs./square foot surface density. Blocks shall be fully grouted. This measure is predicted to reduce noise from Walmart-generated on-site truck circulation by at least 5dB, thereby reducing noise levels to 42 dB L<sub>eq</sub> and 63 dB L<sub>max</sub> at the nearest residences.</p>	<p>Mitigation shall be completed prior to issuance of a certificate of occupancy for Major 1.</p>	<p>City of Ceres Planning and Building Division</p>	
<p><b>MM 4.10.7a:</b> The following requirements shall be applied to the project:</p> <ul style="list-style-type: none"> <li>A solid noise barrier shall be constructed between the truck unloading areas of Majors 2, 3, and 4 and the nearest residence to the west. The barrier shall be 8 feet in height (except where a reduction in height will be required for sight distance within clear vision triangles), and shall be constructed of concrete masonry unit (CMU) block with at least three lbs./square foot surface density. Blocks shall be fully grouted. This measure is predicted to reduce noise from Majors 2, 3, and 4 unloading activities by at least 6 dB, thereby reducing noise levels to 40 dB L<sub>eq</sub> and 65 dB L<sub>max</sub> at the nearest residences during nighttime unloading activities.</li> </ul>	<p>Mitigation shall be completed prior to issuance of a certificate of occupancy for Majors 2, 3 and/or 4.</p>	<p>City of Ceres Planning and Building Division</p>	
<p><b>MM 4.10.7b:</b> The following requirements shall be applied to the project:</p> <ul style="list-style-type: none"> <li>Loading and unloading activities behind Majors 2, 3, and 4 shall be limited to daytime hours (7 am – 10 pm).</li> </ul>	<p>Mitigation shall be implemented throughout the life of the project by Majors 2, 3, and 4 occupants.</p>	<p>City of Ceres Code Public Safety Department – Code Enforcement Division</p>	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<b>MM 4.10.7c:</b> If the City determines that the parcel adjacent to Majors 2/3/4 has ceased to be considered by the City as having a noise-sensitive use prior to implementation of either MM 4.10.7a or 4.10.7b, the City may consider the impact to have been reduced to a level that is less than significant and waive both of those mitigation options.	The determination may be made by the City prior to issuance of a certificate of occupancy for Majors 2, 3 and/or 4.	City of Ceres Planning and Building Division	
<b>4.12.2 Public Services and Utilities – Municipal Water</b>			
<b>MM 4.12.2.4:</b> All buildings on the project site shall be equipped with sensor-activated restroom lavatories to reduce water usage.	Prior to issuance of building permits.	City of Ceres Planning and Building Division	
<b>4.13 Transportation and Traffic</b>			
<b>MM 4.13.1:</b> The project applicant shall fund the preparation of a traffic calming plan, and construct 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 local residents to limit traffic on Don Pedro Road to 2,500 vpd between Mitchell Road and the westernmost 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 crosswalks, and other devices that have proven effectiveness. A minimum of one neighborhood meeting shall be held with affected neighbors and the Plan shall be approved by the Public Works Director/City Engineer with input from the Planning/Building Division Manager, Fire Chief, and Police Chief prior to the issuance of a certificate of occupancy for Major 1.	Mitigation shall be completed within six months of the certificate of occupancy being granted for Major 1.	City of Ceres Public Works Department – Engineering Division, and Planning and Building Division	
<b>#1 – East Whitmore/Mitchell Road</b> <b>MM 4.13.2a:</b> The project applicant shall modify Mitchell Road on the northbound approach to East Whitmore Avenue to provide a second left-turn lane, in conjunction with signal timing modifications. This improvement can be constructed within the existing right-of-way.	Mitigation shall be completed prior to the first certificate of occupancy.	City of Ceres Public Works Department – Engineering Division	
<b>#3 – Don Pedro Road/Mitchell Road</b> <b>MM 4.13.2b:</b> The project applicant shall install a traffic signal at the intersection of Don Pedro Road and Mitchell Road. The signal shall include pedestrian signals and actuation. The signal shall be interconnected and coordinated with the proposed signal at the Mitchell Road entry to the project and to the City's Mitchell Road traffic signal interconnect system to minimize vehicle	Mitigation shall be completed prior to the first certificate of occupancy.	City of Ceres Public Works Department – Engineering Division	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
queue spill back through the area.			
<b>#5 – Service Road/Moffett Road</b> <b>MM 4.13.2c:</b> The project applicant shall widen, in accordance with existing improvement plans already approved by the City, the southbound approach of Moffett Road to the Service Road intersection to allow striping of a left-turn lane.	Mitigation shall be completed prior to the first certificate of occupancy.	City of Ceres Public Works Department – Engineering Division	
<b>#7 – Service Road/El Camino Avenue</b> <b>MM 4.13.2d:</b> The project applicant shall widen and restripe the southbound approach to provide separate left- and right-turn lanes for vehicles turning from El Camino Avenue onto Service Road and widen and restripe Service Road to provide a westbound right-turn lane. The southbound left-turn pocket should accommodate one vehicle (approximately 25 feet).	Mitigation shall be completed prior to the first certificate of occupancy.	City of Ceres Public Works Department – Engineering Division	
<b>#8 – Service Road/Mitchell Road</b> <b>MM 4.13.2e:</b> The project applicant shall construct a second eastbound left-turn lane on Service Road to Mitchell Road, extend the northbound left-turn lane to provide at least 325 feet of vehicle storage, make signal modifications to provide protected east-west left-turn phasing, and pay for the City to evaluate the traffic signal timing six months subsequent to the issuance of the final certificate of occupancy of Walmart (Major 1) to ensure optional traffic flows through the intersection based on current conditions. This improvement may also require relocation of the existing traffic signal.	Mitigation shall be completed prior to the first certificate of occupancy.	City of Ceres Public Works Department – Engineering Division	
<b>#10 – Rhode Road/Mitchell Road</b> <b>MM 4.13.2f:</b> If the work has not already been completed by another project, the project applicant shall install a traffic signal and realign Rhode Road as required. If the work has already been completed by another project, the proposed project shall reimburse the City its pro-rata share of the improvement.	Mitigation shall be completed prior to the first certificate of occupancy. If MM 4.13.2f is already complete, payment of pro-rata share of the improvement will be made prior to issuance of the building permit for Major 1.	City of Ceres Public Works Department – Engineering Division	
<b>#11 – Northbound SR 99/Off-Ramp/On-Ramp/Mitchell Road</b> <b>MM 4.13.2g:</b> The project applicant shall provide improvement plans to Caltrans and to the City that eliminates westbound left-turn movement for non-emergency vehicles, eliminates the stop-control for the northbound movement, and modifies striping. If approved by Caltrans, the	Submittal of improvement plans to the agencies shall be completed within 120 days of receiving final approval of the development by the City of Ceres. If Caltrans approves the	City of Ceres Public Works Department – Engineering Division	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
project applicant shall construct the improvement.	plans then the applicant must construct the improvements by the later of the first certificate of occupancy or 18 months from Caltrans approval. If Caltrans approval is not timely, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to construct the improvement.		
<p><b>#12 – Southbound SR 99 On-Ramp/Off-Ramp/Mitchell Road</b></p> <p><b>MM 4.13.2h:</b> The project applicant shall provide improvement plans to Caltrans and to the City that install a 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, and modify striping. If approved by Caltrans, the project applicant shall construct the improvement.</p>	Submittal of improvement plans to the agencies shall be completed within 120 days of receiving final approval of the development by the City of Ceres. If Caltrans approves the plans then the applicant must construct the improvements by the later of the first certificate of occupancy or 18 months from Caltrans approval. If Caltrans approval is not timely, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to construct the signal improvement.	City of Ceres Public Works Department – Engineering Division	
<p><b>MM 4.13.3:</b> The project applicant shall develop a construction management plan for review and approval by the City of Ceres Public Works Department and- Engineering Division. The plan shall include at least the following items:</p> <ul style="list-style-type: none"> <li>• Development of a construction truck route that would appear on all construction plans to limit truck and auto traffic on nearby residential streets.</li> <li>• Comprehensive traffic control measures, including scheduling of major truck trips and</li> </ul>	Mitigation shall occur prior to and during construction.	City of Ceres Public Works Department – Engineering Division	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<p>deliveries to avoid peak hour traffic hours, detour signs if required, lane closure procedures, sidewalk closure procedures, cones for drivers, and designated construction access routes.</p> <ul style="list-style-type: none"> <li>Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur.</li> <li>Location of construction staging areas for materials, equipment, and vehicles.</li> <li>Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety, and provision for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant.</li> <li>A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager.</li> </ul>			
<p><b>Don Pedro Road/Driveway 1</b></p> <p><b>MM 4.13.4a:</b> If El Camino Avenue is realigned in the future, provide a right turn only exit from the site to the realigned El Camino Avenue, and restrict Don Pedro Road/Driveway 1 to inbound movements only through the use of signage and striping.</p>	<p>Mitigation shall occur as part of the approval of the realignment of El Camino Avenue.</p>	<p>City of Ceres Public Works Department – Engineering Division</p>	
<p><b>Don Pedro Road/Driveway 2</b></p> <p><b>MM 4.13.4b:</b> If El Camino Avenue is realigned in the future, Don Pedro Road should be restriped to provide a two-way left-turn lane to allow vehicles entering this driveway to pull out of the through lane.</p>	<p>Mitigation shall occur as part of the approval of the realignment of El Camino Avenue.</p>	<p>City of Ceres Public Works Department – Engineering Division</p>	
<p><b>Service Road/Right-In/Right-Out/Left-Out Driveway 6 (Westernmost Service Road Driveway)</b></p> <p><b>MM 4.13.4c:</b> This driveway shall be restricted to right-in/right-out operations with the installation of a raised median on Service Road. At such time as the interchange improvements are installed, the right-out access at this location shall be removed and the median modified accordingly. When this occurs, the westerly driveway (6) will become right-in only.</p>	<p>Mitigation shall occur at the City Engineer's discretion at such time as the median is constructed on Service Road or when the interchange is constructed.</p>	<p>City of Ceres Public Works Department – Engineering Division</p>	
<p><b>MM 4.13.6:</b> In development of the Final Exhibit, the project applicant shall:</p> <ul style="list-style-type: none"> <li>Consult with Ceres Area Transit and City staff</li> </ul>	<p>Mitigation shall be completed prior to Final Exhibit approval.</p>	<p>City of Ceres Public Works Department –</p>	

Impact	Timing	Monitoring Responsibility	Verification (Date and Initials)
<p>regarding the final location of transit amenities prior to approval of the Final Exhibit.</p> <ul style="list-style-type: none"> <li>Provide pedestrian connectivity between building entrances and planned transit stops.</li> <li>Ensure pedestrian connectivity to transit and other planned pedestrian facilities with development of any sound walls proposed within the project site.</li> <li>Construct sidewalks wide enough to comfortably accommodate two-way pedestrian travel (minimum of 5 feet).</li> <li>Consult with City of Ceres staff to determine the type of bicycle facility that should be accommodated on Service Road along the project frontage and provide sufficient right-of-way.</li> <li>Orient bicycle parking for both patrons and employees of the project.</li> </ul>		Engineering Division	
<p><b>#4 – Service Road/Central Avenue</b></p> <p><b>MM 4.13.7a:</b> The project applicant shall contribute its fair share toward the construction of improvements that would result in acceptable intersection operations, including construction of a third eastbound and a third westbound through lane (on Service Road), construction of a southbound right-turn-only lane on Central Avenue, and construction of a second westbound left-turn lane on Service Road and associated receiving lanes. The transition from three lanes to two lanes should begin 300 feet from the centerline of the Service Road/Central Avenue intersection and the lane drop should occur over 600 feet.</p>	Prior to issuance of a building permit.	City of Ceres Public Works Department – Engineering Division, Planning and Building Division	
<p><b>MM 4.13.7b:</b> The project applicant shall pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements.</p>	Prior to issuance of a building permit.	City of Ceres Public Works Department – Engineering Division, Planning and Building Division	

RECORDING REQUEST BY:  
CITY OF CERES

When Recorded mail to:

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

**DRAFT  
RESOLUTION NO. 11-04**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CERES  
APPROVING A CONDITIONAL USE PERMIT FOR THE MITCHELL RANCH  
CENTER PROJECT AT THE NORTHWEST CORNER OF MITCHELL ROAD AND  
SERVICE ROAD IN THE CITY OF CERES. APPLICATION NUMBER 07-31.**

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**, an application was received from Regency Centers, LLC for a Conditional Use Permit ("CUP") for a regional commercial center located on the northwest corner of Mitchell Road and Service Road in the City of Ceres including the sale of alcohol at the proposed Walmart store and bona fide restaurants within the center; and,

**WHEREAS**, review of the project for Conditional Use Permit Approval constitutes and provides review of the project for Site Plan Review under the Mitchell Road Corridor Specific Plan as well; and,

**WHEREAS**, the Regency Centers application was subsequently transferred to Walmart, who is now the project applicant; and,

**WHEREAS**, the City's Zoning Code requires that the Planning Division investigate the facts bearing on any case involving a Conditional Use Permit to provide the Planning

Commission with data essential for action consistent, with the intent of the Zoning Code and the City's General Plan; and,

**WHEREAS**, the City's Planning Division has completed this investigation and the results of this investigation are included in the Draft and Final Environmental Impact Reports (together "EIR") prepared for the Mitchell Ranch Project under the California Environmental Quality Act ("CEQA"), in the Staff Report, and as was otherwise communicated to the Planning Commission by Planning Department Staff at the public hearing for this 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 0° 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.

**WHEREAS**, notice of a public hearing of the Planning Commission of the City of Ceres to consider applicant's application was given in accordance with the City's Zoning Ordinance and applicable law; and,

**WHEREAS**, on April 4, 2011, a continued public hearing on the requested application was held by the Planning Commission; and,

**WHEREAS**, on February 22, 2011, a public hearing on the requested application was held by the Planning Commission and continued to meeting date of April 4, 2011; and,

**WHEREAS**, the Planning Commission carefully considered the staff report, all of the information, evidence, together with oral and written testimony presented at the public hearing; and,

**WHEREAS**, at the April 4, 2011 meeting, in compliance with the requirements of California Environmental Quality Act (CEQA), the Planning Commission, as the decision-making body for the City and lead agency for the project, carefully reviewed and considered the information contained in the EIR, and certified the EIR, and adopted a Statement of Overriding Considerations for the project, determining that the considerations identified therein outweigh and render acceptable the significant environmental impacts of the project, which cannot be fully mitigated.

**NOW THEREFORE**, the Planning Commission of the City of Ceres does hereby find as follows:

### **Conditional Use Permit Findings:**

1. The site for the proposed Mitchell Ranch project, as mitigated in the EIR and conditioned herein, is adequate in size and shape to accommodate a regional commercial retail center including alcohol sales at bona fide restaurants within the center, and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by the Zoning Code to adjust the use with land and uses in the neighborhood.
2. The adjacent streets and highways are adequate in width and pavement type to carry the quantity and kind of traffic generated by the Mitchell Ranch project, as mitigated in the EIR and conditioned herein, including alcohol sales at bona fide restaurants within the center, as modified by the mitigation measures set forth in the EIR.
3. The proposed Mitchell Ranch project including alcohol sales at bona fide restaurants within the center, as mitigated in the EIR and conditioned herein, have no adverse effect on abutting property or the permitted use thereof.
4. That the conditions attached hereto as Exhibit A are hereby incorporated by reference, are conditions of the approval of this CUP, and the Planning Commission deems that these conditions are necessary to protect the public health, safety and general welfare of the residents of the City of Ceres and/or will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purposes set forth in the Zoning Code.
5. The Mitchell Ranch project including alcohol sales at bona fide restaurants within the center, as mitigated in the EIR and conditioned herein is consistent with the City's General Plan, as reflected in the analysis in the EIR, the Staff Report, and elsewhere in the record.
6. The Mitchell Ranch project including alcohol sales at bona fide restaurants within the center, as mitigated in the EIR and conditioned herein is consistent with the Mitchell Road Corridor Specific Plan, as reflected in the analysis in the EIR, the Staff Report, and elsewhere in the record.
7. The Mitchell Ranch project including alcohol sales at bona fide restaurants within the center, as mitigated in the EIR and conditioned herein, is otherwise consistent with the City's Zoning Code, as reflected in the analysis in the EIR, the Staff Report, and elsewhere in the record.

### **Site Plan Findings:**

1. The proposed Mitchell Ranch Center project, as mitigated in the EIR and conditioned herein, is compatible with other projects within the Mitchell Road Corridor Specific Plan area.
2. The proposed Mitchell Ranch Center project, as mitigated in the EIR and conditioned herein, will not have an adverse impact on the public health, safety, interest, convenience, or general

welfare, except to the extent that specific identified environmental impacts are overridden pursuant to the Statement of Overriding Considerations attached as Exhibit 1.

3. The proposed Mitchell Ranch Center project, as mitigated in the EIR and conditioned herein, is compatible with the regulations and design guidelines of the Mitchell Road Corridor Specific Plan and conforms to the General Plan and implementing ordinances.

**NOW, THEREFORE**, the Planning Commission of the City of Ceres resolves as follows:

1. That the aforementioned findings are hereby approved.
2. The Conditional Use Permit is hereby approved subject to compliance with the conditions contained in this resolution and attached as Exhibit "A" and on file in the Planning Division.
3. Mitchell Road Corridor Specific Plan Site Plan Review approval is hereby incorporated into the Planning Commission's approval of the Conditional Use Permit, consistent with the provisions of the Mitchell Road Corridor Specific Plan, since the Conditional Use Permit application incorporated all of the requirements for such Site Plan Review.
4. The establishment and operation of CUP 07-31 requires compliance with the conditions of approval, which shall be binding on all heirs, assignees, and successors in interest of said property.
5. The Planning/Building Manager or designee is hereby directed to record this Resolution at the office of the County Recorder of the County of Stanislaus.
6. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020 (d) (1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the ninety (90) day appeal period in which you may protect these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020 (a), has begun. If you fail to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exaction.
7. That the Planning Commission hereby approves Conditional Use Permit No. 07-31 for the Mitchell Ranch Project, including the sale of alcohol at the Walmart store and other bona fide restaurants within the center, subject to the conditions of approval, shown in Exhibit "A," attached hereto and by this reference incorporated herein.

**I HEREBY CERTIFY** that the foregoing Resolution was duly and regularly adopted by the Planning Commission of the City of Ceres at a regular meeting of said Planning Commission held on the 4<sup>th</sup> day of April 2011, by the following vote:

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

**AYES: Del Nero, Kachel, Molina**

**NOES: Kline**

**ABSENT: Smith**

**ABSTAINING:**

**ATTEST:**

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**TOM WESTBROOK, SECRETARY OF  
THE CERES PLANNING COMMISSION**

I:\PLANNING\DEPT\PLANNING\Mitchell Ranch Center\City Council Meeting Documents\PC Resolution No. 11-04 (CUP).DOC

## **EXHIBIT A**

### **CONDITIONS OF APPROVAL**

Conditional Use Permit  
City of Ceres Application 07-31

**City of Ceres**

**Mitchell Ranch Center**  
2872 Don Pedro Road, Ceres, CA 95307  
3901 Mitchell Road, Ceres, CA 95307  
2827, 2829 and 2873 Service Road, Ceres, CA 95307

Prepared: February 1, 2011  
Approved by the Planning Commission: April 4, 2011  
Approved by the City Council: N/A  
Amended by Staff/PC/CC on: N/A

#### **A. PROJECT AUTHORIZATION**

1. The project applicant has applied for, and has been granted, a Conditional Use Permit (“CUP”).
2. The project applicant has applied for, and has been granted under a separate application, a Vesting Tentative Subdivision Map (“VTSM”) pursuant to the Subdivision Map Act, Government Code section 66410 *et seq.* The date of filing of the VTSM for purposes of the vesting of rights under the Subdivision Map Act is December 18, 2007. All conditions herein are to be construed under, and subject to, the Subdivision Map Act and the vesting date of December 18, 2007.
3. The project shall be in conformance with all City Ordinances, rules, regulations, and policies. The conditions listed below are particularly pertinent to this approval but shall not be construed to permit violation of other laws and policies not so listed.
4. Approval is limited to the conformance of the land use and zoning. Use of the property shall be limited to those uses permitted by the RC, Regional Commercial zoning district as identified in the Mitchell Road Corridor Specific Plan as applicable. Standards not listed in the Mitchell Road Corridor Specific Plan shall be governed by the appropriate section of the Ceres Municipal Code and as set forth herein.

5. The Conditional Use Permit shall terminate and no longer be in effect unless previously exercised two (2) years from the date of approval of this Conditional Use Permit (April 4, 2011), unless a time extension request is received and approved by the City. If a legal challenge is filed against the City's approvals, the life of these approvals shall be stayed for the duration of the litigation, but in no event shall the stay be for longer than five (5) years.

## **B. PROJECT GENERAL CONDITIONS**

1. All development shall substantially conform to the plans designated by the Ceres Planning Division as "Final Exhibit". Final Exhibit shall consist of the submitted map(s), site plan, floor plans, elevations and landscape plans amended by the Developer to reflect any changes required by the City in the approval process. The Developer shall submit any required amended site plans and exhibits to the Planning Division within 90 days of project approval.
2. The Developer shall submit a Specific Plan Site Plan application or Conditional Use Permit application for Pads A, B and C, if a CUP is required by the Mitchell Road Corridor Specific Plan, for review and approval by the Planning Commission prior to the issuance of any building permit for such shops and pads.
3. The Developer is permitted to paint and use the materials on the buildings per those listed on the plan for Major 1. If the Developer proposes any changes to color or materials, they must make a written request to the Planning/Building Division Manager who will consider all requests and has the authority to approve those administratively. If the Developer is not satisfied with the opinion of the Planning/Building Division Manager or his designee, that decision is appealable to the Planning Commission and the Developer would be responsible to pay the associated appeal fee.
4. If proposing any elevation changes to the building(s), the Developer must submit a letter to the Planning/Building Division Manager who will evaluate the request. If, in the opinion of the Planning and Building Division Manager or his designee, any proposed change meets the intent of this approval or is superior to what was approved, staff has the authority to approve those administratively. If the Developer is not satisfied with the opinion of the Planning/Building Division Manager or his designee, that decision is appealable to the Planning Commission and the Developer would be responsible to pay the associated appeal fee. Administrative approval of elevation changes may not include any increase in height of structures.
5. The Planning/Building Division Manager may approve minor amendments to the Conditional Use Permit, provided that the CUP as amended is in substantial conformance with the original approval. Requests for minor amendments shall be

submitted in writing to the Planning/Building Division Manager, who has the authority to approve minor amendments administratively.

6. The Developer shall ensure that necessary Building Permits are secured for any Tenant Improvements for the shell buildings. Further, the Developer shall ensure that proposed uses within those shell buildings comply at all times with the parking requirements as identified in the Mitchell Road Corridor Specific Plan, or the applicable sections of the Ceres Municipal Code for those sites within the project. Changes of use within buildings requiring additional parking will require site redesign to reduce overall square footage to ensure that parking remains in balance.
7. All landscaping and irrigation shall be installed pursuant to and consistent with the approved landscaping plan.
8. Permanent outdoor sales are not permitted within the parking area for this project. Temporary outdoor sales are permitted within the parking area in conformance with CMC section 18.50.050 provided that a temporary use permit is obtained.
9. Off-site sale of alcoholic beverages is permitted only within the grocery component of Major 1 and on-site consumption of alcohol is permitted only in conjunction with a bona fide eating establishment within this project, subject to necessary provisions, review and approvals as granted by State of California ABC. Bars, nightclubs, liquor stores or the equivalent shall not be permitted within the project.
10. The tenant identification signs for the Mitchell Ranch Center shall not advertise any business that is not within the project site. All signage within the project shall be consistent with Ceres Municipal Code Section 18.42.
11. Developer shall pay all applicable City and County Public Facility Fees, Mitchell Road Storm Drain Benefit District Fee, Ceres Unified School District Fees and other applicable fees.
12. **NOTICE TO PROJECT APPLICANT:** In accordance with the provisions of Government Code section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of fees, dedications, reservations, or exactions imposed on the development project.
13. All plans and construction associated with the permit shall be in substantial compliance to the approved site plan and the development shall be consistent with applicable provisions of the General Plan, Zoning Ordinance and the Mitchell Road Corridor Specific Plan.

14. The Developer shall defend, indemnify, and hold harmless the City, its agents, officers, employees and volunteers from and against all claims, lawsuits or causes of action (whether brought solely against the City or jointly against both City, developer, or others), damages, losses, and expenses, including attorney fees, arising in any manner out of the approval or the application approved herein, including, without limitation, all actions or proceedings to attack, set aside, void or annul the permit granted pursuant to the City's approval of the application referenced herein, provided the City notifies the developer within a reasonable time of any such claim, action or proceeding, and cooperates in the defense of such claims, actions or proceedings. The City may, at its sole and absolute discretion, (a) participate in the defense of such action undertaken by Developer, or (b) retain separate counsel whose attorney's fees and costs shall be paid by Developer. Participation in the defense of any Action or the retention of separate counsel by the City shall not relieve Developer of its obligations under this condition.
15. The Developer shall comply with San Joaquin Valley Air Pollution Control District Rule 9510. As applicable, Developer shall submit verification of compliance or payment of fee, to the satisfaction of the Planning/Building Division Manager, from the Air District, prior to issuance of a building permit.
16. The Developer shall secure the necessary demolition permit(s) from the City of Ceres to demolish all of the structures on-site.
17. The project Developer will be subject to the Vacant Building Monitoring Fee (Ceres Municipal Code Section 9.40) once the existing WalMart building at 1670 Mitchell Road has been vacated. Prior to the earlier of the issuance of a building permit or within thirty (30) days of the existing Walmart building at 1670 Mitchell Road being vacated, the Developer shall enter into a supplemental maintenance agreement with the City regarding the existing WalMart site at 1670 Mitchell Road to ensure property maintenance until the site is reoccupied or sold to a third party, providing that the Developer will maintain said site free of visual indications of blight and that the City will be compensated for abatement of visual indications of blight on the property if and when the Developer fails to adequately maintain the property in good condition and abate elements of deterioration pursuant to receiving notice from the City, including:
  - Removal of graffiti and all signage from the building and site.
  - Repair broken windows and exterior structural elements
  - Maintenance of existing landscaping.
  - Frequent clean up of litter on the property
  - The supplemental maintenance agreement will include provisions securing performance and shall be accompanied by security in a form acceptable to the City Attorney in the amount of \$25,000.
18. Retenanting of existing Walmart: Walmart's Realty Division will prepare a Sale Strategy Plan ("Plan") for City Council approval that will detail the efforts

Walmart will undertake to find buyers for the property located at 1670 Mitchell Road. In order to ensure the property is sold as quickly as possible, the Plan will impose limited restrictions on the property. Specifically, the Plan will only impose restrictions against direct competitors, such as but not limited to Target or WinCo. The Plan may be provided to the City upon approval of the Project, but shall be provided prior to the earlier of the issuance of a building permit or within 30 days from the date the existing Walmart building at 1670 Mitchell Road is vacated. The Plan shall be presented to the City Council on a City Council agenda and acted upon by the City Council within 90 days of submittal. Any approval shall be prior to issuance of a building permit for the new Walmart building in the Mitchell Ranch Center. The level of detail and commitment set forth in the Plan will ensure the City that Walmart is motivated to sell the property and re-tenant the property to the quickest extent possible.

19. City Council Resolution 2008-175 approved an Improvement Agreement between the City and Ceres Gateway Center. The agreement allows Ceres Gateway Center to establish of an Area of Benefit to collect reimbursement from properties benefiting from these improvements and lists the Mitchell Ranch Center site as one of the benefited properties for certain off-site improvements. If the Improvement Agreement terminates prior to recordation of a final map for the Mitchell Ranch Center Project, the Developer may enter into a new improvement agreement with the City of Ceres and establish an Area of Benefit identifying all of the properties benefiting from the construction of certain improvements required by the Conditions of Approval for the Mitchell Ranch Center Project, and the Mitigation Measures contained in the Mitchell Ranch Center Project EIR, and establishing the pro-rata reimbursement owed by each benefited property to the Mitchell Ranch Center Project.

If the Improvement Agreement between the City and Ceres Gateway Center does not terminate prior to recordation of a final map for the Mitchell Ranch Center Project, and the Improvement Agreement continues to obligate the Mitchell Ranch Center Project to pay its pro rata share of certain improvements, then in no event shall the Mitchell Ranch Center Project be obligated to pay more than its pro rata share for any improvement, taking into consideration any amount the Mitchell Ranch Center Project spends on the actual construction of any improvement.

20. All Mitigation Measures required by the Mitchell Ranch EIR are hereby incorporated into and made conditions of the Project.
21. In furtherance of the beautification and promotion of the downtown area, prior to issuance of a building permit, the Developer shall provide a Downtown Beautification fee in the amount of \$75,000, which funds are to be used for the beautification and promotion of downtown Ceres. Upon receipt of the funds, the City will make a public announcement regarding the receipt of the funds, in

cooperation with Developer.

## **C. FINAL EXHIBIT CONDITIONS**

The following conditions shall be satisfied prior to approval of the Final Exhibit as defined in Condition B.1.

1. The Developer shall respond in writing to all conditions contained in this document and its attachments. Responses shall be in a letter format with each condition numbered and indexed for reference and shall describe how the condition has been or will be met and shall, where applicable, direct the plan checker to the page and/or drawing detail that demonstrates compliance with the condition. These changes shall be indicated with a delta or cloud symbol, and shall be approved by the Planning Division PRIOR to the submittal, and City acceptance, of a Grading or Building Permit application. A copy of these responses shall be provided with each set of the final site map and improvement plans.
2. The site plan shall maintain the 15' setback as required in the Mitchell Road Corridor Specific Plan on Service Road, Don Pedro Road and Mitchell Road. This 15' area shall be landscaped and not utilized as parking lot area.
3. The Developer shall provide a distinctive paved entry treatment at the entrances on Mitchell Road and the accesses on Service Road and Don Pedro Road to the satisfaction of the Planning/Building Division Manager and/or City Engineer. At a minimum, this treatment shall be a colored stamped concrete or paver stones or a stamped/colored asphalt application and extend a minimum of 50 feet from property line at the signalized Mitchell Road driveway and a minimum of 35 feet from property line at all other driveways. This requirement shall be included and noted on the improvement plans.
4. The Developer shall provide near the northwest corner of Mitchell Road and Service Road a monument sign that announces the City of Ceres. This monument sign shall not be more than 6' in height and shall substantially conform to City Signage sheet dated November 10, 2010 by BRR Architecture. The final design of the monument sign shall be reviewed and approved by the Planning/Building Division Manager or designee, whose review is a non-discretionary, administrative action. This monument sign shall be complete prior to the occupancy of Major 1. This sign shall not count against the number or square footage limitations on freestanding signs provided in the Ceres Municipal Code.
5. The Developer shall enhance the treatment of the public space located at the northwest corner of Mitchell Road and Service Road. This area shall have paver stones or equivalent, subject to the review and approval of the Planning/Building Division Manager as depicted on sheet L-02 of the Preliminary Landscape Plan and dated September 20, 2010 by Cardno WRG. The Developer may also

develop this area with outdoor seating, sculpture and landscaping. Enhancements that do not substantially conform to sheet L-02 shall be subject to the review and approval of the Planning/Building Division Manager, whose approval is a non-discretionary, administrative action. The development of this area shall be complete prior to the occupancy of Major 1.

6. The Developer shall provide paver treatment at each of the three pedestrian crossings to Major 1 from the parking field south of that building and at the four pedestrian crossings to Majors 2, 3 and 4 from the parking field east of those buildings to the satisfaction of the Planning/Building Division Manager and/or City Engineer. At a minimum, this treatment shall be a color stamped concrete or paver stones or a stamped/colored asphalt application. This requirement shall be included and noted on the improvement plans.
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 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.
8. The Developer shall ensure that this development meets all parking standards of the Mitchell Road Corridor Specific Plan and applicable sections of the Ceres Municipal Code. The parking lot areas shall be designed and constructed per the standards of Ceres Municipal Code Section 18.40 and shall comply with the applicable parking ratio as established in the City of Ceres Municipal Code and/or Mitchell Road Corridor Specific Plan.
9. Parking lot striping shall be of double line style. Parking lot markings, such as directional arrows and crosswalks, which vehicles drive over, shall be thermoplastic or equivalent.
10. All development, signs, landscaping, walls and fences shall comply with the “visibility obstructions at public intersections” provisions in Chapter 12.26 of the City of Ceres Municipal Code.
11. The site plan shall provide pedestrian connectivity between building entrances and the transit stop.
12. The site plan shall ensure that the cart corrals are designed and placed in such a manner that they are at least 1' away from the adjacent parking stall striping. The cart corrals shall have some type of mechanism or asphalt berm to ensure that carts placed within the corral do not roll into drive aisles. The design and treatment shall be included on improvement plans and to the review and approval

of the Planning/Building Division Manager or designee.

13. The site plan shall provide for bicycle parking within the development. The type and location shall be reviewed and approved by the Planning/Building Division Manager and shall provide well-distributed parking opportunities serving the various buildings in the center.
14. The site plan shall ensure that the drive-thru pharmacy for Major 1 is designed to accommodate vehicle stacking for a minimum of six (6) cars. This may be accomplished by providing dual stacking lanes. The improvement plan or construction drawings shall illustrate how this is being accomplished.
15. The site plan shall ensure that the pick-up window for Pad A is located on the east end of the building and that the order board is near the east end of the building to provide for maximum stacking of vehicles within the drive-thru. The site plan shall ensure that the turning radius for vehicle exiting the drive-thru and heading to the adjacent Service Road access is adequate for large passenger vehicles. The City Engineer or designee shall have the authority to determine if adequate vehicle stacking is provided and the appropriate radius dimension. This shall be reflected on the site plan when a Planning Commission development application is received for Pad A.
16. The Developer shall provide pedestrian scale lighting within the project site where appropriate. Parking lot lighting shall be consistent with Mitchell Road Corridor Specific Plan guidelines. The type, style and height of light shall be reviewed and approved by the Planning/Building Division Manager or designee.
17. The Developer shall provide lighted bollards within the project. Lighted bollards shall be used adjacent to entrances of buildings to signify those locations. Lighted bollards shall be manufactured by Gardco or equivalent, with the location, type and number to be approved by the Planning/Building Division Manager. Lighted bollards shall be included on the improvement plans or construction drawings for buildings within the project.
18. Wall/fence requirements
  - a. Wall height shall be as measured from the top of curb of the adjacent roadway to the top of the wall.
  - b. The Developer shall construct a noise wall along Don Pedro Road as shown on the approved site plan. This wall will consist of a minimum 2' landscape berm with a minimum 8' masonry wall. The wall shall be of enhanced masonry and have decorative pillars every 16' with the pillars and walls having caps. The design of the wall, including elevation details, shall be included on the improvement plans and will be approved by the Planning/Building Division Manager or designee. The wall and

landscaping shall be designed in such a manner so as to soften the height and mass of the wall.

- c. The Developer shall construct a noise wall that has an overall height of 8' along the west property line as shown on the approved site plan. Heading south from Don Pedro Road there shall be no wall for the first 15' from property line. From that point the wall shall be 8' in height and be enhanced masonry, and have decorative pillars every 16' with both the pillars and walls having caps. This wall shall extend south and terminate perpendicular to the exit of the pharmacy drive-thru at Major 1.
- d. The Developer shall provide 6' high fence made of decorative wrought iron or the equivalent, along the west property line that is 155' feet in length extending north from the property line adjacent to Service Road. The first 15' of this decorative wrought iron fence shall not exceed 3' in height. The Developer shall place decorative pillars every 16' along this fence. The design of this decorative wrought iron fence, including elevation details, shall be included on the improvement plans and will be approved by the Planning/Building Division Manager or designee.
- e. The Developer is permitted to secure the property, where other standards are not required, with wire mesh fencing. The design of this fencing shall be included on the improvement plans and will be approved by the Planning/Building Division Manager or designee.
- f. Trees placed in the landscape area adjacent to the wall on Don Pedro Road shall be 24" box minimum. Trees placed along the wall, fence and wrought iron fence along the west property line shall be 24" box minimum.
- g. The Developer shall fence or provide a barrier to the portion of Parcel 7 to be reserved for an adjacent roadway so that the area may not be accessed or used by any vehicles. The type, size and location of the fence/barrier to be approved by the Planning/Building Division Manager or his designee.

19. The portion of Parcel 7 to be reserved for an adjacent roadway shall be disked or treated in such a manner as to minimize or eliminate the potential for fire. The Developer shall submit a maintenance plan which shall be reviewed and approved by the Planning/Building Division Manager prior to the issuance of the first building permit.

20. Signage shall be provided on-site that prohibits the idling of trucks, including the use of auxiliary power units, for more than five minutes.

21. The site plan shall show fire lanes within the project in locations as approved by the Fire Marshal.

22. Trash enclosures:

- a. The site plan shall provide for trash enclosures within the project that are composed of split face CMU or equivalent and these enclosures shall be painted to match building and an overall height of 6'.
- b. Trash enclosures that are within visible locations, such as parking lots, shall have a minimum 3' landscape area around three sides. This landscape area should include shrubs and climbing vines. The Developer shall record access easements to these trash enclosures or provide trash enclosures for each parcel.
- c. Trash enclosures shall meet or exceed the size requirements of the City of Ceres Water Efficient Guidelines.
- d. Trash enclosures shall be provided with a mechanism to prevent the run off of storm water, as approved by the City Engineer.
- e. Trash enclosure gates shall be equipped with self-locking gates and latches.
- f. Trash enclosure exterior walls shall be designed and built so that they are protected from painted graffiti, including but not limited to measures such as protective coatings or appropriate landscaping.

23. All parking lot paving, drive and access aisles, and other hardscape for the entire site shall be installed in conjunction with Major 1 as set forth in the Phase 1 Paving Exhibit dated October 22, 2010 and created by Greenberg Farrow.

Landscaping plan requirements:

24. The Developer shall be required to landscape and irrigate the property as stipulated by the City of Ceres Water Efficient Guidelines and Standards. The Developer, prior to or in conjunction with building permit submittal, shall provide landscape and irrigation plans indicating the type, size and location of planted material, water usage calculations and irrigation plans. The Planning/Building Division Manager or his designee(s) will review and approve all landscape and irrigation plans. A Landscape Maintenance Agreement form shall be signed and executed prior to issuance of a building permit.
25. The Developer shall provide at a minimum, one tree for every eight parking spaces and these shall be distributed evenly within the parking lot.
26. The Developer shall provide all of the landscaping, as identified in the landscape plan, with the development of Major 1. In the areas where future building pads are located, the Developer shall keep these areas in turf and maintain them as part of the landscape maintenance program. In lieu of turf, for building pad areas, the Developer may suggest equivalent or alternative landscaping for review and approval by the Planning/Building Division Manager. The project's landscape plan shall be reviewed and approved prior to the issuance of building permits for Major 1.

27. The Developer shall enhance the landscaping along Don Pedro Road between public right-of-way and the wall. This landscaping shall include 24" box trees, shrubs, turf and climbing vines on the wall. This areas' landscaping shall be designed to provide visual screening of Major 1.
28. The Developer shall enhance the landscaping adjacent to all drive-thrus. This enhanced landscaping shall include some mounding or berms with landscaping on top to screen vehicles in the drive-thru. This detail shall be called out on the landscaping and irrigation plans when development applications for these parcels are submitted for Planning Commission review.
29. The landscaping along the west end of Major 2, 3 & 4 shall be enhanced to provide a vegetative and visual screening to the rear of these buildings. The Developer shall design this area consistent with the materials outlined in the City of Ceres Water Efficient Guidelines and Standards, but trees planted in this location shall be 24" box. The enhanced landscape screening shall be consistent with what is provided along Don Pedro Road.
30. The Developer shall ensure that the Sycamore trees along Mitchell Road and Service Road are preserved and incorporated into the landscape areas. The landscaping and improvement plans shall show how these trees are to be incorporated into the overall project landscaping and how they will be protected during construction phases of the project.

#### **D. REQUIREMENTS PRIOR TO ISSUANCE OF GRADING PERMIT**

1. Recordation of the Project Final Map shall be in effect prior to issuance of a grading permit.
2. Dedication Requirements
  - a. The Developer shall submit Offers of Dedication to the City of Ceres (City) for the property required to develop the ultimate right of way for that portion of Service Road that abuts the south side of the property. The dedication shall begin at the west corner of the property (along the west property line) and shall extend to the east (parallel to the recorded right-of-way centerline) to the west edge of the Mitchell Road right-of-way. The Offer of Dedication shall include required property that is located on land identified by APN 053-013-016, APN 053-013-017, APN 053-013-018 and APN 053-013-019, each located along the south side of the site. The land to be dedicated shall be the same width as the area shown on proposed Parcel 4 (APN 053-013-019).
  - b. The Developer shall submit an Offer of Dedication to the City of Ceres (City) for the property required to develop the ultimate right of way for that portion of Mitchell Road that abuts the east side of the property (APN 053-013-019). The dedication shall begin at the northeast corner of the property and extend south along Mitchell Road to provide right-of-way for a future bus turnout just south of Don Pedro Road.

- c. The Developer shall submit an irrevocable Offer of Dedication to the City of Ceres (City) for the property required to develop the ultimate right of way for that portion of roadway depicted as “Potential Future Roadway” which is located within the project site.
3. The Developer shall record an irrevocable reciprocal access and parking easement across the property in a form approved by the Planning/Building Division Manager and the City Attorney in connection with recordation of a Final Map and prior to issuance of a grading permit. The easement shall provide for reciprocal access and use of all portions of the drive aisles and parking lot areas that are shown on the site plan.
4. Prior to issuance of a grading permit, the property owner shall enter into a supplemental maintenance agreement with the City regarding the Project site to ensure property maintenance, providing that the Developer will maintain the site free of visual indications of blight and providing the City will be compensated for abatement of visual indications of blight, on the property if and when the property, owner fails to adequately maintain the property in good condition and abate elements of deterioration pursuant to receiving notice from the City, including:
  - Removal of graffiti and all signage from the building and site.
  - Repair of broken windows and exterior structural elements.
  - Maintenance of landscaping.
  - Frequent clean up of litter on the property.
  - The supplemental maintenance agreement will include provisions securing performance and shall be accompanied by security in a form acceptable to the City Attorney in the amount of \$15,000.
5. General
  - a. Complete project plans and specifications for all proposed development, including any necessary dedications and easements, shall be submitted to the City Engineer for review and approval. These project plans and specifications shall be prepared by an experienced and qualified engineer, licensed to practice in the State of California in the appropriate discipline for the plans submitted.
  - b. The Developer shall demonstrate for each building pad to the satisfaction of the City of Ceres as follows:
    - i. Adequate protection from 100-year frequency storm; and
    - ii. Feasible access during a 25-year frequency storm. A copy of the applicable FIRM map and hydrology and hydraulic calculations shall be submitted with the improvement plans per current City and Stanislaus County Water Agency Standards
  - c. In conjunction with and as a part of improvement plans, the Developer shall provide a construction management plan. The plan shall include at least the following items:
    - Development of a construction truck route that would appear on all construction plans to limit truck and auto traffic on nearby residential streets.

- Comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hour traffic hours, detour signs if required, lane closure procedures, sidewalk closure procedures, cones for drivers, and designated construction access routes.
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur.
- Location of construction staging areas for materials, equipment, and vehicles.
- Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety, and provision for monitoring surface streets used for haul routes, so that any damage and debris attributable to the haul trucks can be identified and corrected by the project Developer.
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager.
- The developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer.
- Construction air quality requirements include the requirements of Mitigation Measures 4.2.2a, 2b, 2c, 2d, and 2e.
- If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Stanislaus County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
- d. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer.
- e. Construction air quality requirements include the requirements of Mitigation Measures 4.2.2a, 2b, 2c, 2d, and 2e.
- f. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Stanislaus County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
- g. The Developer shall post sufficient surety guaranteeing completion and performance of all improvements which revert to the City (i.e., landscaping, right of way improvements, etc.)

6. Street Improvements:

- a. All public improvements shall be pursuant to approved improvement plans and subject to surety guaranteeing completion of improvements. Approval of improvement plans is required concurrent with approval of the Final Subdivision Map and prior to issuance of a grading permit. Completion of improvements in this section is required prior to issuance of the first final certificate of occupancy except as otherwise noted.

- b. General
  - i. All street frontages shall include sidewalks in conformance with the approved plans.
  - ii. For any frontages where adequate street lighting does not now exist, street light standards and luminaires of the design, spacing, and locations required by the City Engineer shall be included with street improvements.
  - iii. Improvement plans shall provide for on-site and off-site fire hydrants at spacing as provided for and subject to approval of the City Engineer and the Fire Marshall.
  - iv. The Developer shall provide Opticom light devices on all signal lights and in all directions.
  - v. For any portion of any median for which the City Engineer accepts a painted median island as an initial improvement, the Developer shall provide a performance bond or other acceptable guarantee for construction of the ultimate landscaped, raised median island.
- c. Service Road: The Developer shall improve Service Road from the existing north edge of the pavement to the property line along that portion of Service Road that abuts the proposed Parcels 4, 5 and 7. Service Road improvements shall include: bicycle lanes and a second eastbound left-turn lane on Service Road to Mitchell Road, extend the northbound left-turn lane to provide at least 325 feet of vehicle storage, make signal modifications to provide protected east-west left-turn phasing, and payment for the City to evaluate the traffic signal timing, six months subsequent to the issuance of the final certificate of occupancy of Walmart (Major 1), to ensure optimal traffic flows through the intersection based on current conditions. This improvement may also require relocation of the existing traffic signal mast arms.
- d. Mitchell Road:
  - i. The Developer shall improve that portion of Mitchell Road abutting the project site, including half street improvements along that portion of Mitchell Road that abuts the proposed Parcel 1, Parcel 2, Parcel 3 and Parcel 4.
  - ii. The Developer will provide a raised median along Mitchell Road. The median shall begin at Service Road and continue north to Don Pedro Road, with an opening for the main driveway to Parcel 1.
  - iii. Mitchell Road improvements shall include dual northbound left-turn lanes from Mitchell Road into the project site; the lanes shall provide a storage length of 250 feet. A concrete median shall be provided for the length of the turn lanes between opposing traffic. The 8" concrete median shall be provided for the turn pockets and have a type 'K' delineator designed and built in conformance with the requirements of the area Specific Plan and CalTrans details and specifications, and to the specifications of the Engineering Division.

- iv. Improvements shall also include a southbound U-turn lane from Mitchell Road opposite this entrance. A concrete median shall be provided for the length of the turn lane between opposing traffic. The 6" concrete median shall be provided for the turn pocket and have a type 'K' delineator, designed and built in conformance with the requirements of the area Specific Plan and CalTrans details and specifications, and to the specifications of the Engineering Division.
- v. The Developer shall install a traffic signal at the intersection of Mitchell Road and the main project entrance.
- vi. The Developer shall dedicate and construct a standard metro bus stop/enclosure on Mitchell Road south of Don Pedro Road. The bus stop shall include shelter and seating area, with the type and location to be approved by the City Engineer or designee. The bus stop shall be developed prior to the issuance of a final certificate of occupancy for Major 1.
- e. Rhode Road: In accordance with Mitigation Measure ("MM") **MM 4.13.2f** of the Mitchell Ranch Center EIR: If the work has not already been completed by another project, the project Developer shall install a traffic signal and realign Rhode Road as required. The Developer shall interconnect this signal with the existing signal at the Service Road / Mitchell Road intersection to provide coordinated traffic signal operations. The Developer may be entitled to reimbursement via a reimbursement agreement in a method approved by the City Engineer for improvements to the re-aligned Rhode Road. The signals shall be installed and coordinated, prior to issuance of the first certification of occupancy for any structure in the project. If the work has already been completed by another project, the Developer shall reimburse the City its pro-rata share of the improvement.
- f. El Camino Avenue: in accordance with **MM 4.13.2d** of the Mitchell Ranch Center EIR: The project Developer shall widen and restripe the southbound approach to provide separate left- and right-turn lanes for vehicles turning from El Camino Avenue onto Service Road and widen and restripe Service Road to provide a westbound right-turn lane. The southbound left-turn pocket should accommodate one vehicle (approximately 25 feet).
- g. Moffett Road: In accordance with **MM 4.13.2c** of the Mitchell Ranch Center EIR: The project Developer shall widen the southbound approach of Moffett Road to the Service Road intersection; to allow striping of a left turn lane and a 25 foot long shared right turn and through lane, in accordance with existing improvement plans already approved by the City, which were approved and signed by the City on January 22, 2009.
- h. Don Pedro Road:
  - i. The Developer shall improve and restripe that portion of Don Pedro Road abutting the project site. Unless the Developer can demonstrate that the existing pavement/roadway cross-section on Don Pedro Road abutting the project site achieves a traffic index of 8.5, then such improvements shall include reconstruction of the pavement section for the full width of the street.

- ii. The Don Pedro Road frontage of the project shall be signed and marked to prohibit parking. The remaining Don Pedro Road frontage not otherwise marked for full parking prohibition between Mitchell Road and El Camino Avenue shall be signed to prohibit truck parking.
- iii. In accordance with **MM 4.13.1** of the Mitchell Ranch Center EIR: The project Developer shall fund the preparation of a traffic calming plan, and construct 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 local residents to limit traffic on Don Pedro Road to 2,500 vpd between Mitchell Road and the westernmost project driveway, and to limit traffic 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 crosswalks, and other devices that have proven effectiveness. A minimum of one neighborhood meeting shall be held with affected neighbors and the Plan shall be approved by the Public Works Director/City Engineer, Fire Chief, and Police Chief prior to the issuance of a certificate of occupancy for Major 1.
- iv. In accordance with **MM 4.13.2b** of the Mitchell Ranch Center EIR: The project Developer shall install a traffic signal at the intersection of Don Pedro Road and Mitchell Road. The signal shall include pedestrian signals and actuation. The signal shall be interconnected and coordinated with the proposed signal at the Mitchell Road entry to the project and to the City's Mitchell Road traffic signal interconnect system to minimize vehicle queue spill back through the area.
- v. Intersection-improvements shall include: grading, paving, striping, and detection loop installation on the east side of the intersection, at the Developer's cost, to the extent that an easement for those improvements is provided by the subject property owner. Developer shall make a good faith effort to obtain the necessary easement, but shall not be required to agree to unrelated, or unreasonable conditions. If no easement has been provided within six (6) months of approval, then the easement will not have been provided pursuant to this condition.
- i. Central Avenue/Service Road intersection: In accordance with **MM 4.13.7a** of the Mitchell Ranch Center EIR: The project Developer shall contribute its fair share toward the construction of improvements that would result in acceptable intersection operations, including construction of a third eastbound and a third westbound through lane (on Service Road), construction of a southbound right-turn-only lane on Central Avenue, and construction of a second westbound left-turn lane on Service Road and associated receiving lanes. The transition from three lanes to two lanes should begin 300 feet from the centerline of the Service Road/Central Avenue intersection and the lane drop should occur over 600 feet.
- j. Whitmore Avenue/Mitchell Road intersection: In accordance with **MM 4.13.2a** of the Mitchell Ranch Center EIR: The project Developer shall

modify Mitchell Road on the northbound approach to East Whitmore Avenue to provide a second left-turn lane, in conjunction with signal timing modifications. This improvement can be constructed within the existing right-of-way. Work shall include restriping of lanes on Mitchell Road, north of Whitmore Avenue so that the lanes are aligned across the intersection.

- k. Lucas Road: In accordance with **MM 4.13.7b** of the Mitchell Ranch Center EIR: The project Developer shall pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements

## 7. Highway improvements

- a. North-bound SR 99 on/off ramps: in accordance with MM 4.13.2g of the Mitchell Ranch Center EIR, within 120 days of receiving final approval of the development by the City of Ceres, the Developer shall submit improvement plans to the City and CalTrans to accomplish the following: eliminates westbound left-turn movement for non-emergency vehicles, eliminates the stop-control for the northbound movement, and modifies striping.

If CalTrans approves plans implementing MM 4.13.2g, then the Developer must construct the improvements by the later of the first certificate of occupancy or 18 months from CalTrans approval. If CalTrans approval has not been obtained prior to a request for the first certificate of occupancy, then the developer shall provide a guarantee sufficient to construct the improvements as specified in MM 4.13.2g. If CalTrans approval has been obtained but is not timely to allow improvements to be completed prior to the first certificate of occupancy, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to complete the improvements as approved by CalTrans.

- b. South-bound SR 99 on/off ramps: in accordance with MM 4.13.2h of the Mitchell Ranch Center EIR, within 120 days of receiving final approval of the development by the City of Ceres, the Developer shall submit improvement plans to the City and CalTrans to accomplish the following: install a 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, and modify striping.

If CalTrans approves plans implementing MM 4.13.2g, then the Developer must construct the improvements by the later of the first certificate of occupancy or 18 months from CalTrans approval. If CalTrans approval has not been obtained prior to a request for the first certificate of occupancy, then the developer shall provide a guarantee sufficient to construct the improvements as specified in MM 4.13.2h. If CalTrans approval has been obtained but is not timely to allow improvements to be completed prior to the first certificate of occupancy, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to complete the improvements as

approved by CalTrans.

8. Service Road access drives

- a. Secure construction of raised median for Service Rd., to be installed at City Engineer's discretion. The Service Road frontage is designed to provide for access control to the two site accesses using painted medians. The Developer shall secure the cost of an interim raised median to be installed if necessary, as well as the cost of the ultimate raised, landscaped median. In the event that the City Engineer, in the City Engineer's sole discretion, determines that, for operational or safety reasons a raised landscaped median is required to provide this control, the Developer shall fund and install such median.
  - i. The westernmost Service Road driveway is designed to initially provide for right-in-right-out-left-out access. This access may be modified or reduced at the sole discretion of the City Engineer and installation of modifications to accomplish this access limitation shall be the responsibility of the development. At such time as the Mitchell Road interchange improvements are installed, this driveway shall be modified in conformance with approved "ultimate" design in accordance with **MM 4.13.4c** of the Mitchell Ranch Center EIR at the expense of the development and when those modifications are complete this driveway will be restricted to a right-in only.
  - ii. The eastern Service Road driveway is designed to initially provide for right-in-right-out-left-in access. This access may be modified or reduced at the sole discretion of the City Engineer and installation of modifications to accomplish this access limitation shall be the responsibility of the development and when those modifications are complete, this driveway will be restricted to a right-in/right-out only.

9. Water

- a. The Developer shall provide approved backflow device and meter for every water connection point at the street. Backflow devices shall have a certified backflow test and inspection at the point of connection.
- b. The Developer shall provide an on-site non-potable water system for irrigation. The Developer shall develop a well site within the project area that is utilized only for purposes of landscape irrigation. This well and necessary piping shall not have connection to any system that provides domestic water.
- c. The Developer shall ensure that each point of connection is looped to the satisfaction of the Public Works Director or designee.
- d. All buildings on the project site shall be equipped with sensor-activated restroom lavatories to reduce water usage.
- e. The Developer shall indicate in writing to the City of Ceres; the disposition of any water well(s) and any other water that may exist within the site. Private wells shall not be used for potable water supply. If any wells are proposed to

be abandoned, or if they are abandoned and have not been properly sealed, they must be destroyed per applicable codes and ordinances.

- f. The Developer shall provide the City of Ceres with a right of entry to drill a test well within the project site northwest of proposed Shops 3, as depicted in the Future Well Dedication Exhibit dated October 22, 2010 and created by Greenberg Farrow. If it is determined by the test well results that water quality and quantity, that this site can be developed into a municipal well, then the Developer shall dedicate the necessary land area within the remainder area to the northwest of the Potential Future Street, as depicted in the Future Well Dedication Exhibit dated October 22, 2010 and created by Greenberg Farrow, for the development of this well to the City of Ceres.
- g. The Developer shall install on-site and off-site fire hydrants with the type and location to be approved by the Fire Marshal. The Fire Marshal shall also review and approve the location of the Fire Department Connection. Fire Hydrants shall be located within 50' of the Fire Department Connection and as approved by the Fire Marshal.
- h. Mitchell Road improvements shall include construction of a 16" water transmission main from Service Road to Don Pedro Road, including connections to the existing water system only at those two intersections.

## 10. On site conditions

- a. Grading
  - i. A grading permit is required prior to commencement of any grading on the site. The Developer shall submit to the City of Ceres for review and approval, a grading plan prepared by a Registered Civil Engineer and shall obtain a Grading Permit.- The grading plan shall incorporate the recommendations of the approved Soils Report.
    1. The Developer shall submit, as a condition of the grading permit, a City of Ceres "Acknowledgment concerning employment of registered civil engineers and technical consultants" to the City Engineer.
    2. The grading permit shall not be issued until 100 percent Improvement Plan drawings are approved by the City Engineer.
  - ii. Prior to issuance of a grading permit, A Phase II Environmental Site Assessment report shall be prepared to determine the extent and exact nature of any pesticide or chemical residues present on the project site. Soils samples shall be taken from throughout the site to test pesticide contamination (chlorinated pesticides using EPA Test Method 8081 and 8082). If samples reveal concentrations of pesticide residue in excess of acceptable thresholds, actions shall be taken to remediate soil contamination to within ASTM International standards. Such actions could include excavation and disposal of contaminated soils from the site or bioremediation. A qualified Phase II Environmental Assessor shall be retained to develop and carry out a remediation plan, if necessary.

- iii. The project shall comply with the recommendations of the Preliminary Geotechnical Engineering Analysis prepared by Consolidated Engineering Laboratories in June 2006 (see **Appendix 4.6-1** of the Mitchell Ranch Center EIR).
- iv. Prior to issuance of grading permits, any and all septic tanks on the project site shall be removed under permit from the Stanislaus County Department of Environmental Resources.
- v. Prior to issuance of grading permits, the Developer shall submit to the City of Ceres for review and approval, a detailed Soils Report certified by a Civil Engineer registered in the State of California and qualified to perform soils work. The report shall include a minimum of geotechnical investigation with regard to the requirements of the 2006 Edition of the International Building Code with the 2007 California Amendments. The soils report shall include a compaction testing schedule for on- and off-site roads, building pads, parking areas, sidewalks and trenches.
- vi. The project soils engineer shall submit, prior to issuance of any grading or building permit, a wet-stamped letter to the City Engineer that identifies the project and certifies:
 

“As soils engineer of record for the project, I hereby certify that the rough grading has incorporated all requirements and recommendations contained in the approved soil report for the project completed by \_\_\_\_\_ and dated \_\_\_\_\_ and that all recommendations that I have made based on site inspections of the work and site testing during construction have also been incorporated into the rough grading work. I hereby certify that all requirements and recommendations of the Engineering Geologist for this project (if applicable) have been incorporated into the rough grading work. I hereby certify that the project site is adequate for its intended use.”
- vii. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of erosion, settlement, and seismic activity.
- viii. This site is subject to the National Pollutant Discharge Elimination System (NPDES) Program. The Developer shall submit a SWPPP to the City for approval, which will include a WDID number prior to the issuance of the initial grading or building permit, the developer shall provide evidence that the site is covered by the Statewide General Permit to Discharge Storm Water associated with construction activity. This requires confirmation that a Notice of Intent (NOI) and the applicable fee were sent to the State Water Resources Control Board.

In addition, the grading plans need to state “All grading shall be in accordance with the Storm Water Pollution Prevention Plan prepared by the developer per the Notice of Intent on file with the State Water Resources Control Board”.

b. Storm drainage requirements

- i. Prior to approval of improvement plans, the Developer shall provide a list of City-approved best management practices (BMPs) to be implemented on the site during operation of the proposed project that will protect receiving waters from urban contaminants in runoff. The BMPs shall be consistent with RWQCB guidelines and shall be obtained from the California Stormwater Quality Association’s Stormwater Best Management Practice (BMP) Handbooks. At least 85 to 90 percent of annual average storm water runoff from the site shall be treated per the standards in the 2003 California Stormwater Best Management Practices Handbooks.
- ii. The Developer shall provide and submit to the City for review and approval an Operations and Maintenance (O&M) agreement that provides for, in perpetuity, the maintenance of the proposed storm drain system. The agreement shall require that any work on the storm drain, including maintenance, shall be completed under the responsible charge of a civil engineer registered in the State of California. The Developer shall specify the entity that will be legally responsible for the agreement and shall specify how the agreement will be transferred between entities for perpetuity.
- iii. The Developer shall submit to the City of Ceres for review and approval, drainage plans and hydraulic calculations prepared by a registered civil engineer; shall enter into an agreement with the City of Ceres to complete the improvement and shall post sufficient surety guaranteeing the construction of the improvements. The drainage plans and calculations shall indicate the following conditions before and after development:  
Quantities of water, water flow rates, major water courses, drainage areas and patterns, diversions, collection systems, flood hazard areas, sumps and drainage courses. Hydrology shall be per current professional engineering standards.
- iv. Storm drainage facilities shall be sized and located to accommodate the peak runoff flow rates according to the procedures and methodologies of the Stanislaus County Storm Drainage Design Manual and the City’s Improvement Standards. Infiltration systems shall be designed to empty within 24 hours of the end of the 50 year storm.
- v. The project civil engineer shall certify that the storm drain system was designed and constructed in general accordance with the City approved plans and specifications, and that the storm drain system,

properly maintained, should perform as anticipated for its design life of no less than 50 years.

- vi. In accordance with Chapter 13.18 of the Ceres Municipal Code and the Stormwater Best Management Practices Handbook, a Local Stormwater Pollution Prevention Plan or similar water pollution control plan as determined by the City Engineer, shall be developed and submitted to the City prior to receiving a construction grading or erosion control permit.
- vii. All storm drain catch basins and drain inlets shall have a storm drain plaque installed with the City's approved "plaque" prior to acceptance by the City.
- viii. The buried storm drain system shall be protected at all times. The project civil engineer shall schedule a construction sequence for the project and shall submit the sequence to the City for review and approval before a grading permit will be issued. The sequence of work shall provide for the protection of the storm drain system, and shall include surface protection that reduces the potential for compaction or consolidation of the native earth material that is incorporated into the storm drain infiltration system.
- c. Lighting: The project lighting plan and photometric diagram, and all subsequent lighting installation, shall maintain light spillage at the project's property lines to a level of no more than 2.0 foot-candles, as measured at adjacent property lines along Don Pedro Road.
- d. City Engineer may, in the City Engineer's sole discretion, require extension of on-site median at the Mitchell Road main access driveway to preclude left turns to the north toward shops 4 if necessary to alleviate a safety issue.

## 11. Miscellaneous

- a. Turlock Irrigation District indicates that an irrigation pipeline belong to Improvement District 454, the Cooper, runs from east to west at the approximate midpoint of the project. Since all downstream parcels have been abandoned out of the improvement district, this line shall be removed and plugged per District standards. Remaining irrigation facilities found during construction are abandoned and must be removed.
- b. Stanislaus County Department of Environmental Resources requires that all existing on-site wells (unless retained for on-site irrigation) and/or septic tanks, shall be destroyed under permit from DER and in accordance with all laws and policies (Stanislaus County and California State Model Well Standards. The Developer must submit three sets of food facility construction plans to the Department of Environmental Resources for review and approval for compliance with California Code (Section 114380) for any food facilities within the project.
- c. Prior to any construction activity, the developer shall inform all contractors of the possibility that human remains may be found on the site during construction

activities. If, during the course of implementing the project, human remains are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division and the County Coroner shall be notified. If the remains are determined to be of Native American origin, the coroner will notify and provide for consultation with the Native American Heritage Commission for recommended procedures if human remains are found.

- d. In accordance with **MM 4.4.1a** of the Mitchell Ranch Center EIR, if, during the course of implementing the project, cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts) are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery.
- The City shall consider mitigation recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of cultural resources.
- e. In accordance with **MM 4.4.2** of the Mitchell Ranch Center EIR, if, during the course of implementing the project, any paleontological resources (fossils) are discovered, work shall be halted immediately within 50 feet of the discovery, and the City of Ceres Planning Division shall be immediately notified. At that time, the City will coordinate any necessary investigation of the discovery with a qualified paleontologist. The City shall consider the mitigation recommendations of the qualified paleontologist for any unanticipated discoveries of paleontological resources. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of paleontological resources.
- f. In accordance with **MM 4.3.1** of the Mitchell Ranch Center EIR, if construction activities occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the project Developer shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds, within and in the vicinity of the construction area (no less than 500 feet outside project boundaries), no more than 30 days prior to ground disturbance or tree removal. If active nests are located during preconstruction surveys, USFWS and/or CDFG shall be notified regarding the status of the nests. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with USFWS and/or CDFG). Restrictions may include: establishment of exclusion zones (no ingress of

personnel or equipment at a minimum radius of 500 feet around the nest for Swainson's hawk, 100 feet around the nest for other raptors, and 50 feet around the nest for other migratory birds) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (September 1 through February 28).

## **E. REQUIREMENTS PRIOR TO ISSUANCE OF BUILDING PERMIT**

1. The grading permit shall have been issued prior to or concurrently with the first building permit.
2. The Developer shall list all colors and materials on the construction drawings when submitted to the City's Building Division.
3. Approval of this project is not an authorization to commence construction. Building construction, alterations, repairs, sign erection, or occupancy shall not be permitted without prior approval of the Building Division through issuance of any and all required permits.
4. All construction shall meet the requirements of the current adopted version of the California Building Code in effect at the time of building permit application.
5. All buildings shall be provided with approved fire suppression sprinkler systems in accordance with and unless otherwise provided by the current adopted version of the California Fire Code in effect at the time of building permit application.
6. Handicapped accessibility to any proposed buildings shall be required per State Law and subject to the approval of the Building official.
7. All parking areas including handicapped parking space design shall meet A.D.A. requirements.
8. The Developer shall provide on-site restroom facilities during construction.
9. In accordance with **MM 4.2.4.a** of the Mitchell Ranch Center EIR, all buildings on the project site shall be designed and constructed to exceed minimum statewide energy requirements (Title 24). Measures may include, but are not limited to, the following:
  - Incorporate skylights into building designs to utilize natural daylight
  - Utilize computer-controlled daylight sensors and electronic dimming ballasts
  - Use high-efficiency light bulbs in all lighting fixtures
  - Use light-emitting diodes (LED's) in exterior signage
  - Use energy-efficient appliances and heating, ventilation, and air conditioning (HVAC) systems
  - Use low-emission water heaters and/or central water heating systems
  - Increase building insulation
  - Use automated controls for HVAC systems or centralized energy management systems

10. In accordance with **MM 4.2.4b** of the Mitchell Ranch Center EIR, all buildings on the project site shall utilize Energy Star compliant (highly reflective) and high emissivity roofing (emissivity of at least 0.9 when tested in accordance with ASTM 408) for a minimum of 75 percent of the roof surface, to reduce energy demands associated with air conditioning and to minimize the urban heat island effect.
11. All buildings shall be provided with approved fire suppression sprinkler systems in accordance with and unless otherwise provided by the 2007 California Fire Code or the latest adopted version of the California Building Code.
12. The Developer shall provide and install Knox boxes for all buildings within the project.
13. As applicable, Developer shall submit verification of compliance or payment of fee pursuant to San Joaquin Valley Air Pollution Control District Rule 9510, to the satisfaction of the Planning/Building Division Manager, from the Air District, prior to issuance of a building permit.

## **F. REQUIREMENTS PRIOR TO ISSUANCE OF FIRST FINAL OCCUPANCY PERMIT**

1. All landscaping and irrigation shall be installed and operational pursuant to and consistent with the approved landscaping plan. Non-potable water source shall be operational.
2. The Supplemental Maintenance Agreement for 1670 Mitchell Road referenced in General Condition 17 shall be in effect.
3. All required site improvements shall be completed.
4. The following street improvements shall be completed and accepted:
  - a. Service Road frontage.
  - b. Mitchell Road frontage including installation of traffic signal at main project entry.
  - c. Don Pedro Road frontage including installation of traffic signal at Mitchell Road.
  - d. Rhode Road realignment and signal at Mitchell Road.
  - e. El Camino Avenue widen and restripe at the intersection of Service Road.
  - f. Moffett Road: widen and stripe southbound approach at Service Road.
  - g. Fund Don Pedro Road traffic calming study and hold at least one neighborhood meeting.
  - h. Whitmore Avenue/Mitchell Road intersection: modify northbound approach and signal timing modification.
5. If improvement plans for SR 99 North and South-bound on/off ramps have been approved by CalTrans, said improvements shall be complete or secured. If improvement plans have not been approved, then improvements consistent with the plans shall be secured.
6. Provide security for future potential modifications of Service Road access
7. All required easements shall be recorded and in effect

8. The on-site storm drainage system shall be complete and accepted.

## **G. OPERATIONAL REQUIREMENTS**

1. Deliveries to the project site, including Major 1 shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m.
2. The Developer shall comply with the City's shopping cart ordinance, CMC Chapter 4.04, which requires signage and other measures to prevent shopping carts from leaving the site, as well as submission and approval of an Abandoned Cart Prevention Plan. Further, the Developer shall ensure that carts which are not returned to cart corrals are picked up twice daily, including carts that may be left at the exterior of the project and adjacent to the public right-of-way. The required Abandoned Cart Prevention Plan shall be approved by the Supervisor of the Code Enforcement Unit prior to issuance of any certificate of occupancy.
3. The Developer shall ensure that materials stored/stacked in the combination storage area north of Major 1 are not taller than 8' in height. The Developer shall ensure that materials stored/stacked in this location are not visible from Don Pedro Road at any time and this storage area shall be fully enclosed with screening gates.
4. The Developer shall ensure that the trash compactor for Major 1 and Major 2 are fully enclosed and the compactor shall only operate between the hours of 7:00 a.m. to 10:00 p.m.
5. The idling of trucks, including the use of auxiliary power units, for more than five minutes is prohibited at all times. Trucks are not permitted to park off-site in the vicinity of the site while waiting to make deliveries to the site.
6. The Developer shall provide a plan for on-site security for the initial development of the Center including Major 1 to the satisfaction of the Public Safety Director and shall ensure that security is on-site at Major 1 during Major 1 hours of operation. A plan for on-site security for each subsequent phase of development shall be prepared to the satisfaction of the Public Safety Director as a condition of the first final certificate of occupancy for each subsequent phase.

RECORDING REQUEST BY:  
CITY OF CERES

When Recorded mail to:

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

**DRAFT  
RESOLUTION NO. 11-05**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CERES APPROVING A VESTING TENTATIVE SUBDIVISION MAP FOR THE MITCHELL RANCH PROJECT TO RECONFIGURE FIVE PARCELS AT THE NORTHWEST CORNER OF MITCHELL ROAD AND SERVICE ROAD IN THE CITY OF CERES (APNS 053-012-068 AND 053-013-016 THROUGH -019) INTO SEVEN (7) PARCELS. APPLICATION NUMBER 07-32.**

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**, an application was received from Regency Centers, LLC for a proposed Vesting Tentative Subdivision Map for seven (7) parcels for a regional commercial center located on the northwest corner of Mitchell Road and Service Road in the City of Ceres (APNs 053-012-068 and 053-013-016 through -019 (the "Property"); and,

**WHEREAS**, the Regency Center application was subsequently transferred to Walmart, who is now the project applicant; and

**WHEREAS**, the City of Ceres Subdivision Ordinance requires that the Planning Commission review a vesting tentative subdivision map when a proposed subdivision contains four or more lots and that certain findings must be made by the Planning Commission when approving a subdivision. The Planning Commission's action should include consideration of the administrative record including any testimony from the public on the proposed subdivision; 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 0° 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.

**WHEREAS**, notice of a public hearing of the Planning Commission of the City of Ceres to consider applicant's application was given in accordance with the City's Zoning Ordinance and applicable law; and,

**WHEREAS**, on April 4, 2011, a continued public hearing on the requested application was held by the Planning Commission; and,

**WHEREAS**, the Planning Commission held a noticed public hearing on the Mitchell Ranch Project Vesting Tentative Subdivision Map on February 22, 2011 and continued to meeting date of April 4, 2011; and

**WHEREAS**, the Planning Commission carefully considered the staff report, all of the information, evidence, together with oral and written testimony presented at the public hearing; and,

**WHEREAS**, in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Implementation Procedures, an Environmental Impact Report ("EIR") has been prepared to assess the environmental impacts of the Mitchell Ranch Project, including the Mitchell Ranch Project Vesting Tentative Subdivision Map. The Planning Commission, as the decision-making body for the City and lead agency for the project, carefully reviewed and considered the information contained in the EIR and certified the EIR and adopted a Statement of Overriding Considerations for the project, determining that the considerations identified therein outweigh and render acceptable the significant environmental impacts of the project which cannot be fully mitigated.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Ceres approves Vesting Tentative Subdivision Map 07-32, based upon the facts and findings as set forth below, and subject to the Conditions of Approval and the Vesting Tentative Subdivision Map included in Exhibits A and B attached hereto and incorporated herein by reference.

**FURTHERMORE**, the Planning Commission finds as follows:

1. As provided in the Subdivision Map Act, a subdivision must be consistent with the General Plan. A General Plan consistency analysis for the Mitchell Ranch Project Tentative Map was provided as part of the Mitchell Ranch Project Environmental Impact Report (EIR), which identified and analyzed applicable City policies. This analysis found that the project would be consistent with the City's General Plan. The Planning Commission concurs with these findings and also finds that the Vesting Tentative Subdivision Map is consistent with the General Plan.
2. As provided in the Subdivision Map Act, a subdivision must also be consistent with applicable specific plans. The Mitchell Ranch Project is governed by the Mitchell Road Corridor Specific Plan ("MRCSP"). A MRCSP consistency analysis was also provided as a part of the EIR. The analysis found that the project would be consistent with the MRCSP. The Planning Commission concurs with these findings and also finds that the Vesting Tentative Subdivision Map is consistent with the MRCSP.
3. The proposed Vesting Tentative Subdivision Map subdivision is otherwise consistent with Chapter 17 of the City's Municipal Code.
4. The Vesting Tentative Subdivision Map is hereby approved subject to compliance with the conditions contained in this resolution and attached as Exhibit "A" and on file in the Planning Division.
5. The establishment and operation of CUP 07-31 requires compliance with the conditions of approval, which shall be binding on all heirs, assignees, and successors in interest of said property.
6. The Planning/Building Manager or designee is hereby directed to record this Resolution at the office of the County Recorder of the County of Stanislaus.
7. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020 (d) (1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the ninety (90) day appeal period in which you may protect these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020 (a), has begun. If you fail to file a protest within this ninety (90) day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exaction.

**I HEREBY CERTIFY** that the foregoing Resolution was duly and regularly adopted by the Planning Commission of the City of Ceres at a regular meeting of said Planning Commission held on the 4<sup>th</sup> day of April 2011, by the following vote:

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

**AYES: Del Nero, Kachel, Molina**

**NOES: Kline**

**ABSENT: Smith**

**ABSTAINING:**

**ATTEST:**

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**TOM WESTBROOK, SECRETARY OF  
THE CERES PLANNING COMMISSION**

I:\PLANNING\DEPT\PLANNING\Mitchell Ranch Center\City Council Meeting Documents\PC Resolution No. 11-05 (VTSM).DOC

## **EXHIBIT A**

### **CONDITIONS OF APPROVAL**

Vesting Tentative Subdivision Map  
City of Ceres Application 07-32

#### **City of Ceres**

**Mitchell Ranch Center**  
2872 Don Pedro Road, Ceres, CA 95307  
3901 Mitchell Road, Ceres, CA 95307  
2827, 2829 and 2873 Service Road, Ceres, CA 95307

Prepared: February 1, 2011  
Approved by the Planning Commission: April 4, 2011  
Approved by the City Council: N/A  
Amended by Staff/PC/CC on: N/A

#### **A. PROJECT AUTHORIZATION**

A1. The project applicant has applied for, and has been granted subject to the conditions herein, a Vesting Tentative Subdivision Map (“VTSM”) pursuant to the Subdivision Map Act, Government Code section 66410 *et seq.* The date of filing of the VTSM for purposes of the vesting of rights under the Subdivision Map Act is December 18, 2007. All conditions herein are to be construed under, and subject to, the Subdivision Map Act and the vesting date of December 18, 2007.

A2. The project shall be in conformance with all City Ordinances, rules, regulations, and policies. The conditions listed below are particularly pertinent to this approval, but shall not be construed to permit violation of other laws and policies not so listed.

A3. Approval is limited to the conformance of the land use and zoning. Use of the property shall be limited to those uses permitted by the RC, Regional Commercial zoning district as identified in the Mitchell Road Corridor Specific Plan as applicable. Standards not listed in the Mitchell Road Corridor Specific Plan shall be governed by the appropriate section of the Ceres Municipal Code and as set forth herein.

A4. The Vesting Tentative Subdivision Map shall expire two (2) years from the date of approval unless a Final Map is recorded. If a legal challenge is filed against the City’s approvals, the life of these approvals shall be stayed for the duration of the litigation, but in no event shall the stay be for longer than five (5) years.

## **B. PROJECT GENERAL CONDITIONS**

B1. All development shall conform to the plans designated by the Ceres Planning Division as "Final Exhibit". Final Exhibit shall consist of the submitted map(s), site plan, floor plans, elevations and landscape plans amended by the Developer to reflect any changes required by the City in the approval process. The Developer shall submit any required amended site plans and exhibits to the Planning Division within 90 days of project approval.

B2. The Developer shall respond in writing to all conditions contained in this document and its attachments. Responses shall be in a letter format with each condition numbered and indexed for reference and shall describe how the condition has been or will be met and shall, where applicable, direct the plan checker to the page and/or drawing detail that demonstrates compliance with the condition. These changes shall be indicated with a delta or cloud symbol, and shall be approved by the Planning Division PRIOR to the submittal, and City acceptance, of a Grading or Building Permit application. A copy of these responses shall be provided with each set of the final site map and improvement plans.

B3. The City Engineer may approve minor amendments to the Tentative Map approval, provided that the amendment is in substantial conformance with the original approval. Requests for minor amendments shall be submitted in writing to the Planning/Building Division Manager.

B4. All landscaping and irrigation shall be installed pursuant to and consistent with the approved landscaping plan.

B5. Developer shall pay all applicable City and County Public Facility Fees, Mitchell Road Storm Drain Benefit District Fee, Ceres Unified School District Fees and other applicable fees.

B6. All plans and construction associated with the Tentative Map approval shall be in substantial compliance to the approved site plan and the development shall be consistent with applicable provisions of the General Plan, Zoning Ordinance and the Mitchell Road Corridor Specific Plan.

B7. The Developer shall defend, indemnify, and hold harmless the City, its agents, officers, employees and volunteers from and against all claims, lawsuits or causes of action (whether brought solely against the City or jointly against both City, developer, or others), damages, losses, and expenses, including attorney fees, arising in any manner out of the approval or the application approved herein, including, without limitation, all actions or proceedings to attack, set aside, void or annul the permit granted pursuant to the City's approval of the application referenced herein, provided the City notifies the developer within a reasonable time of any such claim, action or proceeding, and cooperates in the defense of such claims, actions or proceedings.

The City may, at its sole and absolute discretion, (a) participate in the defense of such action undertaken by Developer, or (b) retain separate counsel whose attorney's fees and costs shall be paid by Developer. Participation in the defense of any Action or the retention of separate counsel by the City shall not relieve Developer of its obligations under this condition.

B8. All Mitigation Measures (MM) required by the Mitchell Ranch EIR are hereby incorporated into and made conditions of the Project.

B9. NOTICE TO PROJECT APPLICANT: In accordance with the provisions of Government Code section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of fees, dedications, reservations, or exactions imposed on the development project.

## **C. FINAL MAP CONDITIONS OF APPROVAL**

Prior to approval of a Final Map, the following conditions shall be met. Since the Final Map is based upon the approved site plan, the Final Map must reflect the development plan on the Planning Commission approved exhibits. To ensure this, on-site and off-site plans must be reviewed and approved prior to approval of the Final Map. The conditions below separately reflect On-site Conditions and Off-site Conditions, and shall be satisfied prior to approval of a Final Map. For required off-site improvements, this section describes when the improvement must be guaranteed. Section D describes when the improvement must be completed.

### **ON-SITE CONDITIONS**

#### **C1. Easements**

- a. The Developer shall provide private storm drain, water and sewer easements for the proposed on-site utilities that service more than one parcel, or that cross parcel lines.
- b. The Developer shall provide reciprocal access and parking easements as necessary, or as required by the City Engineer or the Planning/Building Division Manager.
- c. The Developer shall record 10' Public Utility Easements along the properties that abut Service Road, Mitchell Road and Don Pedro Road.

C2. The Developer shall secure the necessary demolition permit(s) from the City of Ceres to demolish all of the structures on-site. All structures shall be demolished.

C3. The site plan shall maintain the 15' setback as required in the Mitchell Road Corridor Specific Plan on Service Road, Don Pedro Road and Mitchell Road. This 15' area shall be landscaped and not utilized as parking lot area.

C4. The Developer shall provide a distinctive paved entry treatment at the entrances on Mitchell Road and the accesses on Service Road and Don Pedro Road to the satisfaction of the Planning/Building Division Manager and/or City Engineer. At a minimum this treatment shall be a colored stamped concrete, or paver stones or a stamped/colored asphalt application, and extend a minimum of 50 feet from property line at the signalized Mitchell Road driveway and a minimum of 35 feet from property line at all other driveways. This requirement shall be included and noted on the improvement plans.

C5. The Developer shall provide near the northwest corner of Mitchell Road and Service Road a monument sign that announces the City of Ceres. This monument sign shall not be more than 6' in height and shall substantially conform to City Signage sheet dated November 10, 2010 by BRR Architecture. The final design of the monument sign shall be reviewed and approved by the Planning/Building Division Manager or designee, whose review is a non-discretionary, administrative action. This monument sign shall be complete prior to the occupancy of Major 1. This sign shall not count against the number or square footage limitations on freestanding signs provided in the Ceres Municipal Code.

C6. The Developer shall enhance the treatment of the public space located at the northwest corner of Mitchell Road and Service Road. This area shall have paver stones or equivalent subject to the review and approval of the Planning/Building Division Manager as depicted on sheet L-02 of the Preliminary Landscape Plan and dated September 20, 2010 by Cardno WRG . The Developer may also develop this area with outdoor seating, sculpture and landscaping. Enhancements that do not substantially conform to sheet L-02 shall be subject to the review and approval of the Planning/Building Division Manager, whose approval is a non-discretionary, administrative action. The development of this area shall be complete prior to the occupancy of Major 1.

C7. The Developer shall provide paver treatment at each of the three pedestrian crossings to Major 1 from the parking field south, of that building and at the four pedestrian crossings to Majors 2, 3 and 4, from the parking field east of those buildings to the satisfaction of the Planning/Building Division Manager and/or City Engineer. At a minimum this treatment shall be a color stamped concrete, or paver stones or a stamped/colored asphalt application. This requirement shall be included and noted on the improvement plans.

C8. The Developer shall ensure that this development meets all parking standards of the Mitchell Road Corridor Specific Plan and applicable sections of the Ceres Municipal Code. The parking lot areas shall be designed and constructed per the standards of Ceres Municipal Code Section 18.40 and shall comply with the applicable parking ratio, as established in the City of Ceres Municipal Code and/or Mitchell Road Corridor Specific Plan.

C9. Parking lot striping shall be of double line style. Parking lot markings, such as directional arrows and crosswalks, which vehicles drive over, shall be thermoplastic or equivalent.

C10. All development, signs, landscaping, walls and fences shall comply with the “visibility obstructions at public intersections” provisions in Chapter 12.26 of the City of Ceres Municipal Code.

C11. The site plan shall provide pedestrian connectivity between building entrances and the transit stop.

C12. The site plan shall ensure that the cart corrals are designed and placed in such a manner that they are at least 1' away from the adjacent parking stall striping. The cart corrals shall have some type of mechanism or asphalt berm to ensure that carts placed within the corral do not roll into drive aisles. The design and treatment shall be included on improvement plans and to the review and approval of the Planning/Building Division Manager or designee.

C13. The site plan shall provide for bicycle parking within the development. The type and location shall be reviewed and approved by the Planning/Building Division Manager and shall provide well-distributed parking opportunities serving the various buildings in the center.

C14. The site plan shall ensure that the drive-thru pharmacy for Major 1 is designed to accommodate vehicle stacking for a minimum of six (6) cars. This may be accomplished by providing dual stacking lanes. The improvement plan or construction drawings shall illustrate how this is being accomplished.

C15. City Engineer may, in the City Engineer’s sole discretion, within six (6) months of the final certificate of occupancy for Major 1, require extension of on-site median at the Mitchell Road main access driveway to preclude left turns to the north toward shops 4 if necessary to alleviate a safety issue.

C16. The Developer shall provide pedestrian scale lighting within the project site where appropriate. Parking lot lighting shall be consistent with Mitchell Road Corridor Specific Plan guidelines. The type, style and height of light shall be reviewed and approved by the Planning/Building Division Manager or designee.

C17. The Developer shall provide lighted bollards within the project. Lighted bollards shall be used adjacent to entrances of buildings to signify those locations. Lighted bollards shall be manufactured by Gardco or equivalent, with the location, type and number to be approved by the Planning/Building Division Manager. Lighted bollards shall be included on the improvement plans or construction drawings for buildings within the project.

C18. Wall/fence requirements

- a. Wall height shall be as measured from the top of curb of the adjacent roadway to the top of the wall.
- b. The Developer shall construct a noise wall along Don Pedro Road as shown on the approved site plan. This wall will consist of a minimum 2' landscape berm with a minimum 8' masonry wall. The wall shall be of enhanced masonry and have decorative pillars every 16' with the pillars and walls having caps. The design of the wall, including elevation details, shall be included on the improvements plans and will be approved by the Planning/Building Division Manager or designee. The wall and landscaping shall be designed in such a manner so as to soften the height and mass of the wall.
- c. The Developer shall construct a noise wall that has an overall height of 8' along the west property line as shown on the approved site plan. Heading south from Don Pedro Road there shall be no wall for the first 15' from property line. From that point the wall shall be 8' in height and be enhanced masonry and have decorative pillars every 16' with both the pillars and walls having caps. This wall shall extend south and terminate perpendicular to the exit of the pharmacy drive-thru at Major 1.
- d. The Developer shall provide 6' high fence made of decorative wrought iron or the equivalent along the west property line that is 155' feet in length extending north from the property line adjacent to Service Road. The first 15' of this decorative wrought iron fence shall not exceed 3' in height. The Developer shall place decorative pillars every 16' along this fence. The design of this decorative wrought iron fence, including elevation details, shall be included on the improvement plans and will be approved by the Planning/Building Division Manager or designee.
- e. The Developer is permitted to secure the property, where other standards are not required, with wire mesh fencing. The design of this fencing shall be included on the improvement plans and will be approved by the Planning/Building Division Manager or designee.
- f. Trees placed in the landscape area adjacent to the wall on Don Pedro Road shall be 24" box minimum. Trees placed along the wall, fence and wrought iron fence along the west property line shall be 24" box minimum.
- g. The Developer shall fence or provide a barrier to the portion of Parcel 7 to be reserved for an adjacent roadway so that the area may not be accessed or used by any vehicles. The type, size and location of the fence/barrier are to be approved by the Planning/Building Division Manager or his designee.

C19. The site plan shall show fire lanes within the project in locations as approved by the Fire Marshal.

C20. Trash enclosures:

- a. The site plan shall provide for trash enclosures within the project that are composed of split face CMU or equivalent and these enclosure shall be painted to match building and an overall height of 6'.

- b. Trash enclosures that are within visible locations, such as parking lots, shall have a minimum 3' landscape area around three sides. This landscape area should include shrubs and climbing vines. The Developer shall record access easements to these trash enclosures or provide trash enclosures for each parcel.
- c. Trash enclosures shall meet or exceed the size requirements of the City of Ceres Water Efficient Guidelines.
- d. Trash enclosures shall be provided with a mechanism to prevent the run off of storm water, as approved by the City Engineer.
- e. Trash enclosure gates shall be equipped with self-locking gates and latches.
- f. Trash enclosure exterior walls shall be designed and built so that they are protected from painted graffiti, including but not limited to measures such as protective coatings or appropriate landscaping.

C21. All parking lot paving, drive and access aisles, and other hardscape for the entire site shall be installed in conjunction with Major 1 as set forth in the Phase 1 Paving Exhibit dated October 22, 2010 and created by Greenberg Farrow.

Landscaping plan requirements:

C22. The Developer shall be required to landscape and irrigate the property as stipulated by the City of Ceres Water Efficient Guidelines and Standards. The Developer, prior to or in conjunction with building permit submittal, shall provide landscape and irrigation plans indicating the type, size and location of planted material, water usage calculations and irrigation plans. The Planning/Building Division Manager or his designee(s) will review and approve all landscape and irrigation plans. A Landscape Maintenance Agreement form shall be signed and executed prior to issuance of a building permit.

C23. The Developer shall provide at a minimum one tree for every eight parking spaces and these shall be distributed evenly within the parking lot.

C24. The Developer shall provide all of the landscaping, as identified in the landscape plan, with the development of Major 1. In the areas where future building pads are located, the Developer shall keep these areas in turf and maintain them as part of the landscape maintenance program. In lieu of turf, for building pad areas the Developer may suggest equivalent or alternative landscaping for review and approval by the Planning/Building Division Manager. The project's landscape plan shall be reviewed and approved prior to the issuance of building permits for Major 1.

C25. The Developer shall enhance the landscaping along Don Pedro Road between public right-of-way and the wall. This landscaping shall include 24" box trees, shrubs, turf and climbing vines on the wall. This areas' landscaping shall be designed to provide visual screening of Major 1.

C26. The Developer shall enhance the landscaping adjacent to all drive-thrus. This enhanced landscaping shall include some mounding or berms with landscaping on top to screen vehicles in the drive-thru. This detail shall be called out on the landscaping and irrigation plans when development applications for these parcels are submitted for Planning Commission review.

C27. The landscaping along the west end of Major 2, 3 & 4 shall be enhanced to provide a vegetative and visual screening to the rear of these buildings. The Developer shall design this area consistent with the materials outlined in the City of Ceres Water Efficient Guidelines and Standards, but trees planted in this location shall be 24" box. The enhanced landscape screening shall be consistent with what is provided along Don Pedro Road.

C28. The Developer shall ensure that the Sycamore trees along Mitchell Road and Service Road are preserved and incorporated into the landscape areas. The landscaping and improvement plans shall show how these trees are to be incorporated into the overall project landscaping and how they will be protected during construction phases of the project.

C29. The Developer shall record an irrevocable reciprocal access and parking easement across the property. The easements shall be recorded for all portions of the drive aisles and parking lot areas that are shown on the site plan. The Developer shall submit the irrevocable reciprocal access easement to the Planning/Building Division Manager for review and approval by the City Attorney prior to recordation of a final map.

#### C30. Grading

- a. A grading permit is required prior to commencement of any grading on the site. The Developer shall submit to the City of Ceres for review and approval, a grading plan prepared by a Registered Civil Engineer, and shall obtain a Grading Permit. The grading plan shall include all City General Grading Notes and Erosion Control Notes, and shall incorporate the recommendations of the approved Soils Report.
- b. The Developer shall submit, as a condition of the grading permit, a City of Ceres "Acknowledgment concerning employment of registered civil engineers and technical consultants" to the City Engineer.
- c. The grading permit shall not be issued until 100 percent Improvement Plan drawings are approved by the City Engineer.
- d. Per **MM 4.6.1**: the project shall comply with the recommendations of the Preliminary Geotechnical Engineering Analysis prepared by Consolidated Engineering Laboratories in June 2006 (see **Appendix 4.6-1** of the Mitchell Ranch Center EIR).
- e. Per **MM 4.7.3**: prior to issuance of a grading permit, a Phase II Environmental Site Assessment report shall be prepared to determine the extent and exact nature of any pesticide or chemical residues present on the project site. Soils samples shall be taken from throughout the site to test

pesticide contamination (chlorinated pesticides using EPA Test Method 8081 and 8082). If samples reveal concentrations of pesticide residue in excess of acceptable thresholds, actions shall be taken to remediate soil contamination to within ASTM International standards. Such actions could include excavation and disposal of contaminated soils from the site or bioremediation. A qualified Phase II Environmental Assessor shall be retained to develop and carry out a remediation plan, if necessary.

- f. Per **MM 4.7.5c**: prior to issuance of grading permits, any and all septic tanks on the project site shall be removed under permit from the Stanislaus County Department of Environmental Resources.
- g. Prior to issuance of grading permits, the Developer shall submit to the City of Ceres for review and approval, a detailed Soils Report certified by a Civil Engineer registered in the State of California and qualified to perform soils work. The report shall include a minimum of geotechnical investigation with regard to the requirements of the 2006 Edition of the International Building Code with the 2007 California Amendments. The soils report shall include a compaction testing schedule for on- and off-site roads, building pads, parking areas, sidewalks and trenches.
- h. The project soils engineer shall submit, prior to issuance of any grading or building permit, a wet-stamped letter to the City Engineer that identifies the project and certifies:

“As soils engineer of record for the project, I hereby certify that the rough grading has incorporated all requirements and recommendations contained in the approved soil report for the project completed by

\_\_\_\_\_ and dated

\_\_\_\_\_ and that all recommendations that I have made based on site inspections of the work and site testing during construction have also been incorporated into the rough grading work. I hereby certify that all requirements and recommendations of the Engineering Geologist for this project (if applicable) have been incorporated into the rough grading work. I hereby certify that the project site is adequate for its intended use.”

- i. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of erosion, settlement, and seismic activity.
- j. If grading is to take place between October 01 and May 01, both temporary and permanent erosion control plans shall be submitted for review and approval along with the grading plan.
- k. Recordation of the Project Final Map shall be in effect prior to issuance of a grading permit.

- a. The Developer shall provide and submit to the City for review and approval an Operations and Maintenance (O&M) agreement that provides for, in perpetuity, the maintenance of the proposed storm drain system. The agreement shall require that any work on the storm drain, including maintenance, shall be completed under the responsible charge of a civil engineer registered in the State of California. The Developer shall specify the entity that will be legally responsible for the agreement and shall specify how the agreement will be transferred between entities for perpetuity.
- b. The Developer shall submit to the City of Ceres for review and approval, drainage plans and hydraulic calculations prepared by a registered civil engineer; shall enter into an agreement with the City of Ceres to complete the improvement and shall post sufficient surety guaranteeing the construction of the improvements. The drainage plans and calculations shall indicate the following conditions before and after development: Quantities of water, water flow rates, major water courses, drainage areas and patterns, diversions, collection systems, flood hazard areas, sumps and drainage courses. Hydrology shall be per current professional engineering standards.
- c. Storm drainage facilities shall be sized and located to accommodate the peak runoff flow rates according to the procedures and methodologies of the Stanislaus County Storm Drainage Design Manual and the City's Improvement Standards. Infiltration systems shall be designed to empty within 24 hours of the end of the 50 year storm.
- d. The project civil engineer shall certify that the storm drain system was designed and constructed in general accordance with the City approved plans and specifications and that the storm drain system, properly maintained, should perform as anticipated for its design life of no less than 50 years.
- e. In accordance with Chapter 13.18 of the Ceres Municipal Code and the Stormwater Best Management Practices Handbook, a Local Stormwater Pollution Prevention Plan or similar water pollution control plan as determined by the City Engineer, shall be developed and submitted to the City prior to receiving a construction grading or erosion control permit.
- f. All storm drain catch basins and drain inlets shall have a storm drain plaque installed with the City's approved "plaque" prior to acceptance by the City.
- g. The buried storm drain system shall be protected at all times. The project civil engineer shall schedule a construction sequence for the project and shall submit the sequence to the City for review and approval before a grading permit will be issued. The sequence of work shall provide for the protection of the storm drain system and shall include surface protection that reduces the potential for compaction or consolidation of the native earth material that is incorporated into the storm drain infiltration system.
- h. This site is subject to the National Pollutant Discharge Elimination System (NPDES) Program. The applicant shall submit a SWPPP to the City for approval which will include a WDID number prior to the issuance of the initial grading or building permit, the developer shall provide evidence that the site is covered by the Statewide General Permit to Discharge Storm

Water associated with construction activity. This requires confirmation that a Notice of Intent (NOI) and the applicable fee were sent to the State Water Resources Control Board. In addition, the grading plans need to state “All grading shall be in accordance with the Storm Water Pollution Prevention Plan prepared by the developer per the Notice of Intent on file with the State Water Resources Control Board”.

- i. Erosion Control Plans must conform to the requirements of Chapter 13.18 of the Ceres Municipal Code and the Stormwater Best Management Practices Handbook. A signed and notarized Stormwater Treatment Device Access and/or Maintenance Agreement must be submitted by the owner, and recorded by the City before the issuance of a grading permit.
- j. The applicant shall demonstrate for each building pad to the satisfaction of the City of Ceres as follows: Adequate protection from 100-year frequency storm; and feasible access during a 25-year frequency storm. A copy of the applicable FIRM map and hydrology and hydraulic calculations shall be submitted with the improvement plans per current City and Stanislaus County Water Agency Standards.

C32. On-site Water:

- a. The Developer shall provide an on-site non-potable water system for irrigation. The Developer shall develop a well site within the project area that is utilized only for purposes of landscape irrigation. This well and necessary piping shall not have connection to any system that provides domestic water.
- b. The Developer shall indicate in writing to the City of Ceres the disposition of any water well(s) and any other water that may exist within the site. Private wells shall not be used for potable water supply. If any wells are proposed to be abandoned, or if they are abandoned and have not been properly sealed, they must be destroyed per applicable codes and ordinances.
- c. Per **MM 4.7.5a**: The Developer shall obtain a permit from the City of Ceres Building Division for the destruction and closure of all wells on the project site in accordance with Chapter 13.05 of the City’s Municipal Code (unless retained for on-site irrigation). The Developer shall destroy all wells in accordance with the conditions of the permit and with the California Water Well Standards contained in Department of Water Resources Bulletins 74-81 and 74-90, prior to project construction.
- d. Stanislaus County Department of Environmental Resources requires that all existing on-site wells (unless retained for on-site irrigation) and/or septic tanks shall be destroyed under permit from DER and in accordance with all laws and policies (Stanislaus County and California State Model Well Standards).
- e. The Developer shall ensure that each point of connection for potable water is looped to the satisfaction of the Public Works Director or designee.
- f. All buildings on the project site shall be equipped with sensor-activated restroom lavatories to reduce water usage.

- g. The Developer shall provide the City of Ceres with a right of entry to drill a test well within the project site northwest of proposed Shops 3, as depicted in the Future Well Dedication Exhibit dated October 22, 2010 and created by Greenberg Farrow. If it is determined by the test well results that water quality and quantity that this site can be developed into a municipal well then the Developer shall dedicate the necessary land area within the remainder area to the northwest of the Potential Future Street, as depicted in the Future Well Dedication Exhibit dated October 22, 2010 and created by Greenberg Farrow, for the development of this well to the City of Ceres.
- h. The Developer shall provide approved backflow device and meter for every water connection point at the street. Backflow devices shall have a certified backflow test and inspection at the point of connection.
- i. The Developer shall install on-site fire hydrants of the type and location to be approved by the Fire Marshal. The Fire Marshal shall also review and approve the location of the Fire Department Connection. Fire Hydrants shall be located within 50' of the Fire Department Connection and as approved by the Fire Marshal.
- j. Turlock Irrigation District indicates that an irrigation pipeline belong to Improvement District 454, the Cooper, runs from east to west at the approximate midpoint of the project. Since all downstream parcels have abandoned out of the improvement district this line shall be removed and plugged per District standards and to the satisfaction of the City Engineer. TID easements and remaining irrigation facilities found during construction must be removed.
- k. The Developer must submit three sets of food facility construction plans to the Department of Environmental Resources for review and approval for compliance with California Code (Section 114380) for any food facilities within the project.

C33. Lighting: The project lighting plan and photometric diagram, and all subsequent lighting installation, shall maintain light spillage at the project's property lines to a level of no more than 2.0 foot-candles, as measured at adjacent property lines along Don Pedro Road.

C34. Potential human remains or fossils:

- a. Prior to any construction activity, the Developer shall inform all contractors of the possibility that human remains may be found on the site during construction activities. If, during the course of implementing the project, human remains are discovered, work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division and the County Coroner shall be notified. If the remains are determined to be of Native American origin, the coroner will notify and provide for consultation with the Native American Heritage Commission for recommended procedures regarding the human remains.

b. In accordance with **MM 4.4.1a** of the Mitchell Ranch Center EIR, if, during the course of implementing the project, cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts) are discovered work shall be halted immediately within 50 feet of the discovery, the City of Ceres Planning Division shall be notified, and a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history shall be retained to determine the significance of the discovery.

The City shall consider mitigation recommendations presented by a professional archaeologist that meets the Secretary of the Interior's Standards and Guidelines for Professional Qualifications in archaeology and/or history for any unanticipated discoveries. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of cultural resources.

c. In accordance with **MM 4.4.2** of the Mitchell Ranch Center EIR, if, during the course of implementing the project, any paleontological resources (fossils) are discovered, work shall be halted immediately within 50 feet of the discovery, and the City of Ceres Planning Division shall be immediately notified. At that time, the City will coordinate any necessary investigation of the discovery with a qualified paleontologist. The City shall consider the mitigation recommendations of the qualified paleontologist for any unanticipated discoveries of paleontological resources. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. The project proponent shall be required to implement any mitigation necessary for the protection of paleontological resources.

C35. In accordance with **MM 4.3.1**: if construction activities occur during the nesting seasons for raptors and migratory birds (typically March 1 through August 31), the Developer shall retain a qualified biologist to conduct a focused survey for active nests of raptors and migratory birds within and in the vicinity of the construction area (no less than 500 feet outside project boundaries) no more than 30 days prior to ground disturbance or tree removal. If active nests are located during preconstruction surveys, USFWS and/or CDFG shall be notified regarding the status of the nests. Furthermore, construction activities shall be restricted as necessary to avoid disturbance of the nest until it is abandoned or a qualified biologist deems disturbance potential to be minimal (in consultation with USFWS and/or CDFG). Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 500 feet around the nest for Swainson's hawk, 100 feet around the nest for other raptors, and 50 feet around the nest for other migratory birds) or alteration of the construction schedule. No action is necessary if construction will occur during the non-breeding season (September 1 through February 28).

## OFF-SITE CONDITIONS

### C36. Dedication Requirements

- a. The Developer shall submit Offers of Dedication to the City of Ceres (City) for the property required to develop the ultimate right of way for that portion of Service Road that abuts the south side of the property. The dedication shall begin at the west corner of the property (along the west property line) and shall extend to the east (parallel to the recorded right-of-way centerline) to the west edge of the Mitchell Road right-of-way. The Offer of Dedication shall include required property that is located on land identified by APN 053-013-016, APN 053-013-017, APN 053-013-018 and APN 053-013-019, each located along the south side of the site. The land to be dedicated shall be the same width as the area shown on proposed Parcel 4 (APN 053-013-019).
- b. The Developer shall submit an irrevocable Offer of Dedication to the City for the property required for construction of a 150 foot future acceleration/deceleration lane along Service Road that serves the access driveway to the proposed Parcel 7. The lane shall be constructed in the future as a requirement from Caltrans to keep the driveway open to right in/right out traffic when the new off-ramp from highway 99 is constructed opposite this driveway.
- c. The Developer shall submit an Offer of Dedication to the City of Ceres (City) for the property required to develop the ultimate right of way for that portion of Mitchell Road that abuts the east side of the property (APN 053-013-019). The dedication shall begin at the northeast corner of the property and extend south along Mitchell Road to provide right-of-way for a future bus turnout just south of Don Pedro Road.
- d. The Developer shall submit an irrevocable Offer of Dedication to the City for the property required for the ultimate right of way for that portion of roadway depicted as "Potential Future Roadway" which is located within the project site.
- e. The portion of Parcel 7 to be reserved as "Potential Future Roadway," as depicted in the site plan dated March 15, 2010 and created by Greenberg Farrow, shall be disked or treated in such a manner as to minimize or eliminate the potential for fire. The Developer shall submit a maintenance plan which shall be reviewed and approved by the Planning/Building Division Manager prior to the issuance of the first building permit.

C37. The Developer shall, prior to recordation of a final map or issuance of any permit, either form an Area of Benefit pursuant to City Council Resolution 2008-175, which approved an Improvement Agreement with the Ceres Gateway Center, or shall provide the project's share of the improvement costs noted below, or construction of the improvement shall be guaranteed. This agreement listed the Mitchell Ranch Center site as responsible for a portion of the cost of improvements proposed to be constructed by the Ceres Gateway Center. The agreement allowed establishment of

an Area of Benefit to collect reimbursement from projects benefiting from these improvements. Areas of required reimbursement from the Mitchell Ranch Center to the Ceres Gateway Center include:

- Signal Relocation – Intersection of Mitchell Road and Service Road (Ref: Agreement Attachment C1b, Figure 3)
- Utility Pole Undergrounding – Intersection of Mitchell Road and Service Road (Ref: Agreement Attachment C1c, Figure 4)
- Mitchell Road and Rhode Road Right-of-Way Improvements (Ref: Agreement Attachment C3, Figure 6)  
Although there is no requirement to reimburse this improvement, the formulas may be used to provide reimbursement to the Mitchell Ranch Center if this project builds the improvement before it is built by the Ceres Gateway Center and if an Area of Benefit is established.
- Mitchell Road Traffic Signals at Highway 99 (Ref: Agreement Attachment C4, Figure 3)  
The formulas may be used to provide reimbursement to the Mitchell Ranch Center if this project builds the improvement before it is built by the Ceres Gateway Center and if an Area of Benefit is established.

### C38. General

- a. Complete project plans and specifications for all proposed development, including any necessary dedications and easements, shall be submitted to the City Engineer for review and approval. These project plans and specifications shall be prepared by an experienced and qualified engineer licensed to practice in the State of California in the appropriate discipline for the plans submitted.
- b. Per **MM 4.13.3**: in conjunction with and as a part of improvement plans, the Developer shall provide a construction management plan. The plan shall include at least the following items:
  - i. Development of a construction truck route that would appear on all construction plans to limit truck and auto traffic on nearby residential streets.
  - ii. Comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak hour traffic hours, detour signs if required, land closure procedures, sidewalk closure procedures, cones for drivers, and designated construction access routes.
  - iii. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures would occur.
  - iv. Location of construction staging areas for materials, equipment, and vehicles.
  - v. Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety, and provision for monitoring surface streets used for haul

routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project applicant.

- vi. A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an on-site complaint manager.
- vii. The developer shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer.
- viii. Construction air quality requirements include the requirements of Mitigation Measures 4.2.2a, 2b, 2c, 2d, and 2e.
- ix. If any hazardous waste is encountered during the construction of this project, all work shall be immediately stopped and the Stanislaus County Environmental Health Department, the Fire Department, the Police Department, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.

C39. The Developer shall enter into a Subdivision Improvement Agreement and shall post sufficient surety acceptable to the City Engineer, guaranteeing completion and performance of all improvements which revert to the City (i.e., landscaping, right of way improvements, etc.). Approval of improvement plans is required concurrent with approval of the Final Subdivision Map and prior to issuance of a grading permit. All costs shall be based upon cost estimates provided by the Developer and approved by the City Engineer.

C40 Street Improvements:

- a. General
  - i. All public improvements shall be pursuant to approved improvement plans. Completion of improvements in this section is required prior to issuance of the first final certificate of occupancy except as otherwise noted.
  - ii. All street frontages shall include sidewalks in conformance with the approved plans.
  - iii. For any frontages where adequate street lighting does not now exist, light standards and luminaires of the design, spacing, and locations required by the City Engineer shall be included with street improvements.
  - iv. The Developer shall provide Opticom light devices on all traffic signals and in all directions.
  - v. For any portion of any median for which the City Engineer accepts a painted median island as an initial improvement, the Developer shall provide a performance bond or other acceptable guarantee for construction of the ultimate landscaped, raised median island.
  - vi. Prior to acceptance of public improvements and bond exoneration, the Developer shall provide sufficient surety guaranteeing the public improvements for a period of one year, and if substantial changes in the size, alignment, grades, etc. during construction have occurred, original

"as-built" plans on the standard size sheets shall be certified by the Project Civil Engineer and returned to the City Engineer's office.

b. Service Road:

- i. The Developer shall improve Service Road from the existing north edge of the pavement to the property line along that portion of Service Road that abuts the proposed Parcels 4, 5 and 7. Service Road improvements shall include bicycle lanes and a second eastbound left-turn lane on Service Road to Mitchell Road, make signal modifications to provide protected east-west left-turn phasing, and payment for the City to evaluate the traffic signal timing six months subsequent to the issuance of the final certificate of occupancy of Walmart (Major 1) to ensure optimal traffic flows through the intersection based on current conditions. This improvement may also require relocation of the existing traffic signal mast arms.
- ii. The Developer shall guarantee future construction of a 150 foot acceleration/deceleration lane along Service Road that serves the access driveway to the proposed Parcel 7. The lane shall be constructed in the future as a requirement from Caltrans to keep the driveway open to right in/right out traffic when the new off-ramp from highway 99 is constructed opposite this driveway.
- iii. The Developer shall fund future construction of a raised median for Service Rd., to be installed at City Engineer's discretion. The Service Road frontage is designed to provide for initial access control to the two site driveways using painted medians. This initial access allows left turns out from the western driveway, and left turns into the eastern driveway. The Developer shall provide the cost of an interim raised median that would allow initial access to be retained if a raised median is determined necessary, as well as the cost of the ultimate raised, landscaped median that would eliminate all left turn access to or from the site and Service Road. In the event that the City Engineer, in his sole discretion, determines that, for operational or safety reasons a raised landscaped median is required to provide this control, the Developer shall construct such median and receive refund of their posted guarantee.
- iv. Per **MM 4.13.4c**: all driveways shall be restricted to right-in/right-out operations upon the installation of a full raised, landscaped median on Service Road. At such time as the interchange improvements are installed, the right-out access from the western most driveway may be removed and the acceleration/deceleration lane modified accordingly. When this occurs, the westerly driveway will become right-in only. Mitigation shall occur at the City Engineer's discretion at such time as the interchange is constructed.
- v. The eastern Service Road driveway is designed to initially provide for right-in-right-out-left-in access. This access may be modified or reduced at the sole discretion of the City Engineer and installation of

modifications to accomplish this access limitation shall be the responsibility of the development. When those modifications are complete, this driveway will be restricted to a right-in/right-out only.

- c. Mitchell Road:
  - i. The Developer shall improve that portion of Mitchell Road abutting the project site, including half street improvements along that portion of Mitchell Road that abuts the proposed Parcel 1, Parcel 2, Parcel 3 and Parcel 4
  - ii. The Developer will provide a raised median along Mitchell Road. The median shall begin at Service Road and continue north to Don Pedro Road, with an opening for the main driveway to Parcel 1. If the City Engineer accepts a painted median island as an initial improvement, the applicant shall provide a performance bond or other acceptable guarantee for construction of the ultimate landscaped, raised median island for the full Mitchell frontage of the project.
  - iii. Mitchell Road improvements shall include dual northbound left-turn lanes from Mitchell Road into the project site; the lanes shall provide a storage length of 250 feet. A concrete median shall be provided for the length of the turn lanes between opposing traffic. The 8" concrete median shall be provided for the turn pockets and have a type 'K' delineator designed and built in conformance with the requirements of the area Specific Plan and Caltrans details and specifications, and to the specifications of the Engineering Division.
  - iv. Improvements shall also include a southbound U-turn lane from Mitchell Road opposite this entrance. A concrete median shall be provided for the length of the turn lane between opposing traffic. The 8" concrete median shall be provided for the turn pocket and have a type 'K' delineator designed and built in conformance with the requirements of the area Specific Plan and Caltrans details and specifications, and to the specifications of the Engineering Division.
  - v. The Developer shall install a traffic signal at the intersection of Mitchell Road and the main project entrance. The Developer shall interconnect this signal with the existing signal at the Service Road / Mitchell Road intersection to provide coordinated traffic signal operations.
  - vi. The Developer shall dedicate and construct a standard metro bus stop/enclosure on Mitchell Road south of Don Pedro Road. The bus stop shall include shelter and seating area, with the type and location to be approved by the City Engineer or designee. The bus stop shall be developed prior to the issuance of a final certificate of occupancy for Major 1.
  - vii. The Developer shall extend the northbound left-turn lane approach to Service Road to provide at least 325 feet of vehicle storage.
- d. Rhode Road: In accordance with MM 4.13.2f: if the work has not already been completed by another project, the Developer shall install a traffic

signal and realign Rhode Road as required. The Developer shall interconnect this signal with the existing signal at the Service Road / Mitchell Road intersection to provide coordinated traffic signal operations. The Developer may be entitled to reimbursement via a reimbursement agreement in a method approved by the City Engineer for improvements to the re-aligned Rhode Road. The signals shall be installed and coordinated prior to issuance of the final certificate of occupancy for Major 1. If the work has already been completed by another project, the Developer shall reimburse the City its pro-rata share of the improvement.

- e. El Camino Avenue: in accordance with MM 4.13.2d: The project applicant shall widen and restripe the southbound approach to provide separate left- and right-turn lanes for vehicles turning from El Camino Avenue onto Service Road and widen and restripe Service Road to provide a westbound right-turn lane onto El Camino Avenue. The southbound left-turn pocket should accommodate one vehicle (approximately 25 feet).
- f. Moffett Road: Moffett Road: In accordance with **MM 4.13.2c** of the Mitchell Ranch Center EIR: The project Developer shall widen the southbound approach of Moffett Road to the Service Road intersection to allow striping of a left turn lane and a 25 foot long shared right turn and through lane, in accordance with existing improvement plans already approved by the City, which were approved and signed by the City on January 22, 2009.
- g. Don Pedro Road:
  - i. The Developer shall improve and restripe that portion of Don Pedro Road abutting the project site. Unless the Developer can demonstrate that the existing pavement/roadway cross-section on Don Pedro Road abutting the project site achieves a traffic index of 8.5 then such improvements shall include reconstruction of the pavement section for the full width of the street.
  - ii. The Don Pedro Road frontage of the project shall be signed and marked to prohibit parking. The remaining Don Pedro Road frontage not otherwise marked for full parking prohibition between Mitchell Road and El Camino Avenue shall be signed to prohibit truck parking.
  - iii. In accordance with MM 4.13.1 of the Mitchell Ranch Center EIR: The project Developer shall fund the preparation of a traffic calming plan, and construct 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 local residents to limit traffic on Don Pedro Road to 2,500 vpd between Mitchell Road and the westernmost project driveway, and to limit traffic 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 crosswalks, and other devices that have proven

effectiveness. A minimum of one neighborhood meeting shall be held with affected neighbors and the Plan shall be approved by the Public Works Director/City Engineer, Fire Chief, and Police Chief prior to the issuance of a certificate of occupancy for Major 1.

- iv. In accordance with MM 4.13.2b of the Mitchell Ranch Center EIR: The project Developer shall install a traffic signal at the intersection of Don Pedro Road and Mitchell Road. The signal shall include pedestrian signals and actuation. The signal shall be interconnected and coordinated with the proposed signal at the Mitchell Road entry to the project and to the City's Mitchell Road traffic signal interconnect system to minimize vehicle queue spill back through the area.
- v. Intersection improvements shall include grading, paving, striping, and detection loop installation on the east side of the intersection at the Developer's cost, to the extent that an easement for those improvements is provided by the subject property owner. Developer shall make a good faith effort to obtain the necessary easement, but shall not be required to agree to unrelated, or unreasonable conditions. If no easement has been provided within six (6) months of approval, then the easement will not have been provided pursuant to this condition.

h. Central Avenue/Service Road intersection: In accordance with **MM 4.13.7a:** the Developer shall contribute its fair share toward the construction of improvements that would result in acceptable intersection operations, including construction of a third eastbound and a third westbound through lane (on Service Road), construction of a southbound right-turn-only lane on Central Avenue, and construction of a second westbound left-turn lane on Service Road and associated receiving lanes. The transition from three lanes to two lanes should begin 300 feet from the centerline of the Service Road/Central Avenue intersection and the lane drop should occur over 600 feet.

i. Whitmore Avenue/Mitchell Road intersection: In accordance with **MM 4.13.2a:** the Developer shall modify Mitchell Road on the northbound approach to East Whitmore Avenue to provide a second left-turn lane, in conjunction with signal timing modifications. This improvement can be constructed within the existing right-of-way. Work shall include restriping of lanes on Mitchell Road north of Whitmore Avenue so that the lanes are aligned across the intersection.

j. Lucas Road: In accordance with **MM 4.13.7b:** the Developer shall pay its pro-rata share of the future SR 99/Mitchell Road/Service Road improvements

k. North-bound State Route (SR) 99 on/off ramps: in accordance with MM 4.13.2g of the Mitchell Ranch Center EIR, within 120 days of receiving final approval of the development by the City of Ceres, the Developer shall submit improvement plans to the City and CalTrans to accomplish the following:

eliminates westbound left-turn movement for non-emergency vehicles, eliminates the stop-control for the northbound movement, and modifies striping.

If CalTrans approves plans implementing MM 4.13.2g, then the Developer must construct the improvements by the later of the first certificate of occupancy or 18 months from CalTrans approval. If CalTrans approval has not been obtained prior to a request for the first certificate of occupancy, then the developer shall provide a guarantee sufficient to construct the improvements as specified in MM 4.13.2g. If CalTrans approval has been obtained, but is not timely to allow improvements to be completed prior to the first certificate of occupancy, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to complete the improvements as approved by CalTrans.

1. South-bound SR 99 on/off ramps: in accordance with MM 4.13.2h of the Mitchell Ranch Center EIR, within 120 days of receiving final approval of the development by the City of Ceres, the Developer shall submit improvement plans to the City and CalTrans to accomplish the following: install a 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, and modify striping.

If CalTrans approves plans implementing MM 4.13.2g, then the Developer must construct the improvements by the later of the first certificate of occupancy or 18 months from CalTrans approval. If CalTrans approval has not been obtained prior to a request for the first certificate of occupancy, then the developer shall provide a guarantee sufficient to construct the improvements as specified in MM 4.13.2h. If CalTrans approval has been obtained but is not timely to allow improvements to be completed prior to the first certificate of occupancy, then prior to the first certificate of occupancy, the City will require a guarantee sufficient to complete the improvements as approved by CalTrans.

#### C41. Water Improvements

- a. The Developer shall install off-site fire hydrants of the type and location to be approved by the Fire Marshal.
- b. Mitchell Road improvements shall include construction of a 16" water transmission main from Service Road to Don Pedro Road, including connections to the existing water system only at those two intersections.

#### C42. Storm Drainage Requirements – On-site and Off-site

- a. Prior to approval of improvement plans, the Developer shall provide a list of City-approved best management practices (BMPs) to be implemented on the site during operation of the proposed project that will protect receiving waters from urban contaminants in runoff. The BMPs shall be consistent

with RWQCB guidelines and shall be obtained from the California Stormwater Quality Association's Stormwater Best Management Practice (BMP) Handbooks. At least 85 to 90 percent of annual average storm water runoff from the site shall be treated per the standards in the 2003 California Stormwater Best Management Practices Handbooks. BMP's may include:

- Route drainage from paved surfaces either through swales, buffer strips, or sand filters or treat with a filtering system prior to discharge to the storm drain system.
- Use permeable pavement in parking areas and other low traffic areas.
- Direct downspouts to infiltration trenches.
- Provide stenciling or labeling of all storm drain inlets within and adjacent to the project site with prohibitive language such as "NO DUMPING".
- Cover loading dock areas, or design drainage to preclude urban run-on and runoff.
- Prohibit direct connections into storm drains from depressed loading docks. These areas should drain into water quality inlets, an engineered infiltration system, or an equally effective alternative.
- Design trash container areas so that drainage from adjoining roofs and pavement is diverted around the areas to avoid run-on. This might include berthing or grading the waste storage areas to prevent run-on of stormwater.
- Use lined bins or dumpsters to reduce leaking of liquid waste .
- Provide roofs, awnings, or attached lids on all trash containers to minimize direct precipitation and prevent rainfall from entering containers.
- Pave trash storage areas with an impervious surface to mitigate spills.
- Do not locate storm drains in immediate vicinity of the trash storage areas.
- Post signs on all dumpsters informing users that hazardous material are not to be disposed of therein.

- b. The Developer shall provide and submit to the City for review and approval, an Operations and Maintenance (O&M) agreement that provides for, in perpetuity, the maintenance of the proposed storm drain system. The agreement shall require that any work on the storm drain, including maintenance, shall be completed under the responsible charge of a civil engineer registered in the State of California. The Developer shall specify the entity that will be legally responsible for the agreement and shall specify how the agreement will be transferred between entities for perpetuity.
- c. The Developer shall submit to the City of Ceres for review and approval, drainage plans and hydraulic calculations prepared by a registered civil engineer; shall enter into an agreement with the City of Ceres to complete the improvement and shall post sufficient surety guaranteeing the construction of the improvements. The drainage plans and calculations shall indicate the following conditions before and after development: Quantities of water, water flow rates, major water courses, drainage areas and patterns, diversions, collection systems, flood hazard areas, sumps and

drainage courses. Hydrology shall be per current professional engineering standards.

- d. Storm drainage facilities shall be sized and located to accommodate the peak runoff flow rates according to the procedures and methodologies of the Stanislaus County Storm Drainage Design Manual and the City's Improvement Standards. Infiltration systems shall be designed to empty within 24 hours of the end of the 50 year storm.
- e. The project civil engineer shall certify that the storm drain system was designed and constructed in general accordance with the City approved plans and specifications and that the storm drain system, properly maintained, should perform as anticipated for its design life of no less than 50 years.
- f. In accordance with Chapter 13.18 of the Ceres Municipal Code and the Stormwater Best Management Practices Handbook, a Local Stormwater Pollution Prevention Plan or similar water pollution control plan as determined by the City Engineer, shall be developed and submitted to the City prior to receiving a construction grading or erosion control permit.
- g. All storm drain catch basins and drain inlets shall have a storm drain plaque installed with the City's approved "plaque" prior to acceptance by the City.
- h. The buried storm drain system shall be protected at all times. The project civil engineer shall schedule a construction sequence for the project and shall submit the sequence to the City for review and approval before a grading permit will be issued. The sequence of work shall provide for the protection of the storm drain system and shall include surface protection that reduces the potential for compaction or consolidation of the native earth material that is incorporated into the storm drain infiltration system.
- i. The Developer shall remove the TID irrigation line that currently serves this project area and is currently located within the limits of Mitchell Road, at the applicant's cost. The final method of removal or abandonment of the irrigation pipeline shall be at the discretion of the City Engineer, based upon topography provided by the applicant's engineer.

C43. Any existing overhead electrical/utility lines on Service Road or Mitchell Road, on the frontage of the Project, shall be placed underground with the development of this project. In addition, this project is responsible for one half of the cost of undergrounding existing overhead electric/utility lines opposite the frontage of the project on the south side of Service Road and on the east side of Mitchell Road. The Developer may fund one half the cost of undergrounding these overhead utility lines, or the Developer may enter into a deferred improvement agreement to delay undergrounding or delay funding to a point in the future, at the discretion of the City

Engineer. This condition is supplemental to the intersection undergrounding requirement in Vesting Tentative Map Condition C37.

**D. REQUIREMENTS REQUIRED TO BE COMPLETE PRIOR TO ISSUANCE OF FIRST FINAL OCCUPANCY PERMIT**

- D1. All required site improvement shall be completed
- D2. The following street improvements shall be completed and accepted:
  - a. Service Road frontage including traffic signal modifications at Mitchell Road.
  - b. Mitchell Road frontage including installation of traffic signal at main project entry.
  - c. Don Pedro Road frontage including installation of traffic signal at Mitchell Road.
  - d. Fund Don Pedro Road traffic calming study and hold at least one neighborhood meeting. Construction of the improvement shall occur within 6 months of occupancy.
  - e. Rhode Road realignment including installation of traffic signal at Mitchell Road.
  - f. El Camino Avenue widen and restripe at the intersection of Service Road.
  - g. Moffett Road: widen and stripe southbound approach at Service Road.
  - h. Whitmore Avenue/Mitchell Road intersection: modify northbound and southbound approach and signal timing modification.
- D3. If improvement plans for SR 99 North and South-bound on/off ramps have been approved by Caltrans, said improvements shall be complete or secured. If improvement plans have not been approved, then improvements consistent with the plans shall be secured.
- D4. Provide security for future potential modifications of Service Road access.
- D5. All required easements shall be recorded and in effect.
- D6. The on-site storm drainage system shall be complete and accepted.

CITY OF CERES  
PLANNING COMMISSION  
MINUTES

February 22, 2011

**MEETING CALLED TO ORDER:** 6:00 p.m.

**ROLL CALL:**

**PRESENT:** Del Nero, Kachel, Kline, Molina, Smith

**ABSENT:** None

**ALSO PRESENT:** Deputy City Manager Sheila Cumberland, Public Works Director Glenn Gebhardt, City Attorney Michael Lyons, Planning and Building Division Manager Tom Westbrook, Associate Planner James Michaels, City Clerk Cindy Heidorn, Secretary Ann Montgomery

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Chairperson Kachel.

**APPROVAL OF MINUTES:**

None

**CONFLICT OF INTEREST DECLARATION:**

None

**CITIZEN COMMUNICATION:**

None

**APPROVAL OF AGENDA AS POSTED (OR AMENDED) AND CERTIFICATION OF POSTING:**

It was moved by Commissioner Smith; seconded by Commissioner Kline, to approve the agenda as posted. Carried 5/0.

**CONSENT CALENDAR:**

None

**NEW BUSINESS:**

None

**PUBLIC HEARING(S):**

1. 07-31 CUP/07-32 VTSM; Hearing to consider a proposal for a Conditional Use Permit and a Vesting Tentative Subdivision Map for the proposed development of a 299,830 square foot retail shopping center on seven parcels. The proposal includes the development of Major 1 (Walmart) in addition to other unnamed building tenants in Majors 2, 3, 4, Shops 1, 2, 3, 4 and Pads A, B, C. The proposed hours of operation for Major 1 is 24-hours and drive-thru's are proposed on Major 1, Pad A and Pad B. Walmart Real Estate Business Trust, applicant.

Chairperson Kachel explained the process of the meeting:

- Report from Staff
- Applicant presentation
- Open to Public Comment – we ask that you limit comments to 4/5 minutes
- We make take a break depending on how long comments take and then reconvene
- If you have any written materials to submit to the Commission, please bring them up to Mr. Westbrook

Staff Report

Mr. Westbrook mentioned the materials placed on the dais for the Planning Commissioners.

Introduced panel of consultants:

Ed Grutzmacher – Meyers Nave – Outside Legal Counsel

George Osner – Planning Consultant

Mark Teague – PMC – EIR Consultant

The approval being requested is a Conditional Use Permit for a shopping center of just less than 300,000 square feet. A Vesting Tentative Subdivision map, which reconfigures the property into seven parcels, was shown on the monitor. The project site is 26.3 acres in size. The zoning designation for this parcel is Regional Commercial as governed by the Mitchell Road Corridor Specific Plan. Additionally, the project site has a General Plan designation of Regional Commercial, so there's consistency between zoning and the General Plan. Staff believes that the project as proposed, with conditions of approval, will be in conformance with the General Plan, the Mitchell Road Corridor Specific Plan

and the Zoning Ordinance.

Background on the project:

- Originally submitted in April 2007, and project applicant at the time was Regency Centers, which is a large nationwide developer.
- Project is being reviewed under California Environmental Quality Act, also known as CEQA.
- A determination was made early on that the project needed an Environmental Impact Report and a Notice of Preparation was submitted on September 5, 2007. There were two scoping meetings on September 19, 2007.
- A consulting firm, PMC was hired by the city to prepare the draft Environmental Impact Report. That document was circulated for comment on May 19, 2010. The comments that were received during the review period have been incorporated into the final EIR.
- The project was submitted originally for approval by Regency Centers. On November 10, 2009 the site was acquired by Walmart. On January 26, 2010 the application was transferred. Regency Centers is no longer the applicant.
- After the close of the draft EIR review period, which ended on July 6, 2010, the City received petitions regarding Don Pedro Road truck route status. On September 2, 2010 and September 15, 2010 petitions were received which included about 85 signatures, requesting that Don Pedro Road be reclassified as a restricted truck route. Today and since 1968 that roadway was classified as an unrestricted truck route, meaning that deliveries could be made or large trucks heading to Mitchell Road or into the interior of the city, could utilize the street. The petition of the residents is to change that classification to restrict the trucks. The City Council is the only body that has the authority to change designations of streets within the city. Because the Mitchell Ranch application substantially predates the petitions, staff is moving forward with the project, on the notion, if it gets to the City Council, then they would have the call as to the classification of streets. Mr. Westbrook encouraged residents to take testimony to the City Council. If the site plan is approved as proposed, then that action would pre-empt the restriction of the street.
- Site Plan – The project is 299,830 square feet, including Major 1 (Walmart) and ten other buildings within the center. The Walmart would be a “super center” with a grocery component at 185,668 square feet of commercial space, with general merchandise sales for groceries, alcohol, food service, banking services, vision center and a drive-thru pharmacy. Additionally there will be a 5,762 square foot enclosed garden center at east end of building and a separate loading and receiving dock. The proposed project includes ten other commercial buildings; three of the commercial buildings are noted as major buildings for larger tenants. There will also be some shop buildings, located within the site and pads A, B and C, which include drive-thru components. The project is proposed to have access with two driveways off of Mitchell Road, two off of Service Road, and two off of Don Pedro Road. The project also includes pedestrian pathways.
- Deliveries – large truck deliveries will be from Don Pedro Road. The proposed Walmart would have between 7 and 9 trucks deliver per day, 7 days per week, with 8-

10 smaller vendor trucks, 5 days per week. The expectation is Majors 2, 3 and 4 would have approximately 10 deliveries of the larger semis per week. As proposed, the deliveries are anticipated to occur throughout the day, including up to 5 deliveries to Walmart during the nighttime hours between 10 p.m. and 5 a.m. Staff has included a condition of approval that would restrict deliveries to the project site would be prohibited between the hours of 10 p.m. and 6 a.m. The adjoining loading bays are partially below ground to reduce the noise impact. There is also a wing wall, which will be adjacent to those loading docks. Beyond the wing wall, there is a 10 foot wall that will be along Don Pedro Road, consisting of a two-foot earthen berm, in addition to an 8 foot wall.

- Parking ratio is 1 space for every 250 square feet of building; project is providing 1205 off-street parking spaces (the minimum requirement). There are 36 cart corrals that will be utilized for Major 1, which are in addition to the 1205 parking spaces.
- Building design – The proposed architecture for the Walmart features a contemporary design with a mix of masonry painted block and stucco. The remaining majors have similar features. The applicant will explain more details during their presentation.
- Landscaping - The proposed site is to be landscaped with a variety of trees, shrubs, groundcover and turf. As the Planning Commission is aware, there are two large sycamore trees on the property. The Conditions of Approval require that these two trees be preserved and incorporated into the project. At the southeast corner of the site, there will be a sign that says, "Welcome to the City of Ceres."
- Proposed signage – Along the main entrance, at the Mitchell Road side, there will be a 25 foot high sign that will include up to 130 square feet of area for signage for the center. Along the Service Road side, there will be a 35 foot high sign that will have panels that total 177 square feet. Height and square footage requirements for both signs are permitted by the code.
- Lighting – There will be parking lot lighting, in addition to lighting surrounding the buildings. These will range from 28 to 30 feet in height, consistent with the Mitchell Road Corridor Specific Plan guidelines. All lighting will be shielded to minimize the spillage of that light off the project site.
- Operating hours – Walmart is proposing to operate 24 hours per day, 7 days per week. Other commercial tenants may operate during those times, but the expectation is that they will hold normal business hours. Staff is willing to recommend that the Walmart store can operate 24 hours per day, but is suggesting that deliveries be prohibited between the hours of 10 p.m. and 6 a.m.
- Vesting Tentative Map - Currently the project consists of 5 parcels. The Tentative Map reconfigures the parcels into 7 new parcels. One of the purposes of the Tentative map is to reconfigure the property lines so that they match the development.

One of the issues that had been raised in comments to the draft EIR was the orientation of the actual Walmart building. The design faces south, so all customer service entrances are located on the south end of the building and deliveries are on the north end. Some of the residents along Don Pedro Road commented during the EIR period that they wished the building had been re-oriented elsewhere. This layout has been the focus of many comments. The original project applicant proposed the layout

that is shown, so it has been in this configuration since 2007. Walmart elected to keep the layout the way it was because two years had passed and a lot of study had already been done, and all impact such as noise and identified mitigation.

- Traffic improvements – there will be number of improvements with the development of this project:
  - East Whitmore & Mitchell Road
  - Don Pedro & Mitchell Road – there will be a signal at this intersection
  - Service Road & Moffett Road
  - Service Road & El Camino Road
  - Service Road & Mitchell Road
  - Roeding Road & Mitchell Road – a new signal at this intersection
  - On & Off ramps to State Route 99 – signals will be installed
- The EIR included an analysis of economics and blight. The study concludes that there would be two issues: a potential closure of one store and a potential blight if the Walmart remains vacant. The study suggests that the grocery component of Walmart would capture about \$16 million in sales. That study said that one of the existing grocery stores may close as a result. Mitigation of the potential blight resulting from vacancy of existing store would be accomplished through the City's Property Maintenance Code. One of the big concerns that staff has had is the re-tenanting of the existing store. If the project is approved, and if it's built, the expectation is that Walmart would relocate to this new site, and something would happen with their existing store. Staff has included a Condition, which provides that the City Council must approve a Sales Strategy Plan, submitted by the applicant. All of this must happen before they occupy the new store.
- Issues of 24-hour operation
  - Noise from deliveries - the EIR provided mitigation for all of the noise impacts.
- Phasing of the project
  - The project will not be built in a single phase. At this point, the only building that would be developed would be the Walmart building, with the other buildings being built at a later phase.
- Project has been reviewed through CEQA and an EIR was prepared. On May 19, 2010 the draft EIR was released the comment period closed on July 6, 2010. The final EIR was released to the public on February 2, 2011.

In summary, Staff recommends certification of the Final EIR for the proposed projects making the findings set forth in draft resolution PC11-03, subject to the approval and findings in draft resolution 11-04 (Conditional Use Permit) and 11-05 (Tentative Map).

Handouts presented to Planning Commission members

- Revised Conditions of Approval. These revisions clean-up some of the exhibits and some of the conditions. Additionally there is some language that was proposed by the applicant, to be included that staff did not have an objection to.
  - Condition B.1 – DRAFT Resolution 11-04 (CUP)  
“All development shall substantially conform to the plans designated by the Ceres

Planning Division as ‘Final Exhibit’. Final Exhibit shall consist of the submitted map(s), site plan, floor plans, elevations and landscape plans amended by the Developer to reflect any changes required by the City in the approval process. The Developer shall submit any required amended site plans and exhibits to the Planning Division within 90 days of project approval. (PAGE 165)”

- Condition B.8 – DRAFT Resolution 11-04 (CUP)

“Permanent outdoor sales are not permitted within the parking area for this project. Temporary outdoor sales are permitted within the parking area in conformance with CMC section 18.50.050 provided that a temporary use permit is obtained ~~and providing that required parking ratios are maintained at all times.~~ (PAGE 166)”

- Condition B.21 – DRAFT Resolution 11-04 (CUP)

In furtherance of ~~prevention of blight~~ the beautification and promotion of in the downtown area, prior to issuance of a building permit the Developer shall provide a ~~blight mitigation~~ Downtown Beautification fee in the amount of \$75,000, which funds are to be used for the beautification and promotion of downtown Ceres.

Upon receipt of the funds, the City will make a public announcement regarding the receipt of the funds, in cooperation with Developer. (PAGE 168)

- Condition C.23 – DRAFT Resolution 11-04 (CUP)

All parking lot paving, drive and access aisles, and other hardscape for the entire site shall be installed in conjunction with Major 1 as set forth in the ~~site plan dated March 15, 2010 Phase 1 Paving Exhibit dated October 22, 2010~~ and created by Greenberg Farrow. (PAGE 173)

- Condition D. 9f – DRAFT Resolution 11-04 (CUP)

The Developer shall provide the City of Ceres with a right of entry to drill a test well within the project site northwest of Shops 3, as depicted in the ~~site plan dated March 15, 2010 Future Well Dedication Exhibit dated October 22, 2010~~ and created by Greenberg Farrow. If it is determined by the test well results that water quality and quantity, that this site can be developed into a municipal well, then the Developer shall dedicate the necessary land area within the remaining area to the northwest of the Potential Future Street, as depicted in the ~~site plan dated March 15, 2010 Future Well Dedication Exhibit dated October 22, 2010~~ and created by Greenberg Farrow, for the development of this well to the City of Ceres. (PAGE 181)

- Condition C.21 – DRAFT Resolution 11-05 (VTSM)

All parking lot paving, drive and access aisles, and other hardscape for the entire site shall be installed in conjunction with Major 1 as set forth in the ~~site plan dated March 15, 2010 Phase 1 Paving Exhibit dated October 22, 2010~~ and created by Greenberg Farrow. (PAGE 201)

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- Condition C. 32g – DRAFT Resolution 11-05 (VTSM)

The Developer shall provide the City of Ceres with a right of entry to drill a test well within the project site northwest of Shops 3, as depicted in the ~~site plan dated March 15, 2010 Future Well Dedication Exhibit dated October 22, 2010~~ and created by Greenberg Farrow. If it is determined by the test well results that water quality and quantity, that this site can be developed into a municipal well, then the Developer shall dedicate the necessary land area within the remaining area to the northwest of the Potential Future Street, as depicted in the ~~site plan dated March 15, 2010 Future Well Dedication Exhibit dated October 22, 2010~~ and created by Greenberg Farrow, for the development of this well to the City of Ceres. **(PAGE 206)**

Mr. Westbrook explained the packets of information that were provided to the Commissioners:

- City has been receiving letters, emails and faxes that were submitted recently. There wasn't time to provide copies to the Commissioners prior to the meeting.
- Letter from the applicant. They will be discussing the issue about the restriction of delivery times.
- Questions received from Commissioners and responses from staff.

Chairperson Kachel noted that he received a sealed envelope addressed to the Planning Commission. It's a one page hand-written letter from a concerned citizen, regarding an elementary school and an apartment complex in the area and traffic issues.

Questions from the Planning Commissioners:

- Commissioner Kline asked in regards to the EIR, if the traffic, noise, and air quality studies were done with the realignment of El Camino in mind.

Mr. Westbrook replied affirmatively.

- Commissioner Kline asked if the traffic, noise, and air quality studies were done with the interchange at Service & Mitchell Road in mind.

Mr. Westbrook replied that these studies accounted for the interchange as a future project.

- Commissioner Del Nero inquired how tall the wing wall will be.

Mr. Westbrook answered that it will be ten feet overall.

The applicant presentation began at 6:35 p.m.

- Amelia Neufeld, Senior Manager, Walmart Public Affairs, Sacramento, California

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Ms. Neufeld reported that support for the project has grown to over 10,000 area residents since the introduction of the plan. Walmart takes great pride in having served the Ceres community since the opening of the Ceres store in 1993, supporting community organizations, creating jobs and providing economic stimulation for the community. Over the summer, Walmart conducted a survey of registered voters, and found 8 out of 10 Ceres voters, 81% had a favorable view of Walmart, 66% support the proposed project, with 51% strongly in support.

Ms. Neufeld thanked City of Ceres staff for working with Walmart to develop the Ceres Walmart Store and Shopping Center project, which meets the highest standards.

- Walmart Project Team:

Howard Hardin, with Engineering firm, Greenberg Farrow, 19000 MacArthur Blvd., Irvine, California

Mr. Hardin described the project's site design and highlighted some of the features of the on-site and off-site improvements. He also discussed access and circulation and the landscape plan for the project.

Mr. Hardin explained that Walmart trucks are programmed to automatically shut engines off after three minutes of idling. Refrigeration trucks include auxiliary power units to run both the trailer and cab. Every practical method has been employed to minimize the noise impacts related to truck and loading operations. Walmart requests that the Planning Commission not impose a condition limiting deliveries. They have submitted a letter requesting that the Planning Commission delete CUP Condition G-1.

Shad Vermeesch – Project Architect with BRR Architecture, San Francisco, California

Mr. Vermeesch presented a conceptual rendering of proposed building. Walmart keeps with their commitment to overall goals on sustainability.

1. Being supplied 100% by renewable energy
2. Create zero waste
3. Sell products that sustain people in the environment

These goals are Walmart's main driving force behind their business and operations decisions, as they move forward as a corporation. He cited several examples.

#### Questions from Commissioners:

Commissioner Smith asked how many different architectural or elevation designs does Walmart use throughout their various locations in the United States. Mr. Vermeesch did not know.

Commissioner Smith asked if Mr. Vermeesch brought any actual pictures of Walmart Stores with this architecture, instead of a rendering. Mr. Vermeesch did not.

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Commissioner Smith inquired about the landscaping proposed for the new site; how does it differ from the landscaping at the existing site? Mr. Hardin replied that the Mitchell Road Corridor Specific Plan has very specific guidelines for landscaping. We are complying precisely with the Specific Plan requirements. Commissioner Smith asked if the existing site is part of the Mitchell Road Corridor Specific Plan. Mr. Westbrook responded yes it is. Commissioner Smith inquired if the Mitchell Road Specific Plan was in existence when the existing Walmart was constructed. Mr. Westbrook replied, yes it was. Commissioner Smith asked if the same landscaping requirements apply in the existing site as the proposed. Mr. Westbrook responded yes, with the difference being the selection of materials and trees that would be planted on this site. Commissioner Smith's expressed her concern with the existing landscaping in the current Walmart center; it's disappointing. Ms. Neufeld stated that if there are problems with the existing landscape, Walmart store managers will address those with city staff right away. Commissioner Smith clarified her concern that both the existing and proposed locations represent gateways into this community. The site that Walmart is currently occupying doesn't represent what she would like to see Ceres perceived as, and she is concerned that when they move to the new location they may experience that same challenge.

Commissioner Smith asked about the existing Walmart building and what the plans are for that. Amelia Neufeld noted that the current location is a prime location, but there is no space at the current location to expand the store to meet the needs of customers. Through the Walmart Realty Division, we aggressively market and actively work to sell and re-tenant former stores.

Commissioner Kline asked if the Walmart Team has visited the current Walmart in Ceres so they understand what we're talking about as far as aesthetics. Ms. Neufeld replied that she had.

Commissioner Kline inquired about Walmart's pilot programs and where they are located. Ms. Neufeld replied that the Solar Power Pilot Program is in California, Hawaii and a few stores in Arizona. Walmart started this program in 2009 and have been expanding this, as we learn new information. The Stockton store has solar panels in addition to a few other stores in the area as well. In a couple of the Southern California stores, we have the wind turbines in the parking lots, and are studying the effect of those.

Commissioner Kline asked about closed circuit cameras, surveillance and security measures. Mr. Vermeesch replied that there will be closed circuit cameras in the front and rear of the building. Commissioner Kline asked about surveillance for the entire center, not only Phase 1 of the project. Mr. Vermeesch explained that the center will be built in phases, as tenants are identified. These tenants will have loss prevention programs that they will want to implement into their store and their phase of the project. It's difficult to make any representations about the future phases without knowing who the tenants will be.

Commission Kline mentioned that Walmart has asked that the Planning Commission

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alleviate Condition G.1 on restriction of deliveries. Commissioner Kline asked about non-Walmart deliveries, i.e. Coca Cola, bread, etc. that Walmart has no control over. Mr. Vermeesch stated that most small vendor deliveries are during the daytime hours. Mr. Vermeesch will find out from Walmart exactly when the majority of those deliveries are.

Commissioner Smith stated she would like to hear from the manager of the Ceres Walmart store regarding the condition of the existing landscaping at the Walmart store.

- Mary Lopez – 1636 Electric Court, Modesto, CA, former Manager of Ceres Walmart, currently the manager of the Turlock Walmart.

Ms. Lopez remarked that there is a maintenance program in place at that store. Walmart has recently changed over to a new maintenance group in the state of California. During the changeover, there have been some issues. In Ceres there have been some watering issues and watering line issues with the water pressure, which have been going on for several years.

Commissioner Kline inquired about watering issues. Does it pertain to water pressure coming into the site or was it anything addressed with the City Planning or Water Department? Ms. Lopez responded that sometimes it was the water pressure coming into the store and she recalled having to have a supplemental pump installed because of the lack of water pressure coming into the store. It also affected the watering to the landscaping.

Commissioner Kline also asked Ms. Lopez about deliveries of non-Walmart trucks. Ms. Lopez replied that at the Ceres store, the non-Walmart deliveries begin as early as 4:00 a.m. The normal delivery times for Walmart trucks are 4 p.m. and 1 a.m.

Chairperson Kachel asked if Walmart has received any complaints about the noise from the loading, from the residents to the east of the current store. Ms. Lopez answered that she has not.

Chairperson Kachel opened the meeting to those who would like to speak in support of the project at 7:15 p.m.

- Charlie Gross – representing Ceres Partnership for Healthy Children, 2908 4<sup>th</sup> Street, Ceres, CA

We are proud of our longstanding partnership with Ceres Walmart. They have been generous with contributions, and truly helped our efforts to change lives through programs that strengthen and support children and families of Ceres.

- Mary Austin – lives on Tenth Street, Ceres, CA

She has lived in Ceres 37 years and would really like to see Walmart here.

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- Craig Hunnel - Ceres First Southern Baptist Church, Senior Pastor at 2813 Don Pedro Road, Ceres, CA

We happily endorse the project; supporting the community in the best way we can.

- Karen Mosser - 2004 Third Street, Ceres, CA; also representing Stanislaus County Humane Society

She has been a resident of Ceres since 1958. She supports the Super Walmart in the City of Ceres for two reasons:

- When a Super Walmart comes into a community, it has a big impact on low income residents' health, providing fresh fruits and vegetables at affordable prices.
- Ceres Walmart donates broken bags of pet food to her for use in the City of Ceres neighbors, which she repackages and gives to seniors towards the end of the month, when they are short on money. She also takes repackaged pet food into low-income neighborhoods and shares information about no-cost and low-cost spay and neuter programs. She thanked Ceres Walmart for their support with this animal issue, which last year cost the taxpayers over \$1.7 million. Super Walmart will make a positive impact on our community for years to come.

- Patricia Jones – 2836 Charlotte Avenue, Ceres, CA

This is the second year in a row that there will be no increases in social security benefits. It's hard for people who live on a fixed income. She shops at the Modesto Walmart, and if we had a Walmart Superstore in Ceres, she would love it!

- Julie Norton – 2513 East Redwood Road, Ceres, CA

Seeing the pictures on display tonight, she feels like an eagle. She has a view of what could be here. She would like to get off the freeway and see a beautiful Walmart with a nice restaurant, and a beautiful hotel. She would like to see something "good looking" in Ceres.

- Mary Lopez – 1636 Electric Court, Ceres, CA; former Ceres Walmart Store Manager for past 12-1/2 years.

On behalf of the 308 associates who serve the Ceres community, she thanked the commissioners for considering the Walmart's plan for building the new store, complete with a full-service grocery department. As you may have heard, the readers of the Ceres Courier voted Walmart as the community's best department store, best bargain discount store and several of its' departments were also recognized for being among "Ceres best!"

She also told about her employment history with Walmart. She has been with Walmart for 26-1/2 years. She started off in 1985, as an hourly associate. She worked for 10

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years, decided on a career path, and worked her way up in the company, into management. You can move-up with Walmart, starting off at the bottom of the ranks. It's a wonderful company to work for and a great place to be.

Some of the benefits that the Ceres community will see if the new store plan is approved will include:

1. Approximately 85 new Walmart jobs
2. Additional tax revenue to our city's vital services, such as public safety, schools and roads
3. A full-service grocery department, including a bakery and deli, that creates a one-stop shopping experience for Ceres residents
4. Continued partnership with local charities and causes

- Shirley McRoberts – 2617 Blaker Road, Ceres, CA

We do need a super center. She lives on a fixed income and with a supercenter, she could have one-stop shopping. She loves Walmart and hopes that we get a supercenter.

- Eleanor Curiel – 2833 Alphonse Drive, Ceres, CA

She has been a resident of Ceres since 1986 and a Walmart associate since 1993. She has worked nine different positions at the Ceres Walmart, with flexible schedules to accommodate her family. Walmart has been very good to her. As a former member of the hiring committee, she knows that Walmart hires people from every spectrum; i.e. college graduates, high school graduates, non-graduates. She had no experience in retail, but Walmart has given her wonderful opportunities. She thanked the City of Ceres for coming to our store and making it possible to remain open as long as we have.

- Julia Fatheree – 2900 Azalea Court, Ceres, CA

She has been a Walmart employee for 17 years and a Ceres resident for 20 years. She is in favor of the supercenter. She urges the commission to vote "yes" for the supercenter.

- Mike Mallory – Manteca, CA, Chief Executive Officer for Second Harvest Food Bank.

He reported that due to the downturn in our economy, we have seen a 25% increase in food need in our basic areas, over the past three years. The food bank covers seven counties including: Stanislaus, San Joaquin and the Mother Lode.

He was fortunate enough to meet a gentleman from Walmart, who came to his store and asked what he could do to help, and to be on his Board of Directors. Walmart came to the food bank's rescue:

- Store pick-up program – 15,000-16,000 pounds per month from Walmart
- Grant written and we received a refrigerated truck valued at \$85,000

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- Walmart partnered with us and other food banks in the U.S. – over \$270 million
- Allowed Walmart volunteers to come into our facility and labeled over 17 bins of cans, and they thanked us for being there
- Walmart allows us to purchase turkeys at a very low rate (over 6,000 turkeys over the past three years)
- Walmart gives a terrific discount on food purchased for the food bank

He sees this as a partnership. He applauds Walmart for what they're doing; helping feed our seniors, children and churches.

- Bertie Plante – Past President twice of the Chamber of Commerce – Position with Walmart as Community Involvement Coordinator

Her job with Walmart has been wonderful; meeting so many wonderful people and seeing all the donations that are made, and being a part of that. We hope that the Planning Commission will consider what Walmart has done for the community and vote for the store.

Chairperson Kachel asked for the record, if she was here on behalf of the Chamber of Commerce or Walmart. Berti replied she was there on behalf of Walmart.

- Mark Whitehead – Pastor of Victory Assembly of God located on Hatch Road – 1904 Columbard, Modesto, CA

He's very happy to be a part of this city; he's a member of Chamber of Commerce and the Kiwanis Club. He's grateful to live in a city, state and country where we can have this dialogue on how to build a better community. His passion and desire is that Ceres becomes a place that people want to go to and not leave from. His hope is that the Planning Commission will allow this to come in to our city, but with good restrictions. He sees this as an opportunity for jobs, as he sees the need for increased jobs on a weekly and sometimes daily basis. This is a good opportunity for our city to do something well and to do something right.

- Sally Lopez – 1168 Moon River, Ceres, CA

She has been a resident in Ceres in 1993. She is a care provider and mother. She is also here on behalf of her clients: Mildred Jackson and Bernice Benita. We all love Walmart; it's affordability. We need a Super Walmart in Ceres, desperately!

- Wayne Fatheree – 2900 Azalea Court, Ceres, CA

He supports the project. It makes more sense for a store to be built over there and to start to renovate Mitchell Road. There are a lot of new things that can be done in this city, and he thinks it's time to start.

- Stacey Earn - 1604 Atlantic Drive, Modesto, CA

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She's an employee at Walmart and also a college student at Modesto Junior College. She has to pay for her education on her own, and appreciates Walmart working with her college schedule and encouraging her to continue her education. There are also other employees attending school, and she thinks it would be nice to see even more students working there.

- Evalisa Jimenez

She has been an employee at Walmart for 15 years. It's been a great store to work with. They have given her the opportunity to finish her schooling, and she also appreciates them working with her family's schedule.

- Mary Castro

She is an employee at Walmart, who checks in the non-Walmart delivery trucks at Walmart. She verified the time as 4:00 a.m. give or take 15 minutes. She also stated that the managers that she works with have already been on the phone, addressing the landscaping issues.

- Albert Fuentes – 2824 Rosewood, Ceres, CA

He agreed that the landscaping of the current Walmart is not very attractive. He's also worried about the empty building after they move to the new store.

He has 22 years in the grocery business, 17 with union stores and 5 with Walmart's competitor, Super K-Mart. He's been an assistant manager with Super K-Mart. He believes that Walmart is misleading with promises of jobs. He expressed concern about the people who will lose their jobs when the other grocery stores close; will Walmart be able to equitably compensate them? He also inquired about the other parts of Ceres that are in need of developing.

- Mrs. Albert Fuentes – 2824 Rosewood, Ceres, CA

With all their travels, she stated that they have not seen any Walmart with the same design as they proposing.

She mentioned Save Mart has opportunity to expand, now that Rite Aid is no longer in that shopping center. Chairperson Kachel interjected that Save Mart has gone on record in front of this body, stating that they do intend to expand into the Rite Aid Store.

Chairperson Kachel reminded the audience that we are still taking testimony for those who are in support of the project. Please try to bring up something that has not been covered already. We will hear from those who are opposed a bit later in the meeting.

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- Clenney Sullivan - 2656 Park Lane, Ceres, CA

He's been a Ceres resident for 18 years. He's been in retail business for many years. He's neither for nor against Walmart, but he has been impressed with the Walmart store, here in Ceres.

- Sharon Harrah – resident at Pinewood Meadows Mobile Home Park, 8200 Jantzen Road, Modesto, CA.

Most of the residents at the mobile home park shop at Walmart. They are on a fixed income and are raising their two grandsons, who are in their 20's now and attending college. She fed and dressed them, shopping at Walmart. She is so excited that we may have a Super Walmart here in Ceres!

- Lynn Baker – 1737 Darwin Avenue, Ceres, CA

One thing she hasn't heard mentioned tonight is the added benefit of the property tax revenue that would be generated from the new construction in the center. Also, a successful repurpose is the old Sears Surplus store that is now the Big-5, 99 cents and Family Bargain store, so that is something we can consider and reflect on.

- Cary Pope – 2732 Fifth Street, Ceres, CA

He is the current President of the Chamber of Commerce in Ceres. He told the Planning Commission that they have a very tough decision to make. He suggested that they listen and act accordingly, based on what you've heard and what you hear out in the community. Walmart has been a good corporate citizen, they have been good to the Chamber and they seem to be somewhat generous throughout the community.

- Tracy Maciel – 329 Rosina Avenue, Modesto, CA

She is a Walmart, Raleys and a SaveMart shopper and will continue to be a loyal shopper to all of these stores. I don't think we should be penalized because the grocery chains feel threatened. Walmart super center is a great opportunity for employment, and as a shopper, it is awesome to have. She is sorry that everyone feels threatened. She will continue to be a loyal shopper to Raleys as well as Walmart.

- Barbara Cunningham – 2310 Fourth Street, Ceres, CA

She feels that Ceres really needs the jobs and a lot of seniors on fixed incomes that could benefit Super Walmart being here.

At 8:11 p.m. Chairperson Kachel announced that The Commission will take a recess and reconvene at 8:25 p.m.

**The meeting reconvened at 8:26 p.m.**

Chairperson Kachel opened up the hearing to those who would like to speak in opposition of the proposal. Please limit your comments to three to four minutes.

Mr. Westbrook announced that during the break, someone gave him handouts, which were passed on to the Planning Commission members.

- Lee Brittel – 2917 Don Pedro Road, Ceres, CA

Mr. Brittel stated the northeast driveway of the project is in front of his house and he is speaking for his neighborhood. He is responding to letters that were sent in: Letters 36.1 to 36.69 and Letters 37.1 through 37.14. He asked if the Planning Commission received copies of the letters. Chairperson Kachel asked if these were included in the Final EIR. Mr. Westbrook responded that this was correct. Mr. Brittel wants to make sure the board understands that he is willing to stipulate that Walmart is a good neighbor. What we're trying to do is minimize the impact to our neighborhood. Most of us are in favor of having Walmart there. Of these 85 plus letters that were submitted to the city, we laid out a project, what our concerns were, with suggestions as far as mitigation. Of these 85, all of these individuals live in the specific area affected by this project. Their main concern is how their neighborhood will be impacted by the noise and traffic.

We proposed closing both driveways on the north end of the site. We also proposed Major 1 (Walmart) be rotated and moved down to the southwest corner of the lot, and an access road be directed off of Service Road for trucks to be directed in and out. We ask to allow truck entrance only from Service Road, Mitchell Road or El Camino Avenue. We want to see a solid sound wall as projected on Don Pedro, eliminating all driveways, thus protecting our neighborhood.

- Brett Jolley - with law firm, Herum Crabtree, 2291 W. March Lane, Suite B100, Stockton, CA.

He is here on behalf of Sherri Jacobson and the Citizens for Ceres group, and would like to touch on two main issues:

1. EIR and it's analysis of urban decay and blight

He sees this analysis is incomplete in two main ways. The EIR describes the environmental setting in the urban decay and blight chapters. And the environmental setting in CEQA is basically conditions on the ground. He asked, what are you starting with when you determine the significance of the project's impacts.

An interesting thing to note is that in the city there has been two redevelopment areas adopted by the City. Mr. Jolley handed out copies of the Redevelopment Agency's Redevelopment Map for the City of Ceres. The redevelopment area reflects a finding by

the City that this area exhibits both economic and physical blight. Under State Redevelopment Law and the Health and Safety Code, a public agency must make findings if blight exists. And the question for the EIR is if the EIR is trying to determine whether this project will have significant blight and urban decay impacts, why not look at the existing blight that the City has already identified. It really gives you an incomplete picture.

The second issue related to urban decay has to do with mitigation for store closures. The EIR says that store closures are a potentially significant impact, but really focuses that down to vacating the existing Walmart store. It doesn't look at really the impacts of other stores closing. The EIR admits this is a possibility, but in essence says it's not something we're going to deal with from a mitigation standpoint.

## 2. Commission's obligation to address a statement of overriding conditions

The Commission is likely aware, under CEQA the Commission, before approving a project must certify that the EIR reflects its independent judgment, and it must adopt findings regarding the impacts found in the EIR, and third, if there were impacts deemed significant and unavoidable, it must develop a statement of overriding considerations.

In this case, we have three significant and unavoidable impacts identified by the EIR:

- Air quality
- Agricultural land conversion
- Traffic

This triggers the requirement for the Commission to adopt the statement of overriding consideration. If it cannot do so, it's required by law to deny the project.

He encouraged the Commission to take a hard look at this. You are legally empowered to ask questions and legally empowered to deny this project. CEQA requires the Commission to deny the project, if you can't make those findings of overriding consideration.

- Marsha Harris – 3517 Archcliffe Drive, Ceres, CA

She has been a residence since 1990. She is a member of the Neighborhood Group and a member of the "Citizens for Ceres" group. She is a registered voter in Ceres, and doesn't recall having received a survey on the super center. Therefore, she's not sure of Walmart's assertion that 80% were favorable for having Walmart come in. Maybe it was 80% of those who were actually surveyed.

She addressed the question from the Planning Commission to prior speakers regarding what the current situation was like for the current Walmart, in terms of their proximity to residential, and did they ever have feedback from the current residents regarding truck noise. One stipulation to note is that the current residents that live near the existing Walmart, are separated by a solid wall barrier, except for one pedestrian pass-thru, and

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they also have the full extent of the canal behind them, before any residential is met up next to Walmart. And they do not have truck access, with trucks going in between.

They have been asking since the beginning in 2007, bring in something different, something new, regional community things, stores that Modesto and Turlock don't already have, upscale stores, nice restaurants.

- Chris DeSignori - 2905 King Henry Court, Ceres, CA

She agrees with everything that's been said and opposes Walmart.

- Jazmine Perez – 796 Alacante Drive, Ceres

She asked why we need another Walmart. We already have one and it's not very nice. She inquired about all the new jobs that will be created with the new Walmart. She asked about her job; she works for SaveMart, and other jobs at Raley's, Cost Less, Richland, Food 4 Less, etc. She's opposed to Walmart.

- Mary Jane Scheuber – Faith Home Road, Ceres, CA

She lives next door to her mother's residence from when she came to Ceres in 1911. She grew up with one grammar school, one high school and there was even a theater and hospital in town. We no longer have these things in Ceres. She shops at Walmart and Food 4 Less and feels that you can't buy anything cheaper at Walmart than you can at Food 4 Less. She thinks that they should just expand the existing Walmart, rather than vacate it and have a potential blight area.

- Billy Parmer – 3512 Archcliffe Drive, Ceres, CA

He stated that he had some questions to ask regarding that points that Mr. Westbrook made earlier in his presentation. He also stated that Walmart can come; they're neighbors and we need to get along. He asked:

- Is the truck route on Don Pedro Road a restricted truck route?
- For clarification if all the truck traffic will be strictly Don Pedro/Mitchell Roads
- What happened to Plan B, which was the alignment of Walmart going to the southwest side? That would resolve any issues with Don Pedro.
- Where is Walmart's garbage and recycling going to be located? What times will they be picked up and where will they be collected? Will they be inside? Will they be outside?
- As far as trucks coming in, where will they be staged?
- Security is going to be a big issue, especially with an area that size. He doesn't feel that the cameras are going to be enough and asked if they are planning on having patrols?
- The issue with the existing Walmart; you never got an answer to your question "Did they bring it up to the City?" You got the answer of the landscape people said it. He

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would like to know why they never brought it to the City and if they did, why the City didn't address it.

- Andy Azevedo – 1404 Fannell Drive, Ceres, CA

He stated that he grew up in Ceres and has lived here since 1963. He is currently employed at and has worked at Richland Market for the past 32 years. He is concerned, as it was stated that the super center would bring in over \$16 million in grocery revenue. If you take away \$16 million from the local Ceres grocery stores, it would cause a loss of jobs and store closures, and that needs to be addressed.

- Betty Davis – 1708 Pikake Court, Ceres, CA

She stated some of her reasons for opposing the project:

- The Walton Corporation's policy on public education. They specifically support voucher systems which can be used for private schools.
- The negative impact this would have on locally owned grocery stores.
- The loss of use of land for agricultural.

She thanked the Commission for the job they are doing.

- Cassandra Brown – 2421 Marguerite Way, Ceres, CA

She pointed out when they're talking about bringing in 200 new jobs; that's in the distant future, once the entire center is built. She also asked who is going to pay for the improvements to the interchange, since the State already turned down funding for that. In her opinion, Walmart should have to pay for all infrastructure that needs to be implemented, not taxpayer money.

- James Davidson – 2300 O'Farrel Avenue, Modesto, CA

In the mid 90's he lived at 1710 Ocean Way, off of Richland and Hatch. He has seen how Ceres has changed. He has spoken with people who work at several area grocery stores and has seen the impact of what has happened with the mini-Super Walmarts going in; loss in hours, cuts in pay. This is the impact that is coming.

He stated that he looks to the Commission for planning the future, not a quick fix. He feels that if this comes in now, the way our financial standing is, he sees a lot of businesses closing and a lot of jobs lost. He remarked that Superstore Industries in Lathrop alone employs roughly 400 people. They service SaveMart, Raley's and BelAir. They will be affected, along with the Sunny Select Warehouse which is located near Turlock. We need to think about the future.

He also mentioned when Brendan Theater opened, other theater chains wanted to come in, but were turned down. The reason why is, that the area could not support that kind of drag on the economy. He says the same thing applies here and asked the Commission to

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look into that.

Chairperson Kachel asked Mr. Davidson about the industries he mentioned, if they are wholesalers. Mr. Davidson replied that no, Superstore Industries is the warehouse that holds all the goods for SaveMart, Raley's and BelAir.

- Ron Blevins – 12799 Droke Road, Escalon, CA

He drives to Ceres every day for work and has for the past 20 years. He stated that since Walmart was built in Ceres in 1993, they dumped about 40 Conex boxes behind it, which are shipping containers, so they could get out of the tax costs of a building big enough to hold their merchandise. Those Conex boxes are still back there. Ceres finally made them put up a fence, so you don't have to see them. You can look at their past to see what their future is going to be.

- Debbie Swiss – 724 Madrid Court, Ceres, CA

She stated that Walmart has more fines against them with the EPA than any other company in the United States. They have violated more Clean Water Acts than any other company ever. They've been fined more by the Federal Government for environmental hazards than any other company. They have more class actions against them for discrimination against females and minorities than any other company.

- Joe Garcia - 2677 Parkway, Ceres, CA

He stated he's opposed to the store opening up there because of the traffic. It takes so long to get anywhere. It took him 45 minutes to go from where he lives to Berkeley Avenue in Turlock and back via Mitchell Road!

- Katherine Elizabeth Kitchel - 3643 East Service Road, Ceres, CA

She said that she lives approximately 50 feet outside of the city limit, but the road she is on is sort of a back way in for those who are coming from Turlock, that do not wish to take the freeway. Right now her road gets a little bit of truck traffic, but it's not too bad. If traffic increases, it will be difficult for the residents and there will be traffic issues. She also feels that it would take quite a bit of work to widen the overpass over the canal, which crosses Mitchell Road, to handle the new amount of traffic.

She also requested that the Commission consider a couple of things that some wise men have said: "Past behavior is the best predictor of future behavior," and "Actions speak infinitely louder than words." In reference to Walmart, she asked the Commission to look at their history, look at the numbers, look at the data, and do not listen to propaganda.

- Rick Rushton - 2306 Sixth Street, Ceres, CA

He asked with the budget cuts that the City is currently facing and will probably continue to face in the near future, how does the City of Ceres propose handling the increase of needs for public safety? The increase in crime from Walmart super centers that are open 24 hours have been discussed in the news. He inquired how Ceres and the residents along Don Pedro will be affected by the increase in crime element and who will pay for it.

He also asked several questions on the topic of jobs and benefit loss and the resulting costs to the City:

- How many jobs have you lost to store closures?
- How many projected Walmart jobs will replace existing jobs and our loss of other retailers?
- Is there a way to consider these impacts?
- Will a simple breakdown of jobs, and loss of wages, loss be calculated?
- How much is this government currently paying for health care and tax credits and deductions for low income families and housing assistance for the City of Ceres, Walmart and its employees - for those who have lost their jobs due to small business closures?
- How much would this figure be increased with this proposed super center?
- Arcelia Ochoa - 3509 Chandra Court, Ceres, CA

She stated that she moved here from L.A., and she saw Walmart come to LA too. It took over the mall there. It also doesn't look like the drawing on the picture or graphics.

She also wanted to mention that she has been working for SaveMart for 20 years. SaveMart also donates to the community - a lot; more than anybody else, but they are not going to mention it. She also stated that we already have a Walmart and asked why can't they do a bigger one in the same place.

- Joshua Cane - 3939 Central Avenue, Ceres, CA

He stated that he is opposed to this new Walmart coming in. He received a card about two weeks ago from Walmart giving support and saying they are meeting at Alfonso's for free drinks or whatever for a show of support. He took it upon himself to do some research:

- We all know about the 85 new jobs Walmart will create, but it's going to come at a loss of 90 to 100 jobs from Richland, SaveMart and Keith's Supermarket. This was from the Ceres Courier just last week.
- Opening a Super Walmart lowers the average retail wage by .5 to .9 percent. And one of his research studies has shown that in 2000, total earnings nationwide for retail workers reduced by \$4.5 billion due to Walmart's presence.

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- The tax revenue - Cities the size of Ceres loses about an average of 14 percent annually when a Walmart comes in and basically runs all the other mom and pop stores out.
- Walmart stores have been known to skim sales taxes and use taxpayer money to finance their growth. They demand tax breaks from cities to get their stores built where they want.
- Sherri Jacobson - P.O. Box 2523, Ceres, CA

She is a Ceres resident and a member of Citizens for Ceres. She reported that she has been outspoken with her concerns about this project for a very long time. She and her mother hit the pavement back in 2007 trying to announce to the public that this store is coming and you better get your voice heard now.

She submitted a lengthy comment letter on the EIR; number 20. She summarized a few of the comments that are addressed:

1. She believes there were improper and possibly illegal demolition happenings that affected and impacted the wildlife, the vegetation, and possibly the Native American artifact studies.
2. Agriculture and abandonment of the existing store are very big concerns.
3. Aesthetics related to oversized signs the wall, and landscaping.
4. Financial impacts related to sales dollars shifting, store closures, and increased law enforcement needs.
5. Light pollution and energy consumption.
6. Significant traffic and safety impacts from truck deliveries.

She feels that if Walmart really cared about Ceres the way she does, they would propose some enhanced architectural elements. Instead they are offering a drab design. Walmart is capable of providing unique and enhanced architecture to their store, but that only comes when a community requests it. For example, in American Canyon, outside of Napa, Walmart built a much more attractive super center with vineyard inspired architecture. She asked if that wouldn't be nice for us, since Ceres is the goddess of agriculture.

She also wanted to mention that her mother submitted a letter to Tom Westbrook earlier today, stating that she is still concerned that her questions and her comments that were entered into the final EIR, were not addressed. She believes that the City needs to reconsider the blight that is caused by paving over prime farmland. Secondly, she worries about the fact that Walmart has only agreed to make a \$75,000 donation to beautify and promote downtown. She hopes there's a proper way to quantify the costs associated with the environmental changes resulting from the construction of the super center, and she hopes that the Commission finds a way to recirculate that information to the City and citizens of Ceres.

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She forgot to mention one more thing. Carol Dutra was in attendance tonight and had to leave earlier. She submitted a letter earlier to Tom Westbrook. Diane Rushton was supposed to submit an e-mail and a woman named Miss Hunt as well. They are not all members of Citizens for Ceres.

- James Vinyard - member of Citizens for Ceres group

He commented that he's trying to figure out why Walmart wants to build a new store. One of his biggest concerns is the noise along Don Pedro and also the traffic problems that may arise on Don Pedro Road. He is also concerned about how this is going to affect the economy of Ceres, with the potential closure of several grocery stores in town. He urged the Planning Commission to vote no on the building of this shopping center.

Bob Gutierrez - Government Affairs Director for Food 4 Less

He wanted to share that when Food 4 Less came into town in 2005 and they chose the location at Hatch and Mitchell Road, it was predicated on the fact that there were existing retailers in that general area. At the time, Food 4 Less considered and still do consider that particular portion of Ceres to be the gateway. We're the gateway to Hughson, Modesto, Highway 99 and all of south of Ceres. We've enjoyed the complementary relationship with other retailers in the area. For the Planning Commission to move Walmart to a different location, will have a significant impact, not only on Food 4 Less, but also to other existing retailers in the center.

- Ronald Peterson - 2912 Rosewood Avenue, Ceres, CA

He asked that the Planning Commission consider the impact that this could have on our other grocery stores, and does not wish to see them go under. He also stated that if there's going to be a Super Walmart that close to an onramp, going either direction, we're going to see crime go up, and a lot of undesirables coming in a lot.

- Burl Condit - 3613 Dormea Court, Ceres, CA

He has lived in Ceres 45 years. He asked who in the City is responsible for making sure the landscaping rules on Mitchell Road are complied with, because obviously Walmart hasn't been complying with them.

- William Hasiela - 3818 Roberts Road, Ceres, CA

He stated that he thinks we want something more than 99 Cent stores and McDonalds; He thinks this will bring something to Ceres. Modesto has the mall and Turlock has Monte Vista Crossings; everyone is going to those shopping areas. He believes in the free enterprise system; let people decide where they want to shop. He believes this project would generate something that we really need, and we need to be on the map.

Chairperson Kachel stated he appreciated everyone's comments and would like to give the Walmart people an opportunity to respond to this for about five to ten minutes.

- Elizabeth Anderson - Sheppard Mullin, representing Walmart

She stated she would like to rebut Mr. Jolley's comments.

- As Mr. Jolley knows, given the numerous lawsuits he has filed against Walmart, blight is defined for redevelopment purposes and it's not what CEQA is concerned about or what the EIR analyzed. The urban decay analysis is based upon the methodology recommended by the City's expert in consultation with staff, and again, Mr. Jolley offers no evidence to suggest that it's not adequate.
- With respect to Mr. Jolley's comments regarding the statement of overriding consideration, she offered the following points: He questions whether the project will result in an increase in sales tax because the Walmart store will add nontaxable groceries. Again, he presents no evidence to the contrary, and fails to consider that the project will include approximately 100,000 square feet of non Walmart uses that will also likely generate sales tax.
- With respect to job losses, he presents no proof that the project will not result in new jobs, but there's evidence that suggests that the City will experience an increase in jobs if the project is approved. Plus, it should be known that Mr. Jolley not only offers no support for the job losses, but Mr. Jolley's own client, SaveMart has announced plans to expand while knowing about the proposed project.

The EIR is the result of years of work by City staff and its experts. CEQA requires only adequacy, completeness, and a good faith effort of full disclosure. The EIR thoroughly analyzed all relevant issues including urban decay.

She also stated that as Mr. Westbrook noted earlier, staff recommends approval of this project. Unlike many of the speakers that we heard tonight focused on the pros and cons of Walmart, staff has been focused for almost four years on whether this project is appropriate from a land use perspective. They have determined that it is, and that is the question before the Commission tonight. The project is consistent with the General Plan and the Mitchell Road Corridor Specific Plan. It meets all applicable goals and policies. It meets all development standards, and the uses are permitted as a right. The only use that triggers the Conditional Use Permit is alcohol sales at the Walmart store and the future sit-down restaurant. Therefore, they recommended that the Commission accept staff's recommendation, certify the EIR, and approve the project.

**Chairperson Kachel closed the public hearing at 9:58 p.m.**

He remarked that we've had a lot of excellent testimony on both sides. We certainly covered the gamut from land use, to jobs, to economics, to aesthetics. He listed, in no particular order some the questions and concerns he has regarding the project:

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- The impact on Don Pedro Road, particularly truck impact. He would like to know a little bit more about traffic calming.
- Alternative analysis - there's some discussion about alternatives that were identified in the Draft EIR which were dismissed, basically because they didn't fit the applicant's goals, which is sort of consistent with CEQA.
- Existing store maintenance; especially the lack of maintenance to the landscaping.
- The adequacy of the Economic Impact Report seems to be one of the major concerns. (We apparently have the person who did the economic analysis here. We can hear from him about his take on all of this.)
- Does it need to cover a redevelopment area?
- Lots of talk about what jobs are going to be lost and stores closing.
- He noticed that there was very little talk about the EIR is inadequate, with the exception of perhaps the economic portion of it. That speaks very well to City staff and to the consultants they brought in to bring a document that is basically being used as a starting point, which is the whole point of the Environmental Quality Act.

Commissioner Kline stated he had a lot of grave concerns on traffic issues. He proceeded to ask several questions:

- Was the EIR study done with the proposal of the new elementary school?

Mr. Westbrook responded that no, it was not and further explained that CEQA law requires that the City file a Notice of Preparation that sets the start of the project. So it analyzes everything that was in place on that day. And the school district did not acquire the project site until 2009 and started their study at that point in time, two years after this project had started. Therefore, the traffic study that was done for Mitchell Ranch does not account for the school itself. It accounts for whatever land use was in place at that time, which was residential.

- The existing Walmart is a 24-hour operational business? And the Food 4 Less across the street?

Mr. Westbrook replied that yes, WalMart is open 24 hours, but was unable to answer the question regarding the operating hours of Food 4 Less.

- According to the traffic study, the EIR was done with the assumption that the Mitchell Road interchange with Highway 99 will be done, as well as the Service Road interchange. Yet there's a letter from the State Department of Transportation with a special note on Figure Number One. This future interchange project has been proposed, but is now on indefinite hold, because of funding. His concern is with the traffic studies that have been done, the realignment of El Camino Avenue, that these projects will be on hold indefinitely. So, we could have a Walmart super center in place for ten years before those projects come to light. That will, to him in theory, gravely affect the traffic.

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Mr. Gebhardt responded that one thing we should be aware of cumulative and long-term traffic build out of the city and that includes the interchange that is part of the city transportation plan. It's part of our capital facilities fees. We collect money to build that interchange with every building permit we take. And our long-range plan is that we will collect enough, that we will build it in time. We will not build it immediately. That's why the initial analysis of the existing traffic plus Walmart does not assume that the interchange will be built. It assumes that the improvements that will happen at the near term, will be constructed. That includes some modifications of the ramps, which in fact, Walmart is responsible for paying for. They are also responsible for fronting the cost of some of the immediate improvements that will be needed.

- But the needed improvements will not put the Mitchell Road interchange in place, or not put the Mitchell interchange or the Service Road interchange on and off-ramp or anything else, would not come in place because their fair portion would pay for their share of the whole thing?

Mr. Gebhardt replied that is correct.

- Inquiry regarding traffic stacking along Mitchell Road starting at Hatch intersection. Confirming the plan to add three more stoplights at the south end of Mitchell Road; one at Roeding Road, one at the entrance to the Walmart super center and another at Don Pedro, and his concern with traffic along Mitchell Road. Another concern he has is with the traffic light not lining up with Saint Jude's Catholic Church.

Mr. Gebhardt said that Don Pedro does provide for access to the church, and as part of that signal construction will reconstruct the driveway, so that will operate as part of the intersection.

- Will Saint Jude's reconstruct their entrance to the driveway?

Mr. Gebhardt replied that or the City, as part of the project will reconstruct their driveway. Their pass back on the site will be working with Saint Jude's, but as part of the signalization of the intersection, we will be reconstructing that corner.

- Asked for verification that with the island that is going down Mitchell Road from Service all the way to Don Pedro, with an entrance into the number three entrance to the center, that if he is going southbound on Mitchell Road he will not be able to cross to get over the the AM/PM to get gas, with that median there.

Mr. Gebhardt replied that was correct.

- Inquired as to the impact of the feasibility of the entrance on southbound Mitchell Road, to obtain access into the AM/PM.

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Mr. Gebhardt responded that if the traffic increases on both Service and Mitchell, you need to understand that ultimately Service is a six-lane expressway. The long-term view for Service is a major corridor. So, as that traffic increases, you will end up with the medians down the length of Service Road. Just like we will end up with medians on Mitchell, starting with this section and then as the traffic increases potentially down other sections of Mitchell. And it becomes a trade off of the safety of the left turns across those lanes of traffic, versus the convenience of getting into the corner sites.

- Asked if there's a potential of another median going on the east side of Mitchell, going down Service, going towards Moore Road.

Mr. Gebhardt replied that at some point, if the traffic volumes get high enough, you will end up with a solid median on Service from Mitchell, all the way to the freeway. As the future expands you will definitely end up with reduced turns, and those turns focus on the intersections. That's why at build out, when we did the analysis assuming those left turns would not be available.

Another thing, with more signals, the need for coordination absolutely becomes critical. At the previous City Council meeting, the Council awarded the contract to go back; the City has had an interconnect system that has not operated right. It has numerous faults. The City just ordered the contractor to rebuild all the interconnect optical system and reconnect all of the signals in town. You will see a big difference by the end of summer, once all of that is repaired and all the signals are retimed.

- Bottom line is that this Service Road interchange won't be done, nor the Mitchell Road interchange. When the report talks about peak with every day traffic, it doesn't include peak as far as the churches with the special events at Christmas and Easter.
- He also has a concern about the clause relating to Walmart Realty releasing or selling the property, and not having to do it to a competing business, as in WinCo or Super Target. But, in Atwater, there's a SuperTarget that's been there about a year, in the same shopping center where the Super Walmart store is being built.
- What about the potential of businesses being uprooted? Let's say that Pay Less Shoe Source, that is in the existing center right now, decides to pick up and move. And what about the Sprint store or any of the other stores that happen to be at the strip mall behind them; say they move to another location for better access/foot traffic? Were these questions part of the blight study?

Chairperson Kachel reopened the public portion of the meeting to answer the question.

- Ray Kennedy - BAE, located in Emeryville, CA.

Mr. Kennedy stated that while they didn't look specifically at those uses, he will respond in general about that sort of retail mode. He thinks the answer is:

1. Mitchell/Hatch is a gateway intersection for the City, and even if Walmart is closed, it's still a strong retail intersection.
2. There's nothing that says that Walmart is going to be vacant forever.
3. Our analysis in general, looked at over a period of a few years of what would happen. While there may be short-term impacts, just from natural growth of the city, which, of course, everything is a little slower than we expected in 2007, we felt that our analysis showed, after a few years of growth in the city, would create new demands for additional retail in addition to the proposed projects, such that sales in existing stores would be able to recover to current levels.

- Commissioner Kline inquired about clarification of "a few years."

Mr. Kennedy explained that it's an average of five years. When they did their analysis, they looked at total retail sales, and their analysis indicated that after a period of five years, the net sales in existing outlets would be about what they were at the date, in a baseline year, without the project.

- Commissioner Kline emphasized his concern is the occupancy of the existing Walmart building.

Mr. Kennedy stated that the answer was in the EIR; that that was looked at as a potentially significant impact with a mitigation measure, which is MM 4.5.1, put into place because there was a particular concern about that site remaining vacant for a long time. And so there were a number of conditions about the property owner being required to maintain the property. He asked if someone here could speak more directly to that impact.

Mr. Westbrook stated that he couldn't tell us that there'll be somebody occupying the building in one year, three years or five years, if the store relocates. What he could tell us is that the parameters that are proposed in the conditions of approval, talk about a sales strategy plan to backfill that store. That sales strategy plan has to be approved by the City Council prior to them opening the Walmart at the new location, if it builds. There are going to be some avenues in place, so they can do marketing and try to backfill that store as quickly as possible. Staff is of the opinion, because it's a large space that would require minimal amounts of improvements in terms of moving a larger user in there, it would be very easy to move into that space. We don't think it will be vacant for five years. The City is going to get some idea of who this building would be marketed to before they ever open the existing store.

- Chairperson Kachel inquired about the Sales Strategy Plan, not being in place yet. He asked how enforceable or what teeth are in it. He mentioned that at one time we talked about a Development Agreement for this project, but that is not currently part of the proposal.

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Mr. Westbrook responded that the Development Agreement has gone away. In regards to the Sales Strategy Plan, he thinks it's going to be a marketing tool. It's going to be approved by the City Council so they can put some necessary teeth into it. He noted that the conditions say that we don't want to unduly restrict competitors. When you have a 130,000 square foot building, a lot of large users can occupy that space readily easily; Costco, Lowes, something of that type. The City is going to want to make sure we get kind of a larger user that would occupy that building as quickly as possible, after it is vacated by Walmart.

- Chairperson Kachel asked, assuming that Sales Strategy Plan was approved next month, what's WalMart's construction schedule?

Mr. Westbrook replied that from what they've heard in the past, is that when a building permit is issued, there has to be an approval process and building permits issued and building plans approved by the City. From issuance to construction and occupancy, would be about a year.

Commissioner Kline continued with more questions:

- With regards to water treatment, wastewater treatment, water to the site, water lines, sewer service, service lines; everybody came back and said it's adequate. It also states on page 69, Number 12, Impact 4.12-3-3, about future development increasing wastewater demand. At what level of development, will the city have before we are at maximum capacity?

Mr. Gebhardt responded that we're analyzing this very issue as we're completing our wastewater plan master update. This project does not exceed the capacity that we have. We've determined that we can meet both the treatment and the collection capacity for this site. How much farther we would really want to go, before the City starts moving into expanding and modifying it's waste water treatment plan, is up for a whole series of factors. We're coming up on our renewal of the requirements for the regional board, and we're going to be rethinking exactly what we need to do with our treatment facility. That plan will be completed in the very near future and City Council can decide at what time they want to start reworking the wastewater treatment plan.

- Has the study or analysis taken into consideration that we're losing the water usage, sewer usage at one end and you shift it down to the other end, with this site; how much of an increase is that?

Mr. Gebhardt responded that we assumed that the usage at the existing site would remain, and the usage in the new site is completely in addition. Our hope is it will be occupied very soon.

- With the size of that center with the potential of anything, and the close proximity to the freeway, is there any kind of close circuit surveillance or anything for the whole center? He would like to see this as something that people will work with us on.

- Site circulation was a concern. With Majors two, three, and four on the southwest portion of the facility, he is concerned with truck traffic to those buildings. Truck traffic is going to have to basically enter on driveway number one and head down the western portion of the property to get behind Majors two, three and four because there's really no limited traffic or entrance, to substantiate according to things he has tried to read and understand, for a semi to enter into number six, make a left-hand turn and go behind the buildings.

Mr. Gebhardt replied that there are multiple ways that the semi's can get to the back of those buildings. One of the possibilities is on Don Pedro. Another option is on Mitchell and I thought they had confirmed they could come in off of number five.

- Solar energy was addressed in their presentation; Commissioner Kline would really like to have some of the pilot programs in California.
- Chairperson Kachel wanted to follow-up on what Commissioner Kline was talking about on the traffic issue, in regards to the stacking of trucks. Was that addressed in the traffic study; is that adequate room to circulate these trucks and not have them out on the road?

Mr. Gebhardt responded that he can answer a couple of the questions, but needs assistance from the consultant. When they talked about Don Pedro Road; that's a completely unrestricted street. Regular size semi's in theory, can use Don Pedro, but you cannot take the oversized 53 footers (the super trucks) down there. They're SDAA special long beds that need specific approvals to come off the main system. That has not been approved for Don Pedro.

- Chairperson Kachel commented that we talked about the bigger trucks and the status of Don Pedro. The petition will go to the City Council.

Mr. Westbrook stated that the City Council makes the determination regarding the restricted or unrestricted access to Don Pedro.

Mr. Gebhardt added that the decision was that it was not appropriate to send that to City Council, knowing it would have a major impact on this site, and not having all that information about the site available to them, that this decision really needed to be made first.

As for the stacking, we do have information that shows the trucks can come in on both the first and the westernmost driveways. As far as the staging, that is something the Walmart consultants can probably respond to.

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- Commissioner Kline wanted to clarify that that supersized trucks are theoretically not allowed on Mitchell Road, and the only place they are allowed is D Street in Modesto, coming up Yosemite. They're not even allowed on Hatch Road.

Mr. Gebhardt replied that is correct. There are “many” trucks that use it, but they are not legal.

- Chairperson Kachel asked the other Commissioners if they had any comments, questions or concerns at this point:
- Commissioner Molina stated that he was just going over the executive summary and there's some areas of controversy that he's not too comfortable with. As he listened to the pros and cons, both sides have valid arguments on their sides. It's hard because we are here to serve the community. He wishes he could see everybody happy, but he is just not ready to move on with this right now.
- Chairperson Kachel asked if he is wanting more information regarding the economic impacts and the traffic/noise related impacts.
- Commissioner Molina explained that the majority of the people that live in this area were expressing their concern with the noise and truck delivery times. He is trying to be more sensitive to the community.
- Commissioner Del Nero mentioned that we didn't talk tonight about Walmart having a pharmacy. We talked about the food sales impacting other stores, but nothing about a pharmacy. He thinks competition is good. He also mentioned that the groceries would bring in more revenue, but not taxable revenue. Just one thing to think about. He also said that one man that spoke tonight stated that it would cause 40 percent more traffic and we don't have the new interchange and the lights in place right now. And, he wondered if anybody was here tonight to talk about Saint Jude's Church across the way; if they supported the project or not.

Mr. Westbrook responded that he was not aware of anyone speaking on the church's behalf.

- Commissioner Smith stated that it's pretty clear that Walmart has been a good corporate citizen with contributing to activities and donating to organizations within the community, and that's admirable. They are also a leader in the retail industry. Her concern lies with how they maintain their property; not representing the community in the manner she would like to see it represented.
  - She is happy with the elevations that were presented, but she would like to see some examples of elevations in other communities; more variation. She would like to have something that represents who we are as Ceres, and to inspire people to stop because it is right off the freeway.

- She has real concerns about the economic impact, not just the vacant building, but how it's going to impact existing businesses in the community. She would like to get more information about that.
- Last, but not least, is her concern for the people on Don Pedro. She would like to get more information on the traffic impacts on their neighborhood, and some possibilities for mitigating that.
- She added that she doesn't think Walmart and a supercenter is a bad thing. She has questions and would just like answers before she feels comfortable making a decision.
- Chairperson Kachel stated one of the biggest topics we have is the economic impact. We have the dueling law firms, given back and forth their opinions. One doesn't think it's adequate and other one does. He asked if we should maybe hear from their consulting attorney or EIR consultant, as to their take of the adequacy of the economics study. Economics are always a minefield in an EIR, but a project which has significant impacts, should have to come up with a statement of overriding considerations, and that is usually based on economics; therefore, you study economics. All environmental documents don't study economics; most of them don't. This major project obviously has clear economic effects. It would be appropriate, if they are ready to respond at this point.

Ed Grutzmacher - Meyers Nave, special counsel for the City.

A couple of points he wanted to bring to the Commission's attention:

- He wanted to clarify and separate the decision points that are potentially before the Commission this evening. One is on the adequacy of the environmental document and adequacy of the information you received today. The other on the merits of the project.
- If there are specific informational needs that the Commission thinks they need before deciding on the merits of the projects, then one of the things the Commission can do, is direct staff to go back and look at specific issues bring the answers back to them, and then render a decision on the merits of the project a a later time once that information is done.
- The Commission has before them, three different resolutions. One of them to certify the EIR as adequate and complete and representing the City's independent judgment and discretion as to all the environment impacts with the project. The other two approvals would be yea or nay on the approval of the project and needs to go forward. Again, if the Commission needs more information on something, direct us to do that.
- In terms of the adequacy of the environmental document, you can look really hard at all of the issues presented. The gentleman that was up here before answering questions, was actually the guy who wrote the economic report for us.

- If the Commission doesn't have enough information, wants specific questions answered, they can direct staff to go back and get more information from our consultants to update the reports, do whatever is necessary to answer those questions. Then the Commission needs to separate out the question between what are the economics; the merits of this project and what are the actual physical environmental impacts that would occur if this project goes forward.
- Chairperson Kachel asked for clarification on what the Commission's options are, with certifying the EIR, overriding considerations, and additional information that is requested.

Mr. Grutzmacher explained that the resolution that we prepared for certifying the EIR includes a statement of overriding considerations currently. The Planning Commission, of course, had the discretion or the staff to modify the resolution any way they see fit before approval, including taking out the statement of overriding considerations. One option could be for the Commission to authorize or approve the resolution, minus the section dealing with the statement of overriding considerations. You don't have to adopt a statement of overriding considerations until you're going to approve a project. So if there's further information you think you need in order to bolster the substantial evidence supporting a statement of overriding considerations or if you think there are different reasons for adopting a statement of overriding considerations than those the staff and consultants have identified, then again, this is your resolution. Staff has prepared it with the best of our knowledge, but this has to reflect your independent thinking and your independent judgment. If there are aspects of the overriding consideration you're not comfortable with, we can take them out. We can modify them. We can come back with more information to support them. Really, we have a lot of options on the table.

- Mark Teague, PMC

Mr. Teague stated that he was the project manager for the EIR. The short answer to the question is yes you can use evidence outside of the EIR to bolster your statement of overriding considerations.

He further explained that from our perspective, we separate the physical impacts associated with a project from the fiscal impacts of the project. From a purely CEQA standpoint, give or take between businesses, whether one comes in and one goes out, is not an environmental impact and specifically enumerated in CEQA. It's been proven over and over again. We're looking for the physical impacts associated with that. Many cities, including the City of Ceres have ordinances that deal with property maintenance in these types of instances. The mitigation measures that were referred to the EIR in this particular instance was because it's such a large building. The concern among staff and the reason it resulted in a mitigation measure was that with such a large project, it may overtax the City's ability to provide some sort of blight mitigation should it occur in this particular instance. You can include evidence outside of the record. It is possible to certify the EIR and deny the project. In fact, that was done in Chico. The EIR is simply

a piece of information that the Commission uses to consider the project. It's not the only piece of information in use. It's simply the largest amount of paper in one spot.

- Chairperson Kachel asked Mr. Teague, with the EIR in mind, to explain a little bit about the Plan B Alternative and the concern it was sort of rejected out of hand.

Mr. Teague explained that alternatives are designed, (except for the no project alternative), to either lessen or reduce or eliminate a significant impact that has been identified by a project. For example, if noise is an issue, you do things to a project alternative, to reduce noise. We can do the same with traffic and other impacts considered significant to the document. When we reject an alternative, we are not saying that the Commission should not consider it. What the EIR says, and the language is very specific in that regard, there's no environmental reason to compel you to select this alternative. It doesn't mean it's outside of your realm. This is a Conditional Use Permit. You have a great deal of broad police powers associated with that particular action. From an environmental standpoint, we didn't see enough of a benefit from the proposed alternative to say unequivocally you have to do this one.

The one exception to that, of course, is almost always the no project alternative. CEQA mandates that we look at taking no action in doing something that is not going to happen. The difficulty with that alternative, is that it doesn't further anyone's goals. In most situations the no project alternative is almost always the environmentally superior alternative as defined in CEQA.

Mr. Teague further explained that in this instance, we didn't dismiss alternatives out of hand. They are still in the document. They are still in the Draft EIR, and your Final EIR includes your Draft EIR and also includes the technical appendices that are stacked on the table about six inches of material. All of that is still valid material for the Commission to consider.

- Chairperson Kachel asked Mr. Teague, based on the hearing tonight, do you feel the EIR is adequate for certification? Is there anything that makes you question it?

Mr. Teague responded that there's nothing he's heard that makes him question the EIR. The Commission has some very tough decisions to make. It's pretty clear that this is an area that has been designated and zoned for commercial use for quite some time, and you have the inherent conflict of commercial uses with residential traffic. One of the things that the Commission had asked for and perhaps Katherine can talk to at some point here, is the traffic calming mitigation measure that is in there. But, the long and short of it, is this property has been identified for this use for almost 30 years now, and yes, there are environmental impacts associated with it. From an environmental standpoint, from the EIR standpoint, this one is pretty well thought out.

- Chairperson Kachel stated that he thinks the irony of all of that is if they were proposing to put the existing store at the site by itself, we wouldn't be having this

hearing because it would be permitted outright. The project as he understands it, requires a use permit because they want to sell alcohol and because of the free-standing restaurant; is that correct?

Mr. Westbrook explained that the need is for the Conditional Use Permit; the requirement is because of their potential for alcohol sales within 300 feet of a residential zoned property. Because the project wasn't split into specific parcels, the boundary was the 300 foot radius; that's why the need for the Conditional Use Permit.

He further explained that this would still come to the Commission for approval, regardless of the alcohol sales. The project approval would still need the tentative map for the reconfiguration of the parcels. The application to approve the plan and the elevations would be called a Specific Plan Site Plan.

- Commissioner Kline asked about overriding circumstances, and went back to his traffic concerns. The traffic in the EIR was done with the Mitchell Road and Service interchange in place. And now, according to these letters from Caltrans Department of Transportation, it's on indefinite hold.

Mr. Teague responded that we'll do a two-part answer here, and start with the traffic concern.

- Katherine Tellez - Fehr & Peers (transportation consultant)

We prepared the traffic study for the EIR, and in terms of traffic analysis, we did several scenarios.

- In the existing plus project condition we assumed no interchange improvements. We found there would be significant impacts. We identified a number of improvements that would bring intersection operations back to an acceptable level.
- In the cumulative condition we looked at traffic both with and without the interchange and improvements. Without the interchange improvements, operations are unacceptable, and the mitigation measures proposed for the near term conditions, will not be adequate to mitigate the cumulative condition. With the interchange improvements in place, traffic conditions do improve and things do operate well; however we do not rely on those improvements to mitigate the traffic from the project.
- Chairperson Kachel clarified that they've identified mitigation measures to reduce the impact or to make the traffic flow levels acceptable; level D - is that the level we're looking at without the major rebuilt. He asked Ms. Tellez the name of the document that Caltrans requires to be prepared before they do interchange improvements.

Ms. Tellez replied that it's PSR, PAE. There are several names or documents.

- Chairperson Kachel asked if any of those are going to be required with the improvements that she identified in these mitigation measures.

Ms. Tellez explained that there will be some level of review from Caltrans. It all depends on the ultimate cost of those improvements. If the improvements are over a million dollars, there's a much different level of review that is required.

- Chairperson Kachel further added that this would add time in all likelihood, in the development schedule list knowing how long that takes.

Mr. Gebhardt asked if he could add to this discussion. There are multiple studies that are done as far as the interchange. The PSR, Project Study Report, has been done. The next step for that interchange is the PAED, and there's actually a contract with Nolte to complete that phase, but some of the other projects had a higher priority and we have not pursued it at this point.

The key really is in our analysis; is that for anything to get built in the city in the near term, for cumulative we know that the city will need that interchange. That's why it's on our long-range plan. Why it's our long-range financial plan, why we collect some money with every building permit, so that in time we will be able to build it. We absolutely will not build it in the next five years, probably not the next ten years.

So we did analyze this project to see what would happen if we had the traffic we have now and everything that will be built at this location. And the 300,000 square feet here will not be built immediately, but if we build it, what would be needed in order to have acceptable access in this area, and that is the analysis that Fehr & Peers was talking about. Those mitigations are part of this project.

- Chairperson Kachel remarked that we've gone through a lot of comments and between the group of us up here, covered everything from water on the existing site, security plan, the traffic, the impacts on the community. He then asked what the Commission would like to do at this time. We have several alternatives, one of which is certifying the EIR, which gets that out of the way, and then these other issues can be looked at in a more specific basis.
- Commissioner Kline remarked that because of the magnitude of this project, he is not comfortable to certify the EIR. He stated that he has to commend the staff for helping him through all of this, answering all of his questions in detail and recapping it for him. However, with the traffic studies and with Caltrans and nothing being in place as far as funding, and congestion with traffic lights, he is just not comfortable with accepting the EIR.
- Chairperson Kachel stated that at this point we're looking for a motion or comments as to what, if any additional information specifically we want to have provided by staff and consultants.

- Commissioner Smith said that she is looking for some sort of plan for the existing Walmart, for cleaning up the landscaping on the existing location; enforcing the current ordinance.

Commissioner Kline made a motion to continue Resolution 11-03, so that more information can be obtained. Commissioner Smith seconded the motion.

Mr. Westbrook requested that prior to the motion, we go through and have all of the issues clarified, if a continuance is the will of the Planning Commission. We want to make sure we have all the information you need to make a decision on the project, so that when we come back to you, you don't request new information at that time. If we could, for the members that have some concerns, if you can go one by one so we can have all these concerns in one section, so it's clear.

- Commissioner Smith volunteered to go first.
  - She would like to see some samples of other elevations from other communities throughout California and other places, not just the Central Valley. She'd like to see something different.
  - She would also like to have more updated information on the economic impact; some of the information mentioned that was brought up here with regard to the businesses in the surrounding area, the local supermarkets; more detailed and updated information on that.
  - She would also like to see additional information on the potential change of the site plan, and the impact on the Don Pedro traffic.
  - She would also like to see a plan to bring the landscape for the existing building up to the Mitchell Ranch Corridor Specific Plan Standards.
- Commissioner Kline:
  - His request is the traffic area, as far as the total impact without the realignment of El Camino. Years down the road, without the interchange of Service, without the interchange of Mitchell Road. He would like to understand the vehicles per day from basically Mitchell Road bridge all the way through to Highway 99; the impact.
  - Also the potential impact on Service Road, with the median going down Mitchell; plus the median going down Service Road.
  - Truck study of WinCo Distribution Center, off of Crows Landing, what they bring down Service Road presently.

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- Commissioner Molina:
  - He would like to take a look at Alternative Number Two, with moving the building and the loading and unloading from Don Pedro Road.
- Commissioner Del Nero:
  - The major thing was the interchange.
- Chairperson Kachel:
  - He just wants some more specifics on economics.

Commissioner Kline asked if something else comes to mind in the next couple of days, if he can send an e-mail, to add to the list.

Mr. Lyions stated that you need to identify it tonight, and staff knows what to work with, what to expect.

Mr. Lyions continued that you've identified those areas of concern where you desire more information, and he thinks it would only be appropriate to identify it tonight, and then continuing action on all these items to another date, which for our purposes it would be good to continue it to a date. But not through a notice process again. So we need to continue it to a date that is going to allow at least some reasonable estimate from staff, how long it's going to take to respond.

Chairperson Kachel asked if time was needed to check with the consultants. A brief recess was taken at 11:18 p.m.

**The meeting reconvened at 11:24 p.m. with Chairperson Kachel asking if we can get a date set.**

Mr. Teague responded by explaining their dilemma: We don't know what updating economic information means in a practical sense. That can run the gamut from completely revitalizing the entire economic study, to simply providing you some additional information or repackaging that information that's in there so that it can be brought to the front, so you can understand it better. We really need to have a little more specifically, what you want to see, i.e. sales tax data, those types of things.

Commissioner Smith suggested that they update the economic data that was included in the report, from 2007. She thinks that the economic data contained in the document isn't relevant, given what has taken place since November of 2007 and this is February 2011.

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Mr. Teague stated, not to sidestep the issue, but he doesn't put a lot of faith in economic data regardless whether it comes from Wall Street or published in these documents. And the issue here, for his EIR was whether or not blight can occur. He thinks the information provided to you is as relevant as any information provided today, if it had a 2011 date on the front cover.

Commissioner Smith asked if he could address Mr. Jolley's comments with regard to the economic data.

Mr. Teague turned it over to the attorney.

Mr. Grutzmacher went back to the previous question about the timeliness of the economic data. We actually did request that the consultant do an update to the data, at a point during the EIR process, and the information came back to summarize that. While the economic downturn might kind of spread out some of the conclusions in terms of the timing, they were still sound conclusions in terms of these stores would be able to be retenanted. There's two points to it: there's a timing issue and then your absorption rate and that issue. By the same token in 2007 we can't predict what would happen in 2011 in terms of economics, and in 2011 we are not necessarily going to be able to say what's going to happen in 2014. The economy may be twice as good.

Commissioner Smith suggested that a response to Mr. Jolley's questions be included in the summary.

Mr. Grutzmacher agreed that would be fine.

Chairperson Kachel stated that from his perspective, it's a question of we are being asked to make or approve a project based on a statement of overriding considerations, which is largely based on economics. We have a lot of testimony, and I think some of the Commissioners are saying they're not sure they have enough information about what those specific impacts may be. They know that Walmart will employ X number of people, now they employ Y number, there would be X plus Y. Can we get a "guesstimate" how many jobs would be lost. Some speculate - Walmart has been doing this around the country for 15, 20 years. I can't believe there aren't studies in some communities that would address the information that we're looking for here.

Mr. Grutzmacher replied that's actually one of the questions that staff was having in terms of how much time are we going to need to address the Commissions' comments in terms of what are the exact questions that we need to address. One area of questioning is the current economic report and how that shows or does not adequately show physical blight from a CEQA perspective. Then the second one was, we're clear on, was your question, Mr. Chair, which was the Commission is looking for more data to back up the statement of overriding consideration.

It was moved by Commissioner Kline and seconded by Commissioner Smith, to continue

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PC Resolution 11-03, PC Resolution 11-04 and PC Resolution 11-04 to April 4, 2011.  
Carried 5/0.

Chairperson Kachel stated that we have an ordinance that we can't go past 11:30 p.m.  
and I think we are slipping past that.

Mr. Westbrook stated, just so everyone in the audience understands, the meeting will be  
continued to April 4th. It will be at 6:00 p.m. in this room. There will be no additional  
notification sent to anybody in the mail.

**PUBLIC MEETING(S):**

None

**UNFINISHED BUSINESS:**

None

**MATTER INITIATED BY PLANNING COMMISSION AND STAFF**

None

**REPORTS:**

Commission - Commissioner Kline reported that he participated in three meetings of the  
Downtown Business Association, and he was disappointed in the lack of attendance.

Staff - Tom Westbrook reported that he and several of the Planning Commissioners will  
be attending the Stanislaus County Planning Commissioner's 34<sup>th</sup> Annual Workshop on  
March 5<sup>th</sup>.

**ADJOURNMENT:**

The Commission adjourned at 11:35 p.m. to the next regularly scheduled meeting of  
March 7, 2011.

APPROVED:

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Bob Kachel, Chairperson

ATTEST:

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Tom Westbrook, Secretary

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DRAFT

CITY OF CERES  
PLANNING COMMISSION  
MINUTES

April 4, 2011

**MEETING CALLED TO ORDER:** 6:03 p.m.

**ROLL CALL:**

**PRESENT:** Del Nero, Kachel, Kline, Molina

**ABSENT:** Smith

**ALSO PRESENT:** Deputy City Manager Sheila Cumberland, City Attorney Michael Lyons, Director of Public Works Michael Brinton, Planning, Building and Housing Division Manager Tom Westbrook, Associate Planner James Michaels, Secretary Ann Montgomery

**PLEDGE OF ALLEGIANCE:**

The Pledge of Allegiance was led by Chairperson Kachel.

**APPROVAL OF MINUTES:**

None

**CONFLICT OF INTEREST DECLARATION:**

None

**CITIZEN COMMUNICATION:**

None

**APPROVAL OF AGENDA AS POSTED (OR AMENDED) AND CERTIFICATION OF POSTING:**

It was moved by Commissioner Molina, seconded by Commissioner Kline, to approve the agenda as posted. Carried 4/0.

**CONSENT CALENDAR:**

None

**NEW BUSINESS:**

None

**PUBLIC HEARING(S):**

1. 07-31/CUP/07-32 VTSM; Hearing to consider a proposal for a Conditional Use Permit and a Vesting Tentative Subdivision Map for the proposed development of a 299,830 square foot retail shopping center on seven parcels. The proposal includes the development of Major 1 (Walmart) in addition to other unnamed building tenants in Majors 2, 3, 4, Shops 1, 2, 3, 4 and Pads A, B, C. The proposed hours of operation for Major 1 is 24-hours and drive-thru's are proposed on Major 1, Pad A and Pad B. Walmart Real Estate Business Trust, applicant. This item was continued from the February 22, 2011 Planning Commission Meeting.

Chairperson Kachel reported that this is a continuation of the hearing from February 22, 2011. The Commission requests that speakers not repeat the same comments that we heard the last time. It's all part of the record, and all part of the Commissioners' consideration. We heard from everyone in the room that wanted to speak. Everyone's comments are part of the record. At the end of that the February 22 meeting, the Commission closed the hearing and at the end of the discussion, the Commission asked staff, staff's consultants as well as the applicant, to bring back some additional information. Among those items were:

- Details on traffic impacts, particularly at the Mitchell Road interchange.
- There was a request that the Commission be provided with alternative elevations for different kinds of stores that Walmart has built around the country or state.
- There was a concern about the stacking of trucks along Don Pedro and the noise associated with that.
- There was a concern about the details contained in the EIR's Economic Impact Analysis. This is an important document, in that this project's EIR has found that there are significant unmitigatable impacts. In order to approve a project that has those, there has to be a statement of overriding considerations. Usually that involves economics. That's why we asked for some additional information. That request was based on what we had been given before, as well as much of the input from the audience, who asked similar questions.

Chairperson Kachel explained how the meeting will proceed:

- First, we are going to have a report from the Staff, in response to the information we requested.
- Second, we will have a presentation from Walmart, in response to the information we

asked for.

- This will be followed by the public hearing. He reminded everyone to limit their comments to three to four minutes and to speak only on topics that are on tonight's agenda and are discussed and presented tonight by staff and by Walmart. No repetition of what we've already heard; that's why the hearing was closed.

Staff Report

Mr. Westbrook reported that there were a couple of written items provided to the Commission on the Dias, which I'll go over when I get to those in my report. As suggested, this is a continued meeting from February 22<sup>nd</sup>. The Planning Commission asked for some additional information regarding this project.

- Design and Aesthetics – The Commission had some questions relating to the architectural design and landscaping of the Mitchell Ranch Center, specifically Major 1, which is the Walmart. The Commission requested to see some different elevations, that were maybe a bit more upscale, that have been built within California or throughout the country. The Commission also requested photographs of those proposed elevations that may have been implemented elsewhere. Staff included in your report, some photographs of the new Walmart store located in Atwater, California. In our report, we also suggest that Commissioners may wish to go to the Atwater store to view it. That store has only been open since mid-March. The reason that staff suggested that, is because the store in Atwater includes some similar colors, materials and the design, as the proposed Ceres store. It also includes a grocery component. The applicant will further discuss the elevation component in their presentation.
- Landscaping – There was a concern about the landscaping at the existing store located at Hatch and Mitchell Roads. The Commission asked specifically if some design guidelines, in terms of landscaping had changed since 1993. They had not. The proposed landscape plan does meet the water efficient guidelines. Those guidelines were adopted in 1994, one year after the existing Walmart was built. In addition to meeting those new landscape guidelines, one of the requirements for the new project is the Landscape Maintenance and Agreement Form, which basically is signed and recorded against the property, which says you're a commercial business and you'll maintain your landscaping to a minimum standard. That condition had already been included in the Conditions of Approval. Walmart has also submitted a letter regarding the landscaping of the existing store. One of the things they point out in their letter is that shopping center at the corner of Hatch and Mitchell consists of three different parcels, and Walmart owns only one of them. Perhaps what the Commission was seeing was a separate property ownership that was not maintaining the level of landscaping, as they should. Regardless, the new store will meet the new requirements in terms of the landscape guidelines.
- Security – One of the concerns of the Planning Commission was security at the

Mitchell Ranch Center. The question was raised, should the entire site have closed circuit video coverage? Some of the things that Walmart does with their buildings:

- They install closed circuit cameras both inside and outside the store.
- They have a Risk Control Team.
- They provide the lighting in the parking lot at the optimum level to provide lighted passageways for their customers.
- They prohibit consumption of alcohol in the parking lots.

Staff had formerly proposed a condition that discussed the security for the store. After the last meeting, we met with the Deputy Chief of the Public Safety Department and we crafted some additional language to add into that existing condition. I'll read that into the record at the end of the report.

- Traffic – There were a lot of comments from both the Commission and the public about traffic within the vicinity of the project. Staff had the sub-consultant, Fehr & Peers update the information regarding the questions that were specifically asked. Through that summary, it talked about the traffic improvements and the level of service. It also talked about the traffic calming along Don Pedro Road and gave an example of what something might look like. The difficulty with the Traffic Calming Plan, is that it's not something that can be implemented until the project is actually built. Because today, Walmart doesn't generate any traffic along Don Pedro Road. This is something we're going to have to implement if the project is approved and ultimately built.

There was also discussion about intersection spacing. It was noted that the EIR did analyze the intersection spacing and everything met the level of service requirements as dictated by the General Plan. There was also some discussion of the seasonal activities. St. Jude's Church has some large activities across Mitchell Road. The conclusion was that those are once a year events; they're not on a daily or monthly frequency. Yes, there will be more traffic in the area when those events happen.

The median that was proposed for Mitchell Road was also included in the traffic study.

There was a question about truck traffic counts along Mitchell Road. Those were taken when the traffic study was done in 2007 and accounts for about ten percent of the traffic along Service Road.

One of the concerns of the Commission was the staging of the delivery trucks that would be waiting to deliver to Major 1. There was an existing condition that suggested that along the project frontage, that there would be a prohibition against any parking; passenger vehicle or trucks, along that frontage. Staff is now recommending in the Conditions of Approval to expand that, and prohibit truck parking all along Don Pedro Road, but to allow the passenger vehicles, as you move from the project site to the west, towards El Camino. I'll discuss that condition at the end of his report.

There was also a question about the super trucks. These are the larger vehicles that deliver to stores and they have a trailer length in excess of 53 feet. The applicant has stated that those trucks don't deliver to their stores; therefore this issue is moot.

The Commission was also concerned about the potential median and its impact to the St. Jude's Church, which is going to be on the east side of Mitchell Road. Currently the Don Pedro/Mitchell intersection does not align with the church driveway. With the improvement of that signal, when the signal is placed, it will align so it will give good access to the St. Jude's patrons coming in and out of the site. The main project entrance which is along Mitchell Road doesn't line up with the entrance; however, vehicles heading south on Mitchell Road will be able to get into the turn pocket, to make a u-turn and get into that entry point, assuming they didn't turn in at Don Pedro Road. They'll have two entry points if they're heading south on Mitchell Road.

One of the conditions that staff had proposed on the project, originally, was the prohibition for deliveries to Major 1 between the hours of 10:00 p.m. to 6:00 a.m. The Commission had some concerns and asked what happens at other large businesses within the community. Staff did an inquiry. Food 4 Less has deliveries every day between 5 a.m. and noon, and then generally one larger truck between 5 p.m. and 8 p.m. every day. SaveMart delivers between the hours of 6 a.m. and 11 a.m. Kmart delivers between the hours of 6 a.m. and 10 p.m. That's kind of consistent with what staff has recommended. Home Depot delivers between 6 a.m. and 7 p.m. Raley's, between 5 a.m. and 10 p.m., Cost Less Foods, between 5 a.m. and 10:30 a.m. and then one large delivery truck three times per week between 4 and 8, and Staples; they deliver between 8 a.m. and 8 p.m. It is important to note, that even though staff is proposing a condition for restriction of deliveries, none of these stores has restrictions of deliveries and neither does any other business in Ceres. They could theoretically have deliveries 24 hours per day, however, many of them do not.

- Sustainability Features - The Commission asked if there were any pilot programs that could perhaps be implemented with the Ceres store. The applicant has said no; however, there are some energy efficiency measures that are listed in the EIR; skylights, some materials with the concrete that will be included with the development of the proposed super center.
- Economics - Additionally there were some questions about Economics. There was a memo included with the report, which discussed the following things:
  - The context of redevelopment as it relates to the definition blight; the context of redevelopment as opposed to urban decay. The Urban Decay Analysis is what's required by CEQA, which is included in the Environmental Impact Report.
  - Potential store closure and relocation.

- Effect of the passage of time. The original economic analysis had been done in 2007, but hadn't been updated since we have been within the recession.
- Potential impact of the pharmacy at the new location as well as pharmacies within the area. It's important to note that the existing Walmart has a pharmacy, so this would not be a new additional pharmacy, as the proposed location will have a pharmacy as well.

City requested BAE, Bay Area Economics, to analyze the effect of sales tax proposed on the project, with the opening of the new Walmart and the closure of the existing one. That analysis includes: when complete, the Mitchell Ranch Center would generate taxable sales of approximately \$34 million, with an increased sales tax of an estimated \$327,000 to the City. That's assuming that existing Walmart has closed and relocated to the new site and all the buildings are built and occupied.

- Retenanting – The Commission had discussed concerns about the retenanting and the enforceability of the condition. Staff had included in the Conditions of Approval, a requirement for a Council-approved Sales Strategy Plan. That Sales Strategy Plan in the original condition, provided that it had to be approved by the City Council prior to the occupancy of the new store. The language has been changed, and I will read it at the end of his staff report. Fundamentally, we're changing the timing from the occupancy and moving it to building permits. That plan will come before the construction actually takes place. It will still require approval from the City Council.
- Site Design - as it relates to Don Pedro Road. A letter was received from Regency Centers, the original project applicant when the application was submitted. The letter discusses why the shopping center was developed the way it was. The Commission asked staff what would something else look like. Page 25 shown on screen, is a rough exhibit, a bubble diagram of "what would this look like?" It relocates Major 1 down closer to Service Road and reorients the other Majors closer to Don Pedro Road. This is merely staff responding to the Planning Commissions' request. This is not the Site Plan that staff is supporting; just a "what if?"
- Trash enclosures and trash compactors – There was a mention of trash enclosures and trash compactors – An exhibit (Page 68) highlights where those locations are within the center. Trash compactors primarily are in the area located on Major 1 and the trash enclosures are kind of sprinkled throughout the sites, to serve the uses in terms of the shop buildings and the pads.
- Two letters from the San Joaquin Air Quality Control District – were received by the City, subsequent to the February 22<sup>nd</sup> Planning Commission meeting.
  - The first was in response to the letter that was sent out with the Public Notification to everybody who submitted a response to the Environmental Impact Report. They responded regarding the Health Risk Assessment (HRA). This is included in the Air Quality Analysis of the EIR. The District's letter suggested that they were not in agreement with the adequacy

of the Air Quality Analysis in respect to the Health Risk Assessment. In response the City's consultant, PMC and Urban Crossroads prepared a Revised Health Risk Assessment to address the concerns of the Air District. (That's one of the documents presented to the Commission this evening.) Basically, the analysis shows that there is still no impact, so it doesn't change anything that hadn't already been proposed through the Environmental Impact Report.

- The second letter that City received improves the Air Impact Assessment for Mitchell Ranch. As part of some of the requirements from the Air District, they have to submit an Air Impact Assessment Application. Their application has already been approved by the Air District. The Air Impact Assessment and Air Quality Assessment are separate.
- Lastly, a letter was received on March 18<sup>th</sup> from Mr. Tony Cardenas. Some of the issues raised in Mr. Cardenas' letter have been addressed in the staff report. One of them was not and that was the question regarding why can't the existing store be expanded to accommodate a larger Walmart building. Mr. Westbrook stated that was really not best answered by him and better served by the applicant themselves. One of the things that he would note is that the existing building is oriented in a north-south direction, so the north of the store is the customer entrance. They really can't expand into the parking field whatsoever, so if there were any type of expansion, it would have to be to the south. But, they're bound by development to the south. As the Commission is aware, every time we expand a building, we've created another parking demand. That's really not before the Commission; the matter before the Commission is the new location at Mitchell and Service Roads.

Mr. Westbrook stated that as before, Staff recommends the certification of the Final EIR. Mr. Westbrook will read a couple of conditions into the record, as revisions. The Commission has benefit of the Revised Conditions of Approval. The ones that are noted in red are the new ones that are being added since the February 22<sup>nd</sup> meeting. There are three of them:

- The first is in regards the prohibition of parking along Don Pedro
- Second, the discussion about the security on-site
- Third, regarding retenanting

The first is DRAFT Resolution 11-05 (VTSM) C.40.g.ii and DRAFT Resolution 11-04 (CUP) D.6.h.ii:

“The Don Pedro Road frontage of the project shall be signed and marked to prohibit parking. The remaining Don Pedro Road frontage not otherwise marked for full parking prohibition between Mitchell Road and El Camino Avenue and shall be signed to prohibit truck parking.”

In a nutshell, west of the project site, there will be no truck parking from the project site to El Camino Avenue.

The second condition is regarding security, DRAFT Resolution 11-04 (CUP) G.6:

“The Developer shall provide a plan for on-site security for the initial

development of the Center including Major 1 to the satisfaction of the Public Safety Director and shall ensure that security is on-site at Major 1 during Major 1 hours of operation. A plan for on-site security for each subsequent phase of development shall be prepared, to the satisfaction of the Public Safety Director, as a condition of the first final certificate of occupancy for each subsequent phase.”  
Basically, what that means is that when those future buildings come in, as part of their building submittal package, they'll have to detail the security plan, which will be reviewed and approved by the Public Safety Director.

The last condition is the one regarding retenanting of the store, DRAFT Resolution 11-04 (CUP) **B.18:**

“Retenanting of the existing Walmart: Walmart's Realty Division will provide a Sale Strategy Plan ('Plan') for City Council approval that will detail the efforts Walmart will undertake to find buyers for the property located at 1670 Mitchell Road. In order to ensure the property is sold as quickly as possible, the Plan will impose limited restrictions on the property. Specifically, the Plan will only impose restrictions against direct competitors such as but not limited to Target or WinCo. The Plan may be provided to the City upon approval of the Project, but shall be provided prior to the earlier of the issuance of a building permit or the within thirty (30) days from the date the existing Walmart building at 1670 Mitchell Road is vacated. The Plan shall be approved by the presented to the City Council on a City Council agenda and acted upon by the City Council within 90 days of submittal. Any approval shall be prior to the issuance of a Certificate of Occupancy building permit for the new Walmart building in the Mitchell Ranch Center. The level of detail and the commitment set forth in the Plan will ensure the City that Walmart is motivated to sell the property and re-tenant the property to the quickest extent possible.

The only change is the timing. Previously we had required this condition before Certificate of Occupancy. Certificate of Occupancy is when they're ready to move into the building. What we're suggesting in this revised condition is that we'll get that much sooner and they'll submit that plan for approval by the City Council before they even issue the building permit, which means before construction starts. There's probably about at least a year's difference between that.

Mr. Westbrook stated that there were some items that were mentioned in his staff report that the Applicant would like to cover, so he suggested to the Commission that the Applicant present their presentation at this time.

**\*\*\*\*Check proper wording\*\*\*Public Hearing** opened at 6:27 p.m. - to allow Walmart to respond to some of the concerns/questions that were presented.

- Amelia Neufeld, Senior Manager for Walmart Public Affairs - Sacramento, CA

She thanked everyone for attending tonight's meeting. Walmart has been a proud member of the Ceres Community for over 18 years. This longstanding partnership with the Ceres community has earned the support of over 10,000 area supporters. Many of those attended the meeting in February and spoke of the need for a new store with the

added convenience of a grocery department and significant savings to their pocketbooks. Also in support, were local non-profit agencies whose partnerships with Walmart contribute to Ceres' quality of life. The Ceres Chamber of Commerce stated that Walmart has been a good corporate and community partner.

According to the California Employment Development Department, unemployment in the City of Ceres stands at 22%. That's why community supporters acknowledge the value of a project that will create approximately 205 new jobs at the shopping center's full build-out; 85 of which will be generated by the new Walmart store alone. According to the City's own consultant, the proposed shopping center is estimated to generate \$34.5 million in net taxable sales and over \$325,000 annually in net sales tax revenue, attributed primarily to the new Walmart store. Today, Walmart is the largest sales tax generator in Ceres; last year Walmart generated more than \$477,000. If this project is approved, Walmart's contribution in new tax revenue to the City of Ceres will increase 68 percent.

Walmart has been a good neighbor and will continue to be at this new location. As indicated in a letter to the Commission, Walmart appreciated the comments regarding the condition of the existing store's landscaping. Walmart has taken steps to improve the property, including tree trimming and replacing bushes that did not appear to have survived the winter. Ms. Neufeld wanted to emphasize the fact that Walmart does not own or control large portions of the frontage property on Mitchell and Hatch Roads. She stated that one company, not Walmart, was cited by City Code Enforcement for poor landscaping. She would like to note that it's important that City records do not show Walmart as having been cited for poor landscaping. Walmart has and will continue to work with the City to adhere to its highest standards.

Ms. Neufeld also wants to reassure the Commission that retenanting and/or selling the property is a top priority for Walmart. To emphasize that fact, Walmart has agreed to a stipulation by the City that a plan to retenant the property must be approved by the City before building permits are granted. It is common practice for Walmart to ensure that their properties are well maintained when vacant and are transition quickly, especially at one of Ceres' prime retail intersections.

As the Planning Commission considers this project, it is important to note that the City has determined that a regional shopping center is an appropriate use for the project site. The City Council approved the City's General Plan in 1997 and the Mitchell Road Corridor Specific Plan in 1995, both of which call for a regional shopping center at the project site. Walmart has also introduced a project that meets or exceeds all the standards required by the City of Ceres.

If the Planning Commission accepted Walmart's invitation to visit the newly opened Atwater store, they would've seen first-hand quality building designs and the fine amenities that Walmart offers its customers.

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Tonight we will hear more from our project team. They will cover ground and address questions that were raised at the last hearing, including how Walmart will continue its partnership with the Ceres community and its new neighbors. We appreciate the opportunity to work with City staff on a project that meets the highest standards for both the City of Ceres and Walmart. Walmart urges the Commission to adopt Staff's recommendation to approve the project, and their team welcomes questions and comments.

Ms. Neufeld proceeded to introduce the architect, Shad Vermeesch.

- Shad Vermeesch, Architect with BRR Architecture

He stated that he'd like to reiterate that we are looking at a regional shopping center, not just a Walmart; even though Walmart will be Phase 1 of the project.

He showed a conceptual slide of the original design that was developed through several iterations of working with staff on the corner of Service and Mitchell. This would be what would be considered the gateway into Ceres, with the sign and some conceptual shop faces with a plaza area for gathering of pedestrians. It meets all the applicable guidelines and is a very high-end design for a regional shopping center.

He stated that some of the activities that they foresee in this location would be restaurants, such as maybe a BJ's or Chili's; providing gathering places for pedestrians/customers to not only shop but, to sit and provide a destination place within the city.

His firm developed this rendering since the last meeting to convey the idea of what the Walmart would look like, in terms of how the front of the building undulates, steps in and out, providing additional detail at the pedestrian level. This is Walmart's new brand; where they're going. They've got covered spaces, lit bollards.

He showed a picture of the new Walmart store in Atwater. There are some slight differences between the two stores. The store in Atwater is smaller and only has one entrance. But in terms of the look and feel and the colors, it's very similar to what we are proposing here.

Walmart is a leader in sustainability and are considered the greenest retailer. They are consistently researching and testing new sustainability features as part of their program. Walmart stores in California now divert more than 80 percent of the store's optional waste away from landfills. That's a substantial amount. And although this store is not slated to be part of a pilot program, this store will include many sustainable features. Walmart is committed to providing the best they can in terms of sustainable features, as a retailer.

- Howard Hardin - Project Engineer with Greenberg Farrow

He reported that at the last meeting, many questions were asked about the project landscape. As the Landscape Plan illustrates, the project meets the requirements of the

Mitchell Ranch Specific Plan, and it goes beyond by including special landscape enhancements at the key focal point of the center at the intersection of Mitchell and Service Roads. The landscape design also includes preservation of two sycamore trees. The Mitchell Ranch project will surpass any other project in the immediate area with regard to the amount, variety and density of landscaping.

The Planting Plan includes a variety of plant materials; combining evergreen, deciduous and flowering trees. The plant species have been selected to focus on fast-growing trees that will accomplish effective shading of the parking lot within five years. Overall, the project will provide over a hundred and fifty-five thousand square feet of landscaped area, nearly three and a half acres, and over 350 trees in the parking lot alone.

As mentioned at the last Planning Commission meeting, an economically feasible shopping center must maximize square footage, visibility and accessibility. These components attract desirable tenants to the shopping center, which attract customers, which in turn attract more desirable tenants; thus creating the highest and best use for the site. As explained in the letter submitted by Regency Centers, the Proposed Site Plan was developed because it maximizes square footage by providing a major anchor tenant, as well as a number of pads, shops, and junior anchors; maximizes visibility from Mitchell Road, Service Road and Highway 99; and provides safe and convenient access and circulation for both customer vehicles and delivery trucks.

The proposed Site Design achieves the objectives of maximizing site coverage and visibility, as well as providing safe and convenient access, while at the same time utilizing only 26 percent of the available site; while the Specific Plan actually allows for nearly double the site coverage, or 50 percent.

Other site configurations are not feasible or economically viable. The other Site Plan configurations suggested by the commentors, result in less desirable Site Plans that diminish the economic benefits to the City and community. The Staff Report includes a bulk diagram markup of the Site Plan showing one possible configuration which would move the major tenant (Walmart) to the southwest corner of the site. This would require a modification to the building footprint that is unrealistic and could not be merchandised to accommodate the intended use as a Walmart or any other major retail user. Majors 2, 3, and 4 would be transposed to the northwest portion of the site, access would be restricted to one access drive on Don Pedro, one access drive on Service Road, and one full access drive on Mitchell. The full access drive on Mitchell would become the single access for deliveries as well as the primary customer access drive. This would cause traffic stacking for both northbound and southbound traffic on Mitchell, as well as an unsafe on-site traffic circulation by commingling delivery trucks and customer vehicles. In order to meet the City and specific planned requirements for parking and setbacks, at least two and possibly three of the pads and shops would be eliminated. The end result is a site design that is not economically feasible, that would diminish the economic benefits to the City, and a shopping center that tenants would pass over in their site-selection process.

Trash enclosures – The Walmart store utilizes two trash compactors that are fully screened and depicted on the Site Plan; one close to each loading dock area. Additionally, there is a gated enclosure behind the store for bale and pallet recycling and organic waste, which is deposited in sealed containers. A full 80 percent of the trash generated from the Walmart store is recycled. Throughout the center, trash enclosures will be constructed to accommodate all future uses. The enclosures will be masonry, with gates, and are part of the Site Plan submitted for consideration with this application.

Traffic – Much of the discussion at the last meeting and in the public comments was regarding traffic on Don Pedro. The project proposes two driveways off of Don Pedro. According to the City's traffic consultant, Don Pedro can accommodate the additional traffic generated by the project. Walmart will implement a Traffic Calming Plan to further minimize impacts on Don Pedro. Development of the Traffic Calming Plan will be accomplished with the participation of the neighborhood. It will include such measures as installation of curb extensions, speed humps, speed fallback signs, lighted crosswalks and other devices that have proven effectiveness. The new traffic signal at the intersection of Don Pedro and Mitchell will control the flow of traffic entering Don Pedro, and no truck parking will be allowed along the project frontage on the south side of Don Pedro. Pedestrian access is provided from all three major streets; sidewalks will be constructed along all three street frontages; and crosswalks will be installed at Mitchell and Service, as well as at the intersection of Mitchell and Don Pedro.

Truck staging – In response to the question regarding truck staging and the impact on Don Pedro Road, Mr. Hardin stated that the Walmart store will receive seven to nine large semi-truck deliveries during the course of the day. The store includes two loading docks, with three loading bays each. Theoretically, six trucks could be offloading simultaneously. In reality, the only time that a truck does not offload immediately is when there is not store personnel available to unload. In that instance, the driver will drop the trailer in the loading dock, store personnel will unload the truck when time is available, and the driver will pick up the trailer later in the day. At no time is there a situation where trucks would be waiting on Don Pedro for an open dock at the store. Nonetheless, trucks will be prohibited from parking on Don Pedro. Because the number of trucks per day is non-excessive, with the average frequency of one truck every three hours during a 24-hour period, eliminating truck access along Don Pedro is not necessary to address any impacts of the project.

Noise impacts – The site and building design have designed multiple layers of screening in mitigation to lessen any noise impacts to the greatest degree possible. The project, as presented, includes 24-hour operations and 24-hour deliveries and will not create significant noise. It includes features that will minimize noise levels on surrounding uses. Mr. Hardin showed a slide that illustrates the sound wall and landscape berm that will be constructed along the northern Don Pedro property line. Another view shown is a perspective as seen from Archcliffe. This will be a solid masonry wall of a minimum of 8 feet on top of a minimum 2-foot landscape berm. A different perspective shows the relative heights of the wall and the berm as it would appear from the street. The next slide shows the multiple layers of sound mitigation that will be implemented. Starting at

the rear of the store, the rear wall of the store, the docks will be depressed 4 feet below the grade of the parking lot. A 10-foot wing wall will be constructed on the outside of the loading docks. Truck loading will occur directly from truck into the building, and dock seals will be provided at the loading doors, so that as trucks back into the dock, all noise is reduced to as low a level as possible. There are multiple layers of sound barriers and screening beyond the wing wall. You have a 46-foot drive aisle, a landscape berm on the store side of the screen wall, a screen wall, an additional landscape berm, 10-foot sidewalk, Don Pedro, and sidewalk on the following side. The total distance from the loading dock to the curb on the north side of Don Pedro is approximately a hundred and twenty-eight feet. Add an additional 20 to 30 feet to the closest building, and this is equivalent to the length of half a football field in distance from the loading dock to the nearest building.

Walmart trucks are programmed to automatically shut engines off after three minutes of idling. Refrigeration trucks include auxiliary power units to run both the trailer and the cab. These power units have the sound equivalent of a window air-conditioner and eliminate the need to run the truck's engine to power the refrigeration. Every practical method has been employed to minimize the sound impacts related to truck and loading operations. Therefore, Walmart requests that the Planning Commission not impose a condition limiting the time for delivery. By enabling deliveries throughout a 24-hour period, the frequency of trucks is reduced and the potential for hazardous interaction among trucks, cars and pedestrians will be minimized.

Security – Mr. Hardin stated that several questions were raised at the last meeting regarding planned security measures for Phase 1 of the project. He stated that Walmart is committed to providing a secure environment for its customers and associates. The security that is established for each Walmart store is specific to the particular location. While a store is in the planning stage, it is assigned a risk level based on local statistics. Based on this assessment, a security program is developed for the particular store. A full-time security manager is employed at the store, and all store associates receive security training. Security is continually evaluated and security measures and protocols are adjusted accordingly in order to continue to provide the safest and most secure environment for customers and employees. For this store, Walmart will install closed-circuit camera systems/surveillance cameras inside and outside of the store. It will establish a risk control team, which is a team of associates responsible for and trained to identify and correct safety and security issues at the site. It will provide lighting in parking areas that will ensure public safety, and it will prohibit consumption of alcohol in the parking lots by having associates regularly patrol the parking areas while collecting shopping carts and report any inappropriate activity to the store managers. The City of Ceres Police Department and the County Sheriff's Department reviewed the project as part of the EIR process. The City of Ceres Police Department indicated that were no additional crime prevention components to incorporate into the design of the project, and the sheriff's department indicated that the project is not anticipated to generate a significant amount of requests for mutual aid from the City Police Department. Nonetheless, Walmart has suggested that the City include a Condition of Approval that

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would require development of a security plan for each phase of the shopping center as it is developed, to address the Commission's concerns regarding security for the remainder of the center.

Mr. Hardin thanked the Commission for their time and consideration. He stated that the Walmart team would be available for any questions, and they would like to reserve time at the end of the meeting for rebuttal.

Mr. Westbrook said there were a couple of things he forgot to mention:

- One of the submittals that was on the dais was a letter from Saint Jude's Church, which is located directly east of the project site. They submitted a letter of support for the Mitchell Ranch Project.
- He wanted to call attention to the photo on page 14 of the Staff Report. He said that in that photo, some of the columns are wrapped in stone, and that there is no proposed stone on the Ceres store. He wanted to be sure the Commission was aware of that.

Chairperson Kachel asked if any of the Commissioners had questions for either the Staff or Walmart Team at this time.

- Commissioner Kline had some questions:
  - The first, he addressed to Staff in regards to the new Condition B.18 on the Revised Conditions of Approval. His question was on the phrase "...to find buyers." It doesn't say anything about re-tenant or tenants.

Mr. Westbrook replied that one of the things that is crafted in this condition, that shouldn't be lost is City Council's approval of a Sales Strategy Plan. Although he certainly understands what Commissioner Kline is talking about; a re-tenanting versus somebody buying the property, ultimately, this is something that's going to be concluded and agreed upon by the City Council. They may have the same concerns that you do. But until we see a Sales Strategy Plan, that's because I don't physically have one in front of me. Until it's submitted to Staff and presented to the Council, I don't really know how to respond to alleviate your concern.

- The next question he had was addressed to Ms. Neufeld regarding the statement she made about the 68 percent tax increase with the new site. He asked if the 68 percent increase is what the Walmart Supercenter will generate or what the whole center will generate, once it is complete.

Ms. Neufeld responded that it would be the whole center.

The reason Commissioner Kline asked, was that the tax study talked about tax revenue leakage over a period of time because of the new location.

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- His next question was for Shad Vermeesch. He liked Shad's slide presentation and referred to slide number two, where he mentioned people sitting there in a café or restaurant; something like a BJ's restaurant or Chilli's. He asked Shad if there's anything of that magnitude in an existing Walmart center in California today; please elaborate and tell me where.

Mr. Vermeesch replied there's a Fuddruckers in the Modesto center.

Commissioner Kline responded that although Fuddruckers is a nice restaurant, he was talking about more of a sit-down restaurant, like BJ's or Chilli's that served more than hamburgers.

Mr. Vermeesch responded that he was sure there were in California and other parts of the country; he just couldn't think of any locations off the top of his head. There are many of those types of restaurant users that look to go to these types of shopping centers; especially your regional shopping center, such as this, because that's where they find they get the most bang for their buck in terms of location.

Chairperson Kachel asked if he could follow up, just briefly on that thought. He asked if that is that part of the reason why, when it was explained to the Commission why you want the store on the north end of the property as opposed to the south, is that to create a better visibility for that kind of restaurant to exist? Is that what was being got at during that conversation, if you follow his question? He explained what he's saying is that when it was discussed about what Staff had said, "Here's an alternative location for the building," and it was said that, "Well, that's not economically feasible because the other tenants suffer." Is that what you were talking about?

Mr. Vermeesch replied that that was part of it. There's typically a certain type of, when you look at this type of a development, a regional shopping center or a lifestyle center such as this, to get the draw of the types of tenants mix that you want, there's certain ways you design the site to achieve that. And one of the things, you want to try and maximize your square footage, as Mr. Hardin was talking about, to be able to get a whole mix of those types of tenants. When you move the store to the south, the Walmart store, in particular, that footprint really doesn't work in that location; and, therefore, the whole rest of the site actually suffers because of that.

Ms. Neufeld stated for the record that there is an Applebee's in the shopping center where our store is located in Salinas.

- Commissioner Kline then asked what kind of retail stores would you like to see come in and does a Best Buy or TJ Maxx exist in an existing Walmart center?

Mr. Vermeesch replied yes.

- Commissioner Kline stated he would like to know where the locations are, as he is trying to make a honest, up-front decision here.

Ms. Neufeld responded that a few stores in Sacramento. Natomas, their store there, has quite a few sit-down restaurants, as well as a Home-Depot and a Michaels. In addition, she wanted to call attention to the article in The Modesto Bee yesterday regarding the retail synergy along McHenry Avenue that also mentioned the Walmart store there. She also mentioned that Walmart hears all the time from developers, real estate brokers, and other businesses at the International Conference of Shopping Centers, that they want to know which cities have approved Walmart stores, because that's where they want to locate.

Mr. Westbrook followed up on Commissioner Kline's comment about what could come here. He thinks that with the Site Plan as it was proposed, these Majors are really kind of oriented in terms of the square footage to attract some of those things that you had mentioned in terms of a sporting goods store or a TJ Maxx or something like that. In addition, he thinks that Pad C specifically kind of lends itself for more of a sit-down, national chain type of restaurant. He believes that the aspects of the Site Plan and some of the square footages of those buildings are really going to be attractive to exactly the type of uses that you've suggested.

Chairperson Kachel added that he did go to the store in Atwater and was kind of surprised to see the building next door is a Super Target. So apparently the stores can find a synergy. He didn't go into the Target; he was there to see Walmart. There looked to be a pretty good mixture of different kinds of businesses in that center and it looked like a pretty healthy center. And he was sure that Target is not their favorite tenant to be next door to, but it does exist right down road.

- Commissioner Molina asked is Walmart going to make the call on who is going to fill the building pad in the shopping center, or the City?

Mr. Westbrook responded that at this point, Walmart owns the entire project, so they would make the determination. As long as the use was a regional commercial use, which generally all of these commercial uses would be, then Walmart would be the shopping center developer to make that call.

Chairperson Kachel stated that is it not correct, however, though, if the tentative map is filed from the final map, the individual parcels could be sold?

Mr. Westbrook replied that is correct. But that circumstance does not exist at this moment in time; so the answer would be that Walmart owns it. But, Chair Kachel, you are absolutely correct. If the property was subdivided, and a final map obtained, then they could sell to whomever they'd like.

- Commissioner Del Nero had a question on economics and asked for clarification, when the whole project is built, it's projected to be \$327,000 more a year; is that correct?

Mr. Westbrook responded that's correct. So those additional sales of \$34 million is above and beyond what the existing Walmart does on an annual basis today. That assumption includes all of the square footage on this property site; so all the Majors are done, shops, pads, everything is a hundred percent occupied.

- Chairperson Kachel stated that he has several questions:
  - One, he appreciated the presentation being very much focused on the questions that we asked last time. That was great to see.
  - The Commission has been provided with some information. A couple articles from The Modesto Bee; one from the other day and one from December of '09 about the second store in Modesto. And that led him to do, a little online research about Walmart's theories, with marketing and whatnot. He asked if guess if someone could maybe give just a brief overview, because he believes it goes to project alternatives. It's not an off-the-topic subject and he thinks it's relevant. The store in Modesto is smaller than the store that you would be closing here. This one in Atwater is about the same size. And in the one article, the manager for the store in Modesto was asked, "Although the hundred thousand square foot store ranks as tiny in the Walmart super world center, Shumate, the manager, said, 'The feedback has it that customers like a smaller size. We listen to our customers,' he said." But, could somebody just give a brief comment on this information that you provided to us about how you look at your sizing, if you understand what is being asked.

Ms. Neufeld explained that every store size and store mix of the merchandise mix is determined by our customers. The number one reason why we're here tonight talking to you guys about relocating our store and building a new one to expand and to further merchandise is that because of our customers. You know, we really take a hard look at every community, and we talk to our customers and find out, you know, "What is it that you want in your Walmart store, and how can we best serve you and create a store format to do that?" The store in Modesto was a takeover of an old grocery store, an old Rite Aid, I think. And we were able to do that to best serve that neighborhood of Modesto. This store is part of a regional shopping center, where we see this as being a regional draw of folks coming within Ceres, in Modesto, Turlock, Hughson, outlying areas. And, you know, that's really what determined the store size and format and merchandise mix here.

Commissioner Kachel stated at this point we'll continue the public hearing. We've already opened it. You can come up and speak in any order. He reminded everyone to please keep your comments to three or four minutes please do not repeat things from before.

You've heard a lot of information tonight. Please keep your comments to what was discussed tonight, or we'll ask you to sit down. He also reminded everyone to please give your name and address for the record.

- Marsha Harris – 3517 Archcliff Drive, Ceres, CA

She began by stating that she is a Walmart shopper, on a weekly basis, sometimes more often. She stated that in one of the letters to the editors in Ceres, Walmart was quoted as saying, "We value opportunities to improve being a good neighbor and community leader." She is one of their nearest and dearest neighbors, but she doesn't feel that they're trying to be open to some of the concerns. Everything that we've addressed for the last almost four years; concerns for traffic, concerns for noise, site redesign; each time those were addressed, near on every response that came back was almost a placating response. "Oh, we've studied it and it's not a significant impact." "Oh, we've studied it and it's not really going to be an issue."

She would like to go over the Staff response from the last meeting, when they talked about the hours of delivery and if, in fact, as the Planning Commission you decide to approve this project, She would like to strongly recommend that you still concur with the stipulation of no delivery between 10:00 and 6:00, because as the project stands right now, with the dual entrance off of Don Pedro, there are significant impacts from many aspects to the nearest neighborhood there. When we went over the hours of delivery for all the comparable stores, not one store is 24 hours. This Super Walmart will be a 24-hour. When you look at most Super Walmart's, when you look at any large store and the relation they have to a local neighborhood, she doesn't think she has seen one where it will impact the neighborhood like it will impact Don Pedro and Archcliff Drive. You have got a two-lane road separating a huge project from residential. Typically, it's a solid wall. We have come back and asked again and again and again for a solid wall. The response that came from the design team was that a substantial redesign of the building would be required. She suggests they redesign it because they've got the money, they've got the time, they've got the professionals. Look at it. One thing she'd like to ask the Commission, is when you look at the project design up here, and if you look further back in the earlier EIR, that is not all of the property that is zoned residential or regional commercial. To the far west, there's one more parcel that currently is occupied, I believe, with the church. And just to the north of that is a large unoccupied lot that is also, if I read the plans correctly, regional commercial. When we got the response again from last month's meeting, they said they couldn't redesign it because, essentially, they were lacking 200 feet at the back of the store. They need 770 feet. Right now there's only 580. She asked if they can be creative, like the rest of us need to be. Can they go to the next property owner over there, that they don't currently own? It's 200 feet. That's exactly the space they would need. She suggested that they look at talking with that property owner. Redesign the building. Be a good neighbor. Take into consideration our request.

She still can't fathom a dual entrance off of Don Pedro where you have houses fronting that road. It is planned development for a school to go there. And it just seems as if our

concerns go in one ear and out the other with Walmart and the developers. We are going to be good neighbors because we have no choice. We will be right there. I would like for them to be a good neighbor to us.

She appreciates the interest that the Planning Commission is putting into this. You seem to be asking pertinent questions. She wants to encourage the Commission to think for the community as a whole, for us as a neighborhood. She thanked the Commission for what they have done, and continue to do so.

- Shirley McRoberts – 2617 Blaker Road, Unit 504, Ceres CA

Her sole income is Social Security and money doesn't go as far as it used to. Ceres Walmart carries most everything she needs for her home and personal needs, and she would like to see the supercenter built.

- Lee Brittell – 2917 Don Pedro Road, Ceres, CA

He stated that he lives right across the street from the proposed Super Walmart, and would like to make a couple of comments on the Staff Report:

- He would like to remind the Members of the Commission that he and 87 of his immediate neighbors have asked that they take steps to minimize the impact of the Walmart Supercenter in our neighborhood. Staff and Walmart have stated the Traffic Calming Measures would be in place, thus jeopardizing the neighborhood. And the part that really concerns me is they're going to do this after the fact; after it's already built. Now they have recommended that they take away my off-street parking. I can no longer park in front of my house. This affects me and I believe there's seven other houses that are going to be concerned. I'm going to have trouble getting out of my driveway, and now I can't even park or have company come to my house and park in front of my house. So these are some of the things that I'm concerned about.
- In the Staff Report, they had a Staff Drawing. (Lee Brittell handed documents to Commission Members.) He made three minor changes. If you'll note, one of the biggest things we've been concerned about is the truck traffic and bringing the trucks in on Don Pedro. Well, having Service Road, the Staff Report eliminated one of the driveways on Service. Service is a big truck route. There are trucks going down that way, and it's been in the EIR that it's fully capable of handling all types of trucks. By having a driveway at the Service entrance in their proposal makes only good sense to bring it in that way. Thus, we can close off the impact on Don Pedro by closing that driveway and having a solid wall.
- He stated that he has been supporting this Walmart project all along, other than the concerns he has had with my neighborhood. One of the things that

did come up tonight, he kind of got the impression we're trying to be bullied into dealing with the different problems that we see in the neighborhood. "Oh, well we're going to put calming measures in." And "Oh, oh, this isn't bad because they're only a hundred feet away." Or "The wall's tall enough, yet, oh, just because we have driveways, you know, cars are going to have to go in, trucks are going to have to go in. He asked about backup alarms. Aren't all of the trucks when they back into that spot going to have alarms on them? Well, those alarms are loud. They're designed to be a safety feature. Those are going to be going off. So it just seems to him that if Walmart wants to be a great neighbor, that they should listen our concerns. Yes, it's going to cost a little bit of money to redesign it. His feeling is, is that the location, having it face Mitchell Road, actually gives it a better relocation to Highway 99 and a visual where you've got hundreds of thousands of cars driving by every day. Well, from an advertising point of view, if he were in the business, he'd want that to be seen, not buried all the way back to Don Pedro, but have it up closer to the freeway. It makes sense. But these are some of the things that in the Staff Report; it noted the Walmart Major 1 would be moved to the southwest portion of the site and would likely require reconfiguration in order to make effective use of this site. We understand that. But of all of the different hundreds and hundreds of Walmarts throughout the country, they are all not the same. Somebody has to have a drawing in one of those stores that should fit this to make it a minimum amount of expense.

- Number two, Majors 2, 3 and 4 would be transposed to the northwest portion of the site. He was looking at that and he agrees with that, although I thought maybe it could have been rotated around and maybe a little bit better use of the property. But, again, this was a rendition from them; and it wasn't by scale, by any means. But then access would be provided to Don Pedro Road at Archcliff and a solid masonry wall. Well, no. If we eliminate that, we won't need that. So a single access point on Service Road would be provided. He asked why. We had six entrances before; now, with the drawing, we went down to four. So it seems to him that you can go that way.
- Here's the point: That by adding the truck drive on Service, traffic would be minimized on Don Pedro. Traffic would be routed to Service, improving traffic flow and momentum on Mitchell; danger to the intersection of trucks and cars and pedestrians would be minimized; noise generation events located away from residential areas; trucks could have access at any time, which is important to Walmart. Traffic Calming Measures would not be necessary; locals would not be inconvenienced, we would still be able to park in front of our homes; truck staging would not be a problem, and the neighborhood, as a whole, would have a minimum impact.

- Florence Cardenas – member of Citizens for Ceres

She expressed that her great concern over the traffic problem that this is going to cause. She is concerned that this project will go forward, without first taking the proper steps to fully improve all of the intersections that would be impacted. Although some improvements to the streets fronting the project will take place, the EIR plainly states that even with these mitigations, impacts remain significant. In the meantime, we, the community, have to live with the traffic mess. She asked if Walmart really cared about the communities, like they state; why are they even considering going ahead with this project before first making sure that the affected intersections will be safe. She and her husband are asking that the Planning Commission to vote "no" on this project.

Remember, this is the last piece of prime land that Ceres has. We're asking that you think outside the box and imagine what we could have. She suggested that they look at what a look at what a beautiful job Turlock did. Before they began to build, the roads and all of their intersections; the freeway intersections, were completed. She advised the Commission to not let anyone, whether it be a Walmart or a Target, build until all of the intersections are improved.

- Tony Cardneas – member of Citizens for Ceres

He lives on Archcliff, in a two-story home. There are several other two-story homes in the neighborhood as well as the apartments. So, that eight-foot wall is not going to cut it for us. We sleep upstairs. This is just going to add to the noise he already hears when a train goes by in addition to the traffic on 99 that he hears all night.

He agrees with his wife. By putting the Walmart or any other shops and getting all this traffic increased, but yet the exits on Mitchell, Service and El Camino won't be improved; maybe never because CalTrans doesn't have the money. So we're stuck with the traffic and waiting for those exits to come aboard.

The other thing is they were talking about these animals up there that are extinct animals, like the gray fox. You can relocate those animals, put them in a river somewhere down there where they can live; but you can't relocate the people that live here on Don Pedro. We're stuck there. He said that his house is paid off. He has been there 20 years, and he plans to be another 20 years. He's just another concerned citizen.

- Pat Jones – 2836 Charlotte Avenue, Ceres, CA

She really prays that the Commission will approve the Walmart shopping center. She's a 39 year-old senior citizen and she needs the lower prices.

- Matthew Vance – 3013 Tenth Street, Ceres, CA

Mr. Vance stated that there's been a lot of discussion about the trucks coming in at night. The Walmart on McHenry, which is arguably one of the smaller Super Walmarts around; it has residents on either side of the Walmart. They put up the barrier, and there have

been no complaints from those residents at all about the noise. Those trucks come in sometimes at 10:00 at night, sometimes at 3:00 in the morning. They have governors on the trucks that make it so that it can't downshift and you have that loud howling sound as it comes down the road. They just can't do it. So the residential impact that everyone's talking about from a practical standpoint of the Walmart that's already existing, has shown that it does not affect the sound the way that some people feel that it might. And when you see a semi driving down the road, it's really loud and you think that's going to be flying down the road. It's not. They're going very slow. The sounds that they make when they back up, from what I understand, they are disconnected when they have to go into a residential area like that. So there is no noise. It's just something we wanted to present to you; that not everything is as it seems. Not everything is an exaggeration of a big semi rollin' down the road at a hundred miles an hour. It's slow; it's quiet. And the Walmart, the supercenter here, will do a lot for the community. It'll help with the costs of everyone. So we're hoping that it'll go in here as well.

Chairperson Kachel asked Mr. Vance if he could ask what the source of his information about no complaints was?

Mr. Vance replied that he is a manager of the Walmart on McHenry.

- Wade Hurst – 3313 Zurich Lane, Ceres, CA

He stated that he is here to speak on behalf of the future leaders of Ceres and many concerned citizens. On the surface, it would seem that building a Walmart Supercenter is a great plan for Ceres, creating new jobs and economic benefits; but if we take a closer look, it's evident that Ceres is not the right location for a new Walmart Supercenter.

When he first began his research of this topic, he started by asking himself, "Why does Walmart face so much opposition?" Union leaders, fair trade lawyers, nature activists, and even adjacent towns such as Turlock have stood in the way of the aggressive expansion of Walmart in our local area. When he finally found his answers, he understood why Walmart has so many opponents, and it became clear that the addition of a Walmart Supercenter is not right for our community. It said that the shopping center anchored by Walmart will create 205 new jobs. 205 jobs seems like what Ceres needs. However, if we analyze what types of jobs will be offered and the effects these jobs will have on our local economy, we can separate fact from fiction. Walmart's average annual pay of \$20,774 is below the federal poverty level for a family of four. How many of these 205 jobs created are going to leave employees earning less than what can be categorized as poverty level? Not only will most jobs offer pay that is below the poverty level, these same jobs don't include medical benefits. Walmart has thousands of associates who qualify for Medicaid and other publicly subsidized care, leaving taxpayers to foot the bill. This is one way that the addition of a supercenter will increase tax costs, not tax revenues to taxpayers in our local economy.

The addition of a new Walmart is projected to increase tax revenues in our area. In

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reality, when we take into account the jobs lost, sales lost and the inevitable closing of some small businesses, will our tax revenues actually be increased? Furthermore, are we willing, as a community, to take that risk? According to a 2009 survey, the value of a Walmart to the economy will likely be less than the value of the jobs and businesses it replaces. Another study estimating the future impact of Walmart on the grocery industry in California found that the full economic impact of those lost wages and benefits throughout Southern California could approach 2.8 billion per year.

Walmart doesn't only affect retail businesses. Our current Walmart has a pharmacy and optometry center, a tire center, a McDonald's, and when the first of the year rolls around, they'll do your taxes for you. This sheds light on another point, and it might be something that we're all forgetting. We already have a Walmart in Ceres that is benefiting our community and our local businesses.

In closing, he thanked the Planning Commission for the chance to speak at this meeting. And as a homeowner and a longtime resident of Ceres, he would like to stress the importance of the decision our community has to make. This meeting is about more than the fate of a supercenter. It's about the fate of Ceres as a community and the invaluable opportunity we have to make the right decision.

Chairperson Kachel asked Mr. Hurst if he has a citation on those studies.

Mr. Hurst responded that yes, he has three citations. (Mr. Hurst handed them to Mr. Westbrook.)

- Ron Blevins

He stated that he thinks when this thing was originally started, that the proposed traffic report showed that the inter-pass was going to be changed from one lane, and now CalTrans has put that off for like 10 or 15 years. He asked, is that something that I'm correct in thinking that originally that was supposed to be changed before the Walmart, and now that CalTrans says it could be 10 to 15 years before that actually changes?

Chairperson Kachel responded that he's not the one to answer that question. It's his understanding that the CalTrans complete re-doing of the intersection is indefinite. There are however; some additional lane widening, which will be implemented as a part of this project. Perhaps at the end of the hearing we can ask somebody from the City or Public Works to answer that question for you.

- Diego Fernandez – 1183 Alondra Drive, Ceres, CA

He wanted to voice his opinion for his family and several of his friends in the neighborhood by saying that we are in support of the Super Walmart. We do a lot for the community. He's not just here as an individual, but we also do support through our affiliates through our church organization. We've always helping those that are

underprivileged. We are trying to always raise money and funds to give out dinners and work with the community here. Bottom line is I believe the City here has a lot of underprivileged citizens that need support, and this is just one way that we can try to get more to our community

He is tired of going to Turlock, going to Modesto, going everywhere else, when I he wants to spend money in this town, to support our community. He thinks the only maybe downfall that Walmart is getting the bad rap, would be them saying that certain businesses couldn't buy the existing building. We're here for competition; we're here for growth. We don't want to have a stalemate. I think Walmart would be fine, regardless of who took over the existing building. He thinks overall as a community, he just knows that it's going to support everybody in the long run. He knows everybody is thinking about jobs and what will affect them. And someone said something about Medi-Cal or the insurance. He said that he is also a financial counselor, and he knows if we didn't have Walmart that we could send our families to after they had been seen, because they have no insurance and because the cheapest pharmacy sometimes is Walmart giving the best fills, where would our friends and family that have no insurance be able to go buy a cheap prescription? So, you know, we've got to look at the whole picture. But he thinks the widening the walls or the roads, all that type, could probably be fixed.

- Joshua Cain – 3939 Central Avenue, Ceres, CA

He stated that he was doing a little research himself, and as Commissioner Kline said earlier, there were the four cities in California that have empty buildings. As he was looking through further, he found that all across the country there are 350 empty buildings.

Right now there's 14 stores in Ceres that sell groceries and other household products. Eight of the stores sell fresh produce items. One of the reasons that Walmart wants to build the new superstore, is they say because of the tax revenue that it'll create. But the thing is about half the stuff you get at a grocery store is nontaxable anyway. Only a handful of things like soda and beer and stuff like that is taxable. So it almost seems like that argument is moot.

It was said that 66 percent of the people in Ceres were in favor of the Walmart, but then on the same exact flyer they sent out, it said that 10,000 people were in favor. Well, I looked it up, and the population of Ceres is almost 45,000 people. 10,000 people doesn't make up 66 percent of the city. And earlier it was said, there's no weekly traffic problems, like around the church. Drive by there on Sunday and tell me if there are no weekly problems there.

Walmart said themselves that they'll build Phase 1, but that doesn't necessarily mean that they'll have to finish the rest of the phases. So they'll have their store built, but then there's no telling how long they'll put in their other buildings and whatever, if anything, will come there.

I think if Ceres wants to generate a new form of tax revenue. I say we bring in something that's not here already; a movie theater, a bowling alley. Something to do for the family, because there are really no family things to do. There's tons of fast-food, 14 grocery stores. I think it's time that maybe Ceres finds some kind of entertainment value to do and generate new tax revenue that way, by having a new business.

- Mary Alton

She stated that she was one of the people that was up here before. Since that meeting, she has had the opportunity to go out into our community, and also to Keyes, to Hughson, and to Turlock. From around our whole area here, there are people that are asking where and when will we get a Walmart that can handle all of their products. She has had older people here that have said, "We could take the bus. We can get off by ourselves." That would help her a lot because right now she is driving people with her car, outside of Ceres because they want to go to Winco. The groceries and things there are so much cheaper. They said they would be willing to stay here in Ceres, if we had a Super Walmart.

Another thing that she is concerned about; they were talking about fixing the roads.

She also said that the paper mentioned something about 80 people's menial jobs, or jobs that were not up to union wages, isn't worth it. She suggested to asking the 80 people that are out of a job; they do believe it's worth it. I also listened downtown. They had a job fair down there, and a man and his son said, "We've been out of work for a long time, and we will take a job if Walmart would even offer it."

She reported that she went to Walmart the other day. She walked through the store and asked several different employees, "Hey, how's your job? What do you get paid?" First they thought she was nuts. And then she told them that she just really wants to know if they like their job. And not one person said, "No, I would not work here." They hire people that are underprivileged; they have a lot of special needs people that work for them; they also have a lot of retired people that need to subsidize their own income. And they also do not ask for a school diploma, which a lot of people probably say, "Ah, they're not graduates." That's okay. They don't have to be to be human.

She thanked the Commission for this time, and said she really hopes that when they consider this, that they will also consider a lot of the elderly people that do need this store. And we want it. So please, please.

Chairperson Kachel stated that we're hearing a lot of good information, but reminded the audience to please keep their comments focused on the specifics of what we've heard tonight and not repeat what someone has said before.

- Bertie Plante

She stated that after the last meeting, where she got up here and told how much she loved Walmart; loved working for them and everything, she got to thinking about this and went online. She heard about businesses being closed because Walmart comes in and economics was the top thing. She found several articles on line, and wanted to share one with the Commission. This was a study that was done. "Central Valley and Imperial Valley communities where economic growth is historically the slowest in the state experienced strong citywide taxable retail sale gain after the opening of a Walmart Supercenter." And they give several different stores here. One store that she is familiar with is Dinuba. Their gain was \$49.9 million. Hanford was \$32.4. Stockton was \$122.3 million or 21.4 percent. She asked if a Walmart Supercenter can come in here and give us, let's say we're about the size of a Dinuba, say \$50 million a year in taxes, why can't we do it? Why don't we do it? We need help here in Ceres. This taxable income would help us. And she does love her job. She has been there almost 18 years, and she plans on being there a couple more years. And as far as wages go, she supported all three of her children on Walmart. She raised a grandchild, thanks to Walmart. Now she's on her own. She owns her own home, which is a motor home, but it's still her home. She has great benefits. She had to have hip replacement two years ago. She couldn't hardly walk. She is walking around now! She has good doctors, dentists and eye doctors.

She stated that she wants the Commission to think about this, and stated that yes, she thinks it will be a good store; a good place for families. And she asks them to please vote "yes" on this tonight.

- Lita Algeo

She has lived in Ceres for 42 years and she worked for nearly 30 years. She stated that during that time, we had a shortsighted Council for years, where growth is concerned. We need jobs, jobs and more jobs. She doesn't shop at Walmart, but maybe but twice a year. But, several people she knows do. What's important to them is important to her. Walmart has low wages, but they are wages, and the employees are allowed to grow and attend classes and improve themselves. There's also health benefits and they are community oriented. Jobs make Social Security. Simply put, we need the money generated by Walmart.

- Geri Ottersbach

She stated that she has some packets to give out and asked who she should give them to. (She handed the packets to Mr. Westbrook.)

She said that besides the items that she had mentioned in the last two letters that are on record, she is concerned. She knows that Ceres does not need more poorly maintained landscaping from Walmart. Ceres does not need more traffic congestion than can be fixed with only three traffic lights. And Don Pedro doesn't need truck traffic. Ceres does not need to gamble on losing more fundraising dollars or charity contributions from our

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locally owned, anchored store as a result of a new Walmart center putting them out of business.

She commented that she recently went to Oklahoma and Arkansas, visiting relatives. She took photos of three supercenters because she thinks the existing landscaping at Walmart in Ceres is horrible. She asked the Commission to please look at the photos of the Poteau, Stigler and Fort Smith supercenters that she has given them for their review. She thinks those photos show that Walmart's landscaping is unattractive. It is obvious to her that Walmart does not know or care about landscaping the way that Ceres residents do. The smallest supercenter that she visited, and perhaps Walmart's smallest, is in Stigler, Oklahoma. Stigler is about two hours from Bentonville, Arkansas, and the location's Walmart headquarters. Stigler still has a movie theater and a downtown that is similar to Ceres, but the supercenter caused a Stigler grocery store to go out of business within, like, seven or eight months of the new building of the supercenter. And there's another grocery store in the area hanging on by a thread.

Instead of building a new store, she requests that Walmart do a facelift on the existing store and cleans up the existing store landscaping. If you want groceries, Walmart can expand with the existing store. Ceres should reconsider what it's doing about our existing empty retail spaces. Ceres should concentrate on bringing in new unique businesses, attract shopping and entertainment complexes to draw people from around the area. She asked the Commission when they vote tonight, to think about this if they vote "no." We will still have a Walmart and we'll still have good-paying jobs and benefits from our existing retailers. If they vote "yes," we will only be replacing one Walmart with another, and we will lose those good paying jobs with benefits, and retailers who are going to be put out of business when the new Walmart is built. Ceres will die on the vine. Also, please look at the page from the Walmart corporate website that are in the packets. Read the highlights section titled, "Walmart U.S. to Focus on Remodeling." As stated in that document, by the end of 2012, approximately 70 percent of Walmart's U.S. stores are expected to be updated. She wants to know why the existing Walmart in Ceres is not a part of that update or updating.

- Sherri Jacobsen

She stated that she has pamphlets for the Commission. (Ms. Jacobsen handed documents to Mr. Westbrook.)

She said she is speaking to the Commission tonight as a proud member of this community. She has been a voter in this community at least 25 years. As a member of the Citizens for Ceres group, she wants to tell the Commission what's in her heart tonight. The Ceres community is rich with ideas. When we take the time to listen, we hear a kind of enthusiasm and a sense of community that you won't find in most towns. We know our public officials by name, our police officers, our firemen and so forth. We talk to each other, we educate each other, and we definitely care about each other.

The proposal that is before you tonight cannot be considered in any fashion an economic development project. It will not have a lasting economic benefit for the whole community, nor will it reflect the small town values that make Ceres so special.

Although Walmart is known for being the nation's largest retailer and has had historical financial success, the contemporary design that Walmart says we should be happy with represents an outdated concept. Walmart has at least a couple hundred stores on the market at any time, and they refuse to sell or lease them to their competitors. Some remain vacant for years. In the news recently from Warren, Michigan, a dead, ghost Walmart store there has angered the mayor so much that he is threatening a national boycott of Walmart. That is in Section 1 of the pamphlets she has handed to the Commission.

She has also attached a Wall Street Journal article regarding Walmart's unwillingness to sell or lease abandoned stores to their competitors. Walmart said in a recent editorial to The Ceres Courier that they don't own any vacant stores in California. She doesn't know whether Walmart's qualified statement regarding ownership is technically correct, as she hasn't researched the claim. It is, at a minimum, intellectually dishonest.

A quick Internet search revealed several former Walmart stores abandoned for larger supercenters that continue to sit vacant for several years. These include a 125,000 square foot building in Gilroy, a 125,000 square foot building in Hanford, and similar sized stores in Bakersfield and Vallejo. That information is in Section 2 of her pamphlet. As for the cookie-cutter design that was discussed during the Planning Commission meeting on February 22nd of this year, there was disappointment expressed in the architectural design presented for the project, and the Commission requested examples of elevations from other communities. The Staff Report suggests that the proposed store will look like the new Atwater store, but does not include additional renderings. In the event Walmart does not have an opportunity to present those additional renderings, she has done her own homework on this. First, in addition to Atwater, the proposed design elements are essentially identical to Walmart stores proposed or approved up and down the Central Valley in cities like South Fresno, North Fresno, Kerman, Elk Grove and Folsom. See Section 3 of the pamphlet. If this is to be at our city's gateway, why would we want our gateway looking like generic Walmart architecture found in numerous other cities?

Secondly, she found examples of several unique Walmart designs that the company produces when the city wants something more than basic. These include urban designs proposed for Chicago and Washington D.C.; craftsman style architecture found in Napa County's American Canyon; alpine designs in communities like Hood River, Oregon and Woodland Park in Colorado. And even mission and Mediterranean architectural styles in California, in places like San Diego County.

She does not oppose a regional commercial development at this site, but because this is at the gateway at our city, let's demand more than the bare minimum. We don't need to adopt Walmart's mind-set: Because we are a small Central Valley town, we deserve better than what they have presented. Let's demand more and let's be sure that whatever does

ultimately go into that location truly benefits rather than cannibalizes our community.

- Gary Rambaran – Ceres, CA

He began by saying he wants to thank the Commission, the Planners, Members of Walmart, and the general populace of Ceres. He stated that with growth comes pain. When a child is born, do we expect that child to be a child all throughout its lifespan? The answer is an emphatic "no." Ceres is a beautiful city. It's a bedroom community. But there has to be growth, and with growth there has to be an increase in revenue. And the only way that this will be facilitated is when we have stores like Walmart come in. A Super Walmart will do a great deal to help boost the economy. We complain of the traffic, the trucking. With the increase in revenue, the City will have enough funds to have more police out there to enforce the laws and to stop the noises that these truckers, bikers and cars make.

His appeal to the Commission, is before you arrive at any kind of a decision, be it for Walmart or against Walmart, let this be presented again to the general populace and let us decide. But his prayer is that whatever decision we arrive at, let's look at growth, let's look at jobs, and he believes with conviction that Walmart can provide the much-needed boost to the economy, as well as jobs. Of course, there are going to be things that would run contrary to what all of us wish for, hope for, and live for, but let's give them an opportunity.

We talk of the wages that Walmart pays. Now, what is much better? To get a half a loaf of bread than no bread at all? We're shipping jobs overseas. We're outsourcing. Why not keep the jobs right here? Walmart can help us do that. We need to build the economy based on conviction. We can agree to disagree without being disagreeable. But he believes firmly that we should give Walmart the opportunity.

- Rich Wardell – new store manager at the Ceres Walmart – 1617 Mitchell Road, Ceres, CA

He stated that up until six weeks ago, he was a Senior Director of Operations for Save Mart Supermarkets in the Nevada area, of which we have seven Walmart Supercenters, which he was competing directly with.

He reported that our average wage at Walmart up the street is well over \$13 an hour. He has heard a lot tonight about hometown values; heard a lot about for and against. He can offer you his services, he can offer you his time, and he can offer you his insight. He was born in a small town. His hometown values don't go away. He worked for Mr. Piccinini six weeks ago, and he worked for a Charlotte Walmart, and he's still the same person. He cares about the employees. He has been treated very well. He has been welcomed. And this community, although it's very new to me, it's a neat community, and he looks forward to serving you and the people of Ceres. I just want to offer my time and introduce myself.

Chairperson Kachel asked if he could ask Mr. Wardell a question. Understanding who you did work for and who you do work for, hopefully you'll be objective about this. But Walmart's asking to come in here and do some expansion. Well, it was just not very many years ago Save Mart moved into Nevada. Was there any sort of reaction at that time? In other words, when Save Mart moved in, were they looked at as the competition and to be frowned upon? How were they perceived? In other words, we're getting a lot of perception here both ways, very strongly, about Walmart. But we're looking at land use, and that's what we're here for, is to talk about land use. And I'm just saying, did you see anything similar, but sort of in reverse, when Walmart was already up there and then Save Mart came in?

Mr. Wardwell responded that when SaveMart came in, we were going against small competitors like Scolari's Markets, and Raley's was up there as well. And he believes Save Mart was looked at as an aggressive competitor when we went in with a marketing campaign and went after, that piece of the business. Walmart has opened two supercenters since he's been there. His business was up in double digits in Reno. He was offering a value add, He was competing quite heavily with Walmart and every other independent. He was viewed as a competitor to some of those smaller markets.

He's here tonight just to introduce himself, offer you his time, offer you anything that you want. And he does care about the people, and he's not going to stop caring about anybody or their jobs. We've got full-time employees, we have part-time employees, just like any other business, and we offer a fair wage, and we offer health and medical and optical benefits. And he has been welcomed quite nicely. So thank you.

- Gladys Boling - 3305 Perisburg Lane, Ceres, CA

She stated that she is for Walmart. She thinks that we need something to bring people to Walmart. Right now, with the old Walmart sitting way back in the corner, you get the people that are from Ceres and maybe a few people from Modesto. But if it's on 99, you're going to have people from different area. And also the traffic, as far as the trucks are concerned, you're not going to have them driving up and down Mitchell like they do now. They'll come off the freeway and go right into the Walmart. I see this as a big help for even the seniors. Who hires the seniors? Walmart. They're your greeters. And let her safely say that for a lot of us who need that extra job, that's perfect. So she is for this Super Walmart.

- Galen Hedgecock – 3640 East Service Road, Ceres, CA

He stated that for 40 years, before he retired he was a paving contractor. He advised the Commission to not lose this store; we need it! He said he never did own a shopping center, but he paved a lot of them. And this is one good set of plans.

- Rick Rushton – 3405 Fowler Road, Ceres, CA

He said that he has a question that was brought up about super trucks. Walmart said they don't get deliveries from a super truck. Their own trucks are super trucks. A 53-foot trailer and a sleeper is considered a super truck. And also on the eight-foot sound barrier wall they want to build, a standard tractor-trailer is normally 13.6 feet tall. So that leaves five-and-a-half feet that can be above that. He doesn't think that's acceptable.

According to the Staff Report dated February 22, 2011, the proposed Mitchell Ranch Center will not be built in a single phase. Picture this. When the supercenter is first built, all the center's retail pads will be empty, without structures, except the Walmart pad. The Walmart is the only tenant specified for the shopping center. It is anyone's guess when Walmart will build the other pads. If this project allowed as it currently specified, for years to come, image of halting, isolated monstrosity on 26 acres of blacktop will be emblazoned in memories of residents and visitors to Ceres and travelers on Highway 99. Add to this image a parking lot with huge trucks, RVs and campers parking every night. The fact is that Walmart allows overnight parking. It is such a sought after convenience that when camping, websites promote Walmart's overnight free parking. We will be able to set our watches daily by the large number of out-of-town truckers getting off Highway 99, each one parking in the proposed Walmart Supercenter's site for up to three days in a row for free. If that isn't enough of a turn off, when the truckers run out of space in the new 26 acre parking lot they could drive less than two miles down Mitchell Road to an existing store. The one that's going to be abandoned there. He thinks instead of calling the proposed project area as a southern gateway, we could have the Commission give it another name: "Walmart Super Truck Stop - Gateway to Ceres." He asks the Commission not to turn our limited southern gateway into a roadside pit stop for tired truckers and campers. They should be parking their vehicles at proper truck stops, camping facilities or hotels. He asked the Commission to please vote "no" tonight for the Walmart proposal.

- James Vinyard – 1339 Grandview Avenue, Ceres, CA

He began by thanking the Commission for allowing him to speak here tonight about the proposed Walmart Shopping Center on Mitchell Road. He has two or three topics of concern that he believes need to be brought to the Commission's attention.

The first topic concerns the traffic in the northeast corner of the proposed shopping center, both within and outside the shopping center. The combination of delivery trucks, customer parking, shopping vehicles, pedestrians and commuter traffic at the new traffic light at the intersection of Mitchell and Don Pedro Roads will create excessive congestion in the parking lot areas, as well as at the intersection where the traffic light is located. The traffic will back up into the north driveway entrances, resulting in frayed nerves and an undue safety risk.

He also has a related concern and a question. He is concerned about the routing of Walmart delivery trucks, which will approach the Walmart unloading bays. For example,

if trucks have to back into the docks to unload their inventory, he believes this will slow up, if not stop, traffic out on Don Pedro Road, thereby creating more congestion and a safety hazard. Given this scenario, what is the route that the delivery trucks will be using? And if his scenario is correct, won't that approach on Don Pedro Road cause unmanageable traffic problems? He believes another traffic problem will occur for the neighborhood vehicles coming out of Archcliffe Drive. The people who live on Archcliffe Drive will certainly have a very difficult time making left turns onto Don Pedro Road; and, specifically, traffic will pile up during the time that delivery trucks are pulling into the driveways and blocking flow-through traffic. This is not only a great inconvenience, but a potential hazard; safety hazard as well.

He also has a great concern about the landscaping that's at the current Walmart store on Hatch Road. He thinks it is really sad that a company as big and as well known as Walmart has allowed the landscaping at this Hatch Road store to deteriorate to such an unattractive state. Would a new Walmart shopping center be allowed to fall prey to this same treatment? What kind of guarantee will Walmart provide Ceres that the new store's landscape will be maintained properly, and how will we enforce that guarantee if Walmart fails to fulfill its promise to keep up the landscape?

Finally, he asked if anyone can please tell him why Walmart cannot meet their growth needs by retrofitting their current store on Hatch Road? Walmart's Hatch Road parking lot looks like it has plenty of room to accommodate expansion. He asked the Ceres Planning Commission Members, to please vote "no" on the proposed shopping center.

Chairperson Kachel announced at 8:20 P.M. the meeting will recess until 8:35 p.m.

The meeting reconvened at 8:35 P.M.

Chairperson Kachel announced that we'll continue with the public hearing. We may have a few more speakers. After that we'll hear back from Walmart and any comments they have about what folks spoke about this evening. Then we'll close the public hearing and bring it back to the Commission. We may have some questions for our staff and/or our consultants.

- Brett Jolley – Attorney with Herum Crabtree, 2291 March Lane, Suite B100, Stockton, CA

He stated that he is here on behalf of the Citizens for Ceres group, and has two handouts to distribute to the Commission members.

- The first handout is a Proposed Resolution that would deny certification of the EIR and deny approving the project. The purpose for this is the Staff Report on February 22nd did include three Proposed Resolutions certifying the EIR and approving the project, and he wants the Commission to have the benefit of a resolution that reaches the opposite conclusion, should the Commission decide to go that way.

- The other handout is an article prepared by the San Diego County Taxpayers Association .

He stated at the Planning Commission meeting on February 22, 2011, his comments really focused on the issue of the effectiveness and adequacy of the Urban Decay Analysis, including the omission of any discussion of blight in the community, as well as the Commission's need to make a Statement of Overriding Considerations and walking through the reasons why the overriding considerations that were outlined were not available. In response, Walmart had a representative get up in rebuttal and essentially said, "Blight is not relevant to an Urban Decay Analysis. Urban Decay Analysis is CEQA, and blight is redevelopment, and they're completely separate creatures." And that was reiterated tonight through some of the comments. The other main point made was that the Statement of Overriding Considerations, according to Walmart, was adequate, and he and his clients had not presented any evidence, particularly to the arguments that there would be a neutral or negative tax benefit for the City, and in terms of job creation and employment in the City. He'd like to address those points tonight.

In terms of whether or not blight is relevant to the EIR's analysis, we have to remember that the EIR has a chapter; Chapter 4.5, "Economics and Blight." It seems to him that where an EIR has a chapter entitled, "Blight," it is important for that chapter to consider the very impact that it purports to discuss. But, more than that, this argument that blight and urban decay are completely unrelated is really a misappropriation of the terms. He went on to explain the context of this.

Where this context comes from is footnote 4 of a decision called "Bakersfield." Bakersfield was a 2004 case in which an opponent group challenged Bakersfield approval of two Walmart Supercenter-anchored projects. And Mr. Jolley happened to represent that group through the litigation in appellate court proceedings. In the trial court and then again in the court of appeal, the developers argued, "We don't need to look at this concept of urban decay or physical deterioration because it's really blight, and blight has a specialized meaning under the Health & Safety Code, and the project opponents have not shown that the mandatory findings for blight have been met. Therefore, because there's no showing of actual blight in Bakersfield, we don't need to consider this physical impact called 'urban decay.'" And the appellate court rejected that concept and said, "No, no, no. You don't look at whether or not you meet the requirements of blight to figure out whether an Urban Decay Analysis is required. You look at evidence of physical deterioration and other related impacts arising from store closures in the community." So at this point to turn that concept on its head, which he thinks Walmart has done, and to say, "We don't need to consider blight; we only consider urban decay," really is not appropriate. And when we look at the big picture, there is physical deterioration and related blight in the community, and it really needs to be addressed in the Environmental Impact Report. He would suggest in the section called, "Blight and Economics."

A third point he'd like to make involves a memo from Pacific Municipal Consultants that's in your Staff packet, that discusses, in a few pages, the concept of blight and urban decay. And the crux of that letter, as he understands it in reading it, is that the city adopted its redevelopment areas as far back as 1991. And redevelopment laws were different back at that time; and, therefore, some of the findings of blight that the city made at that time may not qualify as blighted areas now under the current law. He would submit to the Commission, this is a very slippery slope that the City probably doesn't want to go down, as we're in a situation where we have a governor that's looking to try to take as much money back from the local agencies as possible and looking to try to phase out or eliminate redevelopment programs, which allow communities to keep additional tax revenues locally. So he really doesn't think the City would be wise to start to say, "Our redevelopment areas may not be legal at this point under the current law. They're outdated." In terms of the Statement of Overriding Considerations, this is really addressed at Section 2 of the Resolution he handed out. But the first issue dealing with the evidence of reduced sales tax revenue, he thinks that the EIR itself lays this out. The EIR itself says that the store is going to be about 190,000 square feet. It's going to have, we're told, a supermarket component that's about the size of a typical supermarket, which according to the EIR for supermarkets in this town is about 60,000 square feet. So that means if we subtract the supermarket component from this project, the Walmart retail area is going to be 130,000 square feet, give or take. That's the same size as the store that we have now. And as we've heard earlier, groceries are largely untaxable. Reports he has seen generally range from about 15 to 30 percent of grocery sales are taxable. So that means of that additional 60,000 square feet, you're going to have a very small amount that's taxable. But what's more interesting is that the EIR itself at page 4.5-13 tells us that this store is expected to have lower sales per square foot than the existing store. It explains that there will be a loss of sales to Modesto. Moving the store will actually increase leakage to Modesto. So when we look at that, we compare the fact that you're going to have essentially the same general merchandise area and the store's going to perform more poorly than the current store does in terms of sales tax revenue, sales generation, leading to sales tax revenue. It means that, in fact, this project will have a neutral if not negative impact on the City's sale taxes.

Mr. Jolley concedes this does not account for the 110,000 square feet of pads or shops or whatever the additional part of the project is going to be, but he would submit to you that is so far out there and so enigmatic at this point, that it's not really something to be considered by this Commission since we don't know when, if ever, those outlying parcels will be built out and built out with what. You can't really look at that in terms of the benefits at this point.

The other point had to do with employment and our argument that this project would probably end up producing a zero net gain or maybe even negative employment numbers. And, again, we were told we haven't produced the evidence; therefore, we can't make that claim. He would submit to you that we have presented some evidence to you. It is a report by that leftist group: The San Diego County Taxpayers Association. And, according to the San Diego County Taxpayers Association, looking at data generated by

the University of Pennsylvania, Wharton School of Business, as supercenters come into a community, a community can expect to ultimately lose one-and-a-half jobs for every job at a supercenter. He has given the Commission just the executive summary, knowing they would not have time to read the entire 80-page report up here, but it's at page Roman V, there's a reference to that concept that, in fact, you would have negative numbers overall. So when you look at that, this project would probably end up producing a net negative of about 42 jobs from the loss of existing jobs as the supercenter develops.

Finally, the fact that Walmart is a good member of the community. Most, if not all people would probably agree it's fantastic that they are giving to the community. We've heard great testimony of the benefits that Walmart has provided to this community. That's really not relevant to this analysis because Walmart is already here. They are already giving these contributions. Approving this project doesn't add anything to the community, nor is there any evidence that if the Commission denies the project that Walmart would suddenly stop giving to the community, as it apparently has over the last 15 years of business. But if this project goes in, the EIR concedes there's a likelihood that at least one if not more than local anchor stores will go out of business, and those local anchor stores also contribute to this community through donations and charity. And if we are approving this project in favor of closing others, you are probably going to have a net decline in the amount of local charitable contributions that this community sees. So looking through that, he doesn't think that the Findings of Overriding Considerations are there to be made. There are several others findings that are outlined in the Resolution that he has given you. Mr. Jolley stated he would encourage the Commission again, do not certify the EIR, do not approve the project. Certifying the EIR says you agree with what the EIR has concluded in terms of its analysis of all impacts and in terms of its findings and mitigation measures. And unless you feel that way, he would suggest you not certify the EIR and also deny the project. Mr. Jolley said that he'll be happy to answer any questions, if there are some.

- James Wysong – 2428 Acorn Lane, Ceres, CA

He stated that maybe lawyers can't figure it out, but he hopes everyone realizes the obvious; the only cure for blight is the infusion of new business into the community. And Walmart is graciously offering you a golden opportunity. He really doesn't care about Walmart, he cares about Ceres. And he hopes the Commission seizes the opportunity. He shops at Walmart. He also shops at Raley's, Save Mart, little mom-and-pop stores, and that will not change if a new supercenter is built. He perceives a fear that the new supercenter is erected and then all these other businesses will go out of business because everyone is going to be shopping at Walmart only. The city has only two choices: To grow or to shrink.

He believes that Walmart has answered in minute detail every possible rational concern about any objections. And what happens is that one group is pitted against another, and he thinks every city, every state in the federal government is looking for ways to increase revenue. And here is the biggest gift to revenue the City of Ceres could possibly get at

this time, and he says you should be rolling out the red carpet to Walmart and any other business that will bring the revenue to the City.

- Del Ambris - 1855 Scenic Drive, Modesto, CA

He stated that he has worked at Cost Less Foods on Hatch Road for 20 years; he just wanted to make a few comments in regards to what he thinks community corporate partners should be.

He thought we were supposed to hear the specifics of the jobs gained, compared to the jobs lost; as far as rates go, what type of positions they were. He thought that was on the agenda from the last time we'd met and we were going to continue it.

One other point he wanted to make is Target in Riverbank has just revamped their whole store, and they're now doing meat and produce in their existing store. He doesn't know what size it is compared to Walmart. But just by rearranging the store, they were able to do it. So, he doesn't see why that would be such a big issue for Walmart, at least to consider.

He also wanted to make the Commission aware that there are other retailers in this community that are also very good corporate partners; such as: Cost Less, Richland, Save Mart, Raley's, Food 4 Less, and numerous other businesses, large and small, that contribute to the community in many ways. Cost Less has built and established great relationships with many schools, churches, police, fire department, nonprofit organizations, and other businesses, and he really loves the way this small community has so much togetherness within.

- Rav Atwal – lives with his family in Ceres, and we own a business, the Belly Pizza Zone on 3100 East Service Road.

He stated that his family's pizza business is right next to this project. What this project would mean for his family, is potential customers. We all know that the economy is kind of slow, and something like a Super Walmart would bring out a lot of customers and a lot of potential customers to us. And what that means for him, is that he would get to go to grad school and his family will have financial stability. It's not just him; there's accounting businesses there, there's filing services, there's gas stations. There's all kinds of things. And to say "no" to something like this would be an attack on our livelihoods, and a potential opportunity for the City of Ceres.

- Art Lopez

He stated he just moved to Ceres and he doesn't know exactly where he lives yet. But, we did open a new business here in Ceres, right on Service and Mitchell. We took a risk. And the reason why we took the risk on coming over here was because Walmart was going to open their superstore. We're a small store, and we're taking a risk, and just wanted to see if we could take a risk. He wanted to let the Commission know

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Ceres should take a risk, too. He said they don't know if we're going to make it, but if the Super Walmart opens, their risk will be a lot less.

Chairperson Kachel asked what the nature of his business was.

Mr. Lopez responded that he and his wife opened a furniture store, right across the street from Belly Pizza Zone.

- David Patterson – Ceres

He stated he is originally from the Bay area. He thinks it's great that Walmart is considering putting a super center here. He'd like to see something new in Ceres and to see it grow. It would bring a lot of opportunities for Ceres and assist a lot of people, including himself who are on a fixed income.

- Mike Lowe – 1901 Wallace Avenue, Ceres, CA

He stated that he has lived here for 31 years. Tonight he has heard a lot of "yeas" and "nays" about Walmart. But the first thing he heard was Mr. Kline saying, "Wouldn't it be nice if we had some good restaurants here? Wouldn't it be nice if this community did grow?" Here is a business that's offering this to us. We've got professional people and staff to work out little road problems, intersections, and signal lights. Walmart has put many stores into many communities that have addressed these problems. Whether we grow, that's up to the Commission. But it is encouraging for the first time in 31 years, I'm hearing a good developmental center coming to this city. We've developed well on the west side, on West Hatch, but now to develop to that area and to draw customers from from Turlock and from some other outlying communities. He asked if we want to grow or do we want to stay stagnant?

Chairperson Kachel asked if there's anyone here from Walmart who have any comments to make; if not, he'll close the public hearing.

- Miriam Montesinos – Attorney from Sheppard, Mullin on behalf of Walmart

She began by stating she wanted to quickly address Commissioner Kline. She had the opportunity of searching through the Internet to try and find centers where there is an Applebee's and Walmart. A few examples that she obtained off of a 10-minute iPhone search include:

- Milpitas - in that center there is a Borders, a Best Buy, a PetSmart and a Sports Authority. Those are major retailers. You have an Applebee's, a Black Angus, a Macaroni Grill. Those are just some of the sit-down restaurants. It also has fast-food restaurants.

- In Sacramento and Natomas, there is Home Depot, Staples, PetSmart, Ross and Michael's, as major retailers. There is an Applebee's, On The Border and a few others.
- In Merced, across the street from the Walmart, you have Pier 1, Best Buy, Lowe's, and you also have an Applebee's.

She thinks that that just goes to show that you indeed can have the uses that you want at this center. And it's not going to prohibit. If anything, she believes it's going to help draw those uses that you feel you're not getting right now in Ceres.

To address two of the points that Mr. Jolley raised:

- With respect to what we said at the last hearing about blight and urban decay, she does think that PMC's memo does a fair job of addressing what the legal distinction is. She wants to point out one thing; the bottom line is that urban decay has been analyzed forwards and backwards. The economists have looked at this issue. Staff has looked at this issue. They've gone above and beyond to analyze it. And the bottom-line conclusion is not that stores will close, like he said. That's not what the report said. It said they might close. But still no urban decay would occur, and that is what you need to focus on for purposes of the EIR. He has not provided you with any evidence to the contrary, and that's what we keep focusing on. He has not submitted any reports, at least till now. Let's see if we go to the Council; that say, that there's any urban decay that is going to occur. A disagreement among experts, as your Staff and your City Attorney can tell you, is not sufficient to find an EIR inadequate. That's just not enough. Otherwise, a city would never be able to certify an EIR because somebody would just come and throw some type of report out there and say, "Here's another expert report. Here's a disagreement. You can't certify the EIR." The bottom line is when somebody gives you information that opposes what your staff and what your EIR consultant has said, what you need to do is evaluate that, take it into consideration, and then decide, "Who do I believe? Do I believe my staff who cares about Ceres? Or do I believe an attorney who was hired to stop this project?" That's the bottom-line question you need to ask yourselves. How you resolve that is completely up to you.
- On the Statement of Overriding Considerations, she just wanted to make one quick point on this. As long as you have one benefit; just one, that's enough for you to adopt a Statement of Overriding Considerations.
- She quickly touched upon just a few of the other issues. With this project, the main thing to think about it, it's a regional shopping center within a site that has been designated as such by your General Plan. This is what's going to go into the site. This is how it's going to be developed. This isn't a Walmart issue. This is a

land use issue, as the Chair stated earlier. The bottom line is, when your General Plan has said, "This is what should be developed on the site," when your Corridor Plan has said, "This is what should be developed on the site," why are we focusing on Walmart? Why? But when Regency started this project, nobody had these concerns. They were happy that Regency was doing this project. If Walmart had never come, would we be having this discussion today? I bet you most of the people in this room wouldn't be here if it was just Regency proposing this center, and most of the people who would probably be in support because of the benefits that it's bringing. This is a land use issue. This is a decision about, do you approve use permits for a shopping center on a site that has been zoned and the intention through the General Plan is for a regional shopping center.

- And then one last thing, which is about the Reuse Plan. I understand your concern about what happens to the stores afterwards. The bottom line is, as Amelia explained, Walmart does put its best foot forward to sell the store. They did that in Gilroy, and it was occupied for a while. I think it's still vacant. Walmart can't do anything about those situations. It can't legally force a property owner to do something. All it can do is do its best to ensure it finds a property owner that takes over the site. And that it has been very successful in doing, by virtue of the fact it has sold all the properties.

Chairperson Kachel asked if she might comment on the competition clause.

Ms. Montesinos stated that she thought part of that goes back to when there were discussions about the development agreement on the site, which ended up not moving forward. And Walmart recognized that we need to give the Commission certainty about how we plan on reusing the site. In the business world, you can't force people to give their properties to competitors.

Chairperson Kachel asked is Walmart comfortable with the change in the language, and of course, this is all up to the City Council anyway, but the change in that the plan be in place before a building permit is issued as opposed to the occupancy.

Ms. Montesinos replied yes.

\*\*Chairperson Kachel closed the public hearing at 9:14 p.m. and opened it back up to the Commission for questions or comments.

Chairperson Kachel asked first if Staff has anything they'd like to add or comment on.

Mr. Westbrook responded that staff is just willing to respond to the questions that you have.

Commissioner Molina began by thanking everyone who came, took time out of their day to come and visit us and be part of this very important project. He stated that there are a

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lot of mixed feelings and emotions. But the overall picture, as has been mentioned, is that we are here to decide on a project based on the information that has been given to us; the EIR, the reports, pictures and testimonies that were heard. He said he wishes he had the ability to make everything fit together and accommodate everyone's desires.

However, his duty as a Planning Commissioner is to determine the goodwill or validation of this project, based on what was presented. He said that he went over all the report, all the information. He took some time to visit staff and get as much information as he could to feel comfortable with making a decision on this. He wants to state for the record, that his decision does not necessarily represent how he personally feels about Walmart. He is confident that all the information provided to him personally does meet the requirements from the City to move on with the project.

Chairperson Kachel asked Commissioner Kline if he had questions.

Commissioner Kline replied that he just has comments; no questions.

Chairperson Kachel asked Commissioner Del Nero if he had any questions.

Commissioner Del Nero said he had a question about the front of the building. He's looking at page 18 of the staff report and asked if we're leaning more towards that; the brick out front, or something else.

Mr. Westbrook replied the photo that you were referring to is one he actually took himself of the store in Atwater. When Mr. Vermeesch presented to the Planning Commission, he noted a lot of the similar architectural features and colors of the building. The only thing that Mr. Westbrook pointed out is the brick feature is not what is proposed on the Ceres store. In lieu of this brick feature, refer to page 19, to see the awnings and columns there. What is being proposed is this textured block, which is a cement masonry block with texture.

Commissioner Del Nero said it's pretty tough. He listened to everybody out here and everybody had some good points. He listened to the concerns of the people on Don Pedro and also listened to the people from Walmart. He looks at Mitchell Road as our McHenry Avenue in Ceres. Is this what we want to see when we come into Ceres? He said when looking at the "Welcome to Ceres" sign, he kind of liked it. It looked like a good entrance into Ceres. He stated this is kind of something he'd like to see in our City and something we can be proud of.

Chairperson Kachel stated that he had a few questions, mostly for staff:

- Traffic mitigation – The EIR talks about traffic and he thinks the traffic concerns are clearly focused around the Mitchell Road off-ramp, the Mitchell Road intersection with Don Pedro and with Service, and the impacts along Don Pedro Road. There are some mitigation measures being proposed. One of the concerns, he thinks was expressed by one Commissioner at our last meeting was about the fact that neither the

applicant nor the City of Ceres has any control over the eventual rebuilding of the interchange. That's up to the California Department of Transportation, CalTrans, and they do things at their own speed, in their own way. He believes that some things will be done before the store opens, and asked if someone could summarize briefly the relationship between the store, its opening and what improvements we're likely to see at that time.

George Osner, consultant to the City on this project, responded that the traffic mitigation or improvements that are to be done in conjunction with the project are actually summarized in a couple of different places. One is on page 13 of the Staff Report from the February 22<sup>nd</sup> Planning Commission meeting, which summarizes the mitigation measures that are to be done. Also, in the EIR, in Chapter 4.13, which is the Transportation and Traffic chapter, there are a couple of tables there. He further explained that he is not going to just reference documents, but will actually go through the measures. He also wanted to mention that in addition, the Conditions of Approval embody all of these requirements; so that they're actually made conditional of the approval prior to certain things happening.

As previously discussed there's a requirement for a Traffic Calming Plan and the installation of whatever the plan refers to. That would actually occur after the opening of the project.

- The length of Don Pedro that's adjacent to the project will need some improvement to bring it to a City standard, including the sidewalks and so forth on the south side.
- At the intersection of East Whitmore and Mitchell Road, there's a requirement to modify the street there to provide a second left turn lane and make some modifications to the signal and to the signal timing. That's to be done prior to the opening of any part of the shopping center.
- At Don Pedro and Mitchell Road, there's a requirement for a traffic signal to be installed at that location.
- At Service and Moffett Roads, there's a requirement that the project widen the southbound approach of Moffett Road up to the Service Road interchange/intersection to allow striping of the left turn lane. This will also be done prior to opening.
- At the intersection of Service Road and El Camino Avenue, there's a little bit of modification there to allow for the provision of left and right turn pockets for El Camino Avenue.
- At Service and Mitchell Road – "Project shall construct a second eastbound left turn lane on Service Road to Mitchell Road." That's along the front of the site.

- “Extend the northbound left turn lane to provide at least 325 feet of vehicle storage.” That would actually be on the far side from the project. “Make signal modifications to provide protected east-west left turn phasing.”
- At Rhode Road and Mitchell Road – A requirement to install a traffic signal and actually some realignment with Rhode Road. Those improvements were previously approved and required in conjunction with the Ceres Gateway Project. Whichever project went first would have a requirement to do that.
- Some improvements relating to the 99 off/on-ramps; both the south and northbound ramps, “Eliminate the westbound left turn movement for non-emergency vehicles. Eliminate the stop control for northbound movement and modify striping.” These are some fairly minimal improvements, but it is a requirement that these improvements be submitted for approval to CalTrans.
- Southbound off-ramps – “The project shall provide improvement plans to Cal Trans and the City to install a traffic signal, modify the 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; and modify the striping.” That will also require approval by CalTrans, and then the applicant to construct the improvements once CalTrans has approved.

Mr. Osner also stated that there is the standard City requirement that all the improvements around the periphery of the project; the streets actually have to be finished out to make them consistent with the City’s standards prior to the occupancy of the site.

- Chairperson Kachel inquired if it would be fair to say, given that this property is zoned in the General Plan and in the Mitchell Road Corridor Specific Plan for regional commercial, that these requirements, or some very similar, would be required of any similar sized project, regardless of who the tenant might be.

Mr. Osner responded if the traffic consultant is actually present in the room, she can correct the reply, if it is wrong. Any similarly sized commercial project will have similar traffic effects. The traffic really is a function of the amount of square footage and types of uses. This is a pretty standard shopping center configuration, albeit it has the one very large tenant. So, a different tenant, a slightly different design of the site; yes, they would have essentially the same amount of traffic, which would give rise to the same types of mitigation.

- Chairperson Kachel thanked Mr. Osner for his response and said that was exactly what he was hoping for.

He continued by stating for the record, that several people from the audience have submitted written materials to the Commission this evening, and those are appreciated. He has not had a chance to read them. He is paying attention and trying

to operate the meeting. It's very difficult when we get stuff at the meeting, to consider it in detail. They listen to what you have to say, and try to glance at the materials, but he just wants to state for the record, that he hasn't read everything that's been handed out, because it's simply not possible during the meeting.

- Chairperson Kachel asked will there or will there not be super trucks coming to this site; Walmart super trucks?

Mr. Westbrook replied that the applicant says no; there will not be.

- Chairperson Kachel asked for clarification about the issue of overnight parking or camping in the parking lot. This was the first he's heard about that.

Commissioner Kline asked if he might make a comment on that. He knows that Walmart does allow overnight camping and parking, but it also stipulates there are some locations, because the city does not allow it, Walmart doesn't allow it because it's a city ordinance. But there are locations that do let them have it.

Amelia Neufeld confirmed that there are cities that, in fact, require that Walmart provide overnight and RV parking, and then there are cities who don't want it. They comply with every ordinance in the cities.

- Chairperson Kachel explained that there have been some questions raised about the landscaping and maintenance at the existing facility. He asked Mr. Westbrook if he would talk a little bit about what the City code calls for as far as making sure properties are maintained in an acceptable manner.

Mr. Westbrook stated that generally, it can be as simple as an inspection that's conducted by the Code Enforcement Office; or if he is perhaps out in the field and sees something, where there's property neglect, it's a simple phone call to the property owner.

The difference between the two locations all revolves around the Water Efficient Guidelines that were adopted by the City in 1994. Walmart was opened in 1993. The new store will meet the requirements of 1994, which requires a Landscape Maintenance Agreement Form, which is signed and executed and recorded against the property before they ever pull a building permit. That's a legal document. At any such time the City says, "Your property is not being maintained to the standard that you said it would be," we pull out that form; and the work gets done by the property owner. The requirement will be on all seven parcels.

- Chairperson Kachel stated that he has just a couple more comments.
- He said that Mr. Jolley submitted some information, including a Draft Resolution and an article; which he presumes we can get copies of to Walmart at some point, on his take on this issue of blight. In the Staff Report, we have under consultant's signature,

pages 38 through 42, which gives an analysis of the different between blight and urban decay. Chairperson Kachel stated that he is not an attorney, nor did he write this. Mr. Teague is responsible for this; and in turn, the City is responsible for the document. But, what he thinks it says is that you can look at economic issues, but what you have to do is draw a line between the economic issues back the physical impacts; the land use impacts that those cause. Not who is going to make this amount of money or who is going to donate this amount of money, but what kind of physical changes can be expected. He asked Mr. Teague if that was a fair summary of that topic, from his perspective.

Mr. Teague responded yes.

- Chairperson Kachel appreciated the attorney pointing out that when we look at certifying Environmental Impact Reports, one of the things that gets looked for, which is very important, is the subject of have we talked about the topic; and that disagreement among experts is expected and is common; and just if you've tried to balance the issues and look at them and analyze them. He thinks that it's been done here between all the documents that have been done and the questions that have been asked and the response and information that's been given back.
- Chairperson Kachel remarked that the only thing he didn't see that he had hoped to see tonight, are some elevations of some alternative store fronts or sides or backs. The elevation that was presented tonight, that was sitting out in the lobby, shows what Walmart has in mind. So, as Commissioners we've got to each pass our own judgment whether we think that does create the proper image for Ceres.

Commissioner Kline made several comments:

- Contrary to what people think in the audience, we're not here to take away jobs. Right now those 85 jobs that are projected by Super Walmart are not in existence. If Walmert didn't already have an existing store in town, he does not believe the discussion and the direction that we're going in, or the arguments we have, would come into play. But we do have an existing Walmart here. We do have the tax dollars that are here. The people of Ceres now that are here with the existing Wlamart see what the impact is, and see what direction and everything it has going.
- If Super Walmart Center was built in this corner originally, he doesn't believe that Archcliff Drive would have been built with custom-built homes.
- It's hard for him to look at the immediate job impact of 85 jobs because, no one can say what the volume of the super center would be, and it does not address the possible lost jobs or the hours that would be cut because of the change of where the spending revenue is generated. And if business picks up at Super Walmart, but Rite Aid loses business; he's not saying that their jobs would be lost, but hours would be cut. That's

just a fact because all these businesses work, and Walmart is the same way, works on what their profit revenue is for their man hours of service.

- Then, as he looks at this whole project, and is looking for overriding mitigating circumstances; he stated that when he first went through the EIR report, he asked the question, “Is this all done with the assumption of the 99 interchanges being complete? The realignment of the El Camino Avenue?” Because those are not taking place and because of other things that are there; he looks at Don Pedro Road and three times the traffic influx. He went on to explain that the Planning Commission has a small project, CVS Pharmacy on Central Avenue, that was before them twice; it was passed by the Planning Commission, turned down by the City Council. It is requiring a right-hand turn lane for southbound on Central Avenue. It is also putting in a left-hand turn into the proposed CVS Pharmacy and left-hand turn off Central Avenue into the existing Walgreens. But, he looks at this Mitchell Ranch project with the prospective increase in traffic, and doesn’t see where there is the left-hand turn lane to go into Archcliff, a left-hand turn lane to go into the entrance in 1 and 2, and where there’s a right-hand turn lane at the corner of Don Pedro and Mitchell Road. So, he’s looking at the difference in the size of business that was before the Planning Commission with CVS Pharmacy and the impact that this is going to have, and yet he doesn’t see where those can help mitigate the impacts. So, it’s hard for him to turn around and say why do we have a small project over here and we’re requiring it, and a much large project and a much larger impact, and yet those aren’t there. It’s hard for him to look at overriding the mitigating circumstances.
- Tax dollars - According to the Staff Reports and different things, with no idea when Phase 2 or Phase 3 are going to take place, we’re swapping out tax dollars. According to the report that was presented, there’s a potential chance for tax revenue leakage.
- When we’re talking about air quality, and we’re talking about Walmart putting their trucks on an idle system for five minutes, but yet when the EIR was done, none of that stuff was taken into consideration. Then at the thirteenth hour, we get this revision from the Urban Crossroads, which was very difficult to try to understand all the changes, mitigating circumstances.

Commissioner Kline stated for all the reasons listed above, it’s very difficult for him to support; the mitigating circumstances to approve the EIR.

Commissioner Kline stated that he’d like to make a motion on Resolution 11-03 to deny the certification of the EIR; that the Commission comes to the conclusion that we cannot find overriding mitigations on the measures of urban blight in regards to what was addressed in the EIR of the potential closing of businesses, but it didn’t address what the potential blight was; that the air quality, as in the EIR stated. That was completed, was with the understanding of the Mitchell Road/99 and the Service Road/99 – Service

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interchange would be complete; and that we did get, at the thirteenth hour, an overriding Mitigation or development.

Mr. Westbrook informed Commissioner Kline, that report was done to address a letter that was submitted by the Air District. After the February 22<sup>nd</sup> meeting, if the Air District had not submitted a letter, the Commission wouldn't have gotten any additional analysis.

Commissioner Kline continued, by adding, because of the rejection of the Traffic Study, as it was completed with the assumption that the two projects would be completed with realignment of El Camino, and the impact on Don Pedro Road, we do not believe we can agreement with the overriding measures that outweigh the benefit of the project.

Chairperson Kachel asked if there was a second for that.

There was no response.

Chairperson Kachel asked if anyone else would like to try a motion.

Commissioner Molina motioned to certify the Environmental Impact Report, for the project, making findings as set forth in Draft Resolution PC 11-03. Commissioner Del Nero seconded. Carried 3/1. Commissioner Kline no, Commissioner Smith absent.

Commissioner Molina motioned to approve Resolution 07-31 Conditional Use Permits subject to the findings and conditions contained in the attached Draft Resolution PC 11-04. Commissioner Del Nero seconded.

Chairperson Kachel suggested that a discussion might be in order for that. We have a set of Revised Conditions which were handed to us. He asked if that would need to be mentioned specifically or is that already in the Resolution.

Mr. Westbrook replied that was included in your packet. This is a combination of the Revised Conditions that were read into the record at the February 22<sup>nd</sup> meeting, in addition to the Revised Conditions that were read into the record this evening. We'll need to make sure that those revisions are encompassed in the motion for both the CUP and the Vesting Tentative Map Resolutions.

Chairperson Kachel asked Commissioner Molina if his motion would include that change, to include these Revised Conditions.

Commissioner Molina responded yes.

Chairperson Kachel stated that he has been asked by one of the Commissioners to discuss the appearance of the building specifically. This has been brought up two or three times tonight, the stone façade as opposed to a flat or brick façade. Perhaps a little bit more of

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a three-dimensional treatment might accomplish the look of what some of us found attractive in the store in Atwater.

Commissioner Molina asked if that is something we can go ahead and request as part of this process.

Mr. Westbrook responded that generally that's something that would be requested of the applicant to see if they concur with that. Mr. Westbrook asked City Attorney Lyons if there is a thought on this; does the Commission have the ability to just add this requirement to the conditions.

City Attorney Lyons replied that that the Commission certainly has a right to impose what conditions it would deem appropriate regarding any modification of the elevation. They can impose the modifications as they see fit and as they desire. He thinks the problem, of course, that you have with doing it in the manner that's suggested is that you're talking about tonight kind of generally, "Well, this is what we'd like to see: We'd like to see a little bit different, but perhaps to add stone to it." He didn't hear that mentioned, or he didn't hear from the Commission exactly what type of enhanced architectural treatment the Commission desired. But in the past we have added conditions where we haven't specified the exact nature of the enhanced architectural treatment, but indicated what areas needed to be treated with some additional architectural enhancement and left the precise manner in which that was accomplished to Staff. We have done that in the past on numerous occasions, and he thinks something like a condition like that would be appropriate here, if that's the desire of the Commission.

Commissioner Molina said that he will make a motion.

City Attorney Lyons stated he thinks the Commission needs to tell the applicant and Staff what kind of architectural enhancements it would like to see for this elevation.

Chairperson Kachel agreed. From his perspective, he's taking this basically from what Walmart suggested, which was: "Go down to Atwater and see what we've just done. It's very similar but not exact." We've talked about some of the differences and some of the similarities. One of the things that struck him as attractive, and then Mr. Westbrook provided a series of photographs on the entire building, all the way around, including loading docks and a stone facade. He would see that as an architectural enhancement that perhaps brings the building out a little bit more than the flatter brick that's being proposed now. In other words, he'd like to see a different facing on the areas surrounding the two main entrance doors, and that facing would be similar in nature to that which is in the store to our neighbor to the south.

Commissioner Molina said that makes sense.

Chairperson Kachel reiterated that he very disappointed they didn't provide us with other elevations. However, he is not uncomfortable with the current elevation as proposed and presented in the slide tonight, which is part of the record, and that's the building they intend to build. He just suggested that perhaps we can make the surfacing a little bit more attractive or a little bit different or more consistent with the style of the one in Atwater.

He continued by stating if someone wants to make a motion along the lines of a modified front elevation, with a different surface treatment be done around the entrance of the store to the satisfaction of Staff, that's more consistent with the photographs that we've been given and the store we were asked to go take a look at, he would be in favor of that modification. So, we're asking that be done, pending staff's approval.

City Attorney Lyons stated that would be satisfactory.

Chairperson Kachel reported that we've had two or three discussions of amendments to the second motion, and asked if anyone else had any other discussions.

Commissioner Kline said that he wasn't comfortable with B18; they're going to look for new tenants, when actually it's "buyers." And then, basically they've washed their hands of it, because now it's the new property owner that is responsible for that new location.

Chairperson Kachel responded that he doesn't disagree with that, either. But he did notice that the wording all along, that originally there was to be a Development Agreement, which is a little different animal. But, there's an agreement that which has to be put together between Walmart as the current owners of the existing store and the City of Ceres, as to how that marketing will take place. We're not really the final arbiters on that. Technically, the Commission is the final arbiter on this matter, unless it's appealed, which is quite possible, to the City Council, and that would have to be hammered out between Walmart and the City Council to the Council's satisfaction, as to how exactly that the wording says and exactly how that would implemented. He asked if that's correct; it's out of our hands?

Mr. Westbrook replied that is correct.

Chairperson Kachel explained that's why he hasn't said much about that because that's why he asked about the timing of it. That was a concern he had, that it was previously before occupancy, which is kind of like after the fact; and Walmart has agreed that prior to a building permit. And he's sure they would just as soon have it prior to a building permit anyway, because that would allow them to do their marketing that much sooner. And, he's very concerned, and he thinks they've had through the life of this project for the last three or four years, there's been a lot of talk. The City has a history of a large commercial building which sat vacant or was occupied and left and was occupied and left. That store was a real headache for a long time, and not an attractive situation. He just knows, listening to City Council people, public statements, there's a real awareness

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of that, and he thinks there will be a good-faith attempt to negotiate. It's probably pretty tough for Walmart on this one to see that they do everything possible to get that building maintained and then filled up. But again, he thinks as Mr. Westbrook confirmed, that's sort of beyond our realm. So, with that, he'll call for a vote on the second motion by Commissioner Molina, seconded by Commissioner Del Nero. All in favor, as modified. Carried 3/1/1. Commissioner Kline no, Commissioner Smith absent.

Commissioner Molina motioned to approve 07-32, VTSM, subject to the findings and conditions contained in the attached Draft Resolution PC 11-05. Commissioner Del Nero seconded.

Chairperson Kachel stated that would include the amended conditions. However, that would not include the reference to this because that has to do with the tentative map. So this Resolution is as written, except the amended conditions which have been discussed previously, the discussion of the fronting of the building, would have nothing to do with the vesting map. So that would not be added to this one; only to the previous one. This is to create the individual parcels.

The motion carried 3/1/1. Commissioner Kline no, Commissioner Smith absent.

Chairperson Kachel announced that for everyone's information, this matter is an administrative act as opposed to a legislative act. What that means is that this decision is final here at the Planning Commission unless there is a formal appeal filed to the City Council by 5:00 P.M. on April 14, 2011, with a filing fee of \$507.00, to the City Clerk. He further explained that if there is an appeal, there will be another hearing, but it will be the City Council that will be there instead of the Planning Commission.

He thanked everyone that's been through all these hearings, for being polite and respectful. He said this may sound really corny, but at the last meeting two or three people said the City Motto is, "Together We Achieve." That kind of hit him. He thanked everyone for their concern. If there is an appeal, there will be notice of it, and it will be in this same room, at some date set by the City Council.

**PUBLIC MEETING(S):**

None

**UNFINISHED BUSINESS:**

None

**MATTER INITIATED BY PLANNING COMMISSION AND STAFF**

None

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**REPORTS:**

None

**ADJOURNMENT:**

The Commission adjourned at 10:07 p.m. to the next regularly scheduled meeting of April 18, 2011.

APPROVED:

\_\_\_\_\_  
Bob Kachel, Chairperson

ATTEST:

\_\_\_\_\_  
Tom Westbrook, Secretary

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