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June 6, 2006

Mr. David Kiliman
Executive Director, Springfield-Sangamon County Regional
Planning Commission
200 South Ninth Street
Springfield, IL 62701

Re: Cobblestone Estates Preliminary Plan

Dear Mr. Kiliman:

As you know, I represent the Southwest Springfield Neighbors Association and a number of its individual members, including Roger Kanerva, Karen Reynolds and Deb Woods. This Association consists of persons in Cobblestone Subdivision and other subdivisions affected by the proposed West Wabash Wal-Mart, and Mr. Kanerva, Ms. Woods and Ms. Reynolds live on Cronin Drive in near proximity thereto.

I am writing concerning the Revised Preliminary Plan for Cobblestone Estates Subdivision filed by Cobblestone Development Company with the RPC on May 30, 2006. My clients obtained a copy of that Plan from your office.

This Preliminary Plan depicts no point of direct access to any secondary arterial road nor, for that matter, to Wabash Avenue. Indeed, it shows no access points to any road at all. As such violates the plain requirements of Section 153.120 of the Subdivision Ordinance, which requires that streets and rights of way be depicted. Also, subsection 21 requires submission of "written approval of the location of the access by the governmental agency with road jurisdiction." Wal-Mart has informed the neighbors that written approval of IDOT and the City Engineer has been obtained; however, the latest document we have from IDOT, dated April 25, 2006, does not itself constitute approval and indeed, directs the developer to submit further plans.

Nor does the Preliminary Plan appear to contain some the other information required by Section 153.120 of the Subdivision Ordinance, including without limitation, subsections (7), (8), (11), (13), (15), (17), (18), (19).

Note 6 of the Preliminary Plan attempts to skirt these requirements by saying “There will be no driveway access onto Archer Elevator Road, Iles Avenue, Hedley Drive, Meadowbrook Road or Wabash Avenue unless permitted by the regulating governmental agency and the City of Springfield.” That Note conveys no useful information, however, because it simply reflects the requirements of the subdivision ordinance itself.

Now, I understand from prior discussions, e-mails, and information handed out at the Wal-Mart open house, that Wal-Mart believes it has variances permitting *three* access points to arterial roads adjoining the site, with one access point each on Archer Elevator Road, Wabash Avenue and Meadowbrook Road. Wal-Mart apparently contends that the variance stems from a resolution passed in 1993 which approved a sketch map with variances.

I have reviewed the relevant resolution and the sketch map from 1993, and in my opinion, the resolution, even if read most favorably to Wal-Mart, allows at most a *single* access point, as opposed to three. The notes on the sketch map show that in approving it, the City Council contemplated S-2 Zoning for Wal-Mart’s site. Any variance of the Subdivision Ordinance approved pursuant to the resolution would have to be construed consistent with the notes on the sketch map.

Putting it another way, I contend that if the entire Wal-Mart site were still zoned S-2, then Wal-Mart might indeed have a variance for a single access point to a minor arterial or major arterial road for the site. However, since the zoning has been changed to B-1, then any variance granted in the 1993 resolution does not apply at present.

This interpretation is entirely consistent with the existing Preliminary Plan approved in 2003, which provides for no direct access to B-1 zoned lots. Rather, the 2003 Preliminary Plan depicts Yucan Drive bisecting the site and creating commercial lots to the north and south of Yucan Drive. These commercial lots would presumably have driveway access to Yucan Drive. In contrast, the proposal currently on the table shows *no* access points at all to *any* road and in fact, depicts a completely landlocked parcel. I simply cannot conceive how the Regional Planning Commission can approve a Preliminary Plan of a landlocked parcel.

Subparagraph 13 of Section 153.120 of the Subdivision Ordinance requires a preliminary plan to depict its storm drainage system. Again, while I understand there exist drainage studies which have been reviewed by the City of Springfield, the plain fact

is, the copy of the preliminary plan which my clients obtained from your office does not show any storm drainage system.

I will assume, however, that Wal-Mart will submit or has submitted separate drainage plans generally as depicted on other documents submitted to the City and the RPC in May, 2005 and on documents recently in evidence at Wal-Mart's public information open house. Those plans show a large (over 2 acres) detention pond to be constructed on the northern tier of S-2 lots adjoining Westgate Road, a pond with a permanent pool of water 6 feet deep. Wal-Mart also proposes to build a gigantic "noise attenuation" berm or wall on these lots, and it proposes to build fences which will face Westgate Road. Lastly, Wal-Mart proposes to use part of the lots as a driveway serving the Wal-Mart store, and of course, the detention pond is exclusively for the use of the Wal-Mart store.

In my opinion, the Springfield Zoning Ordinance does not permit the existence of a detention pond, a "noise attenuation berm," a driveway and a front yard fence on an S-2 lot to serve a contiguous B-1 use. Such features, had they been depicted on the preliminary plan as required, would violate the Zoning Ordinance.

I should add that to the extent Wal-Mart claims to have the necessary variances, then under Section 153.201 (d) of the Subdivision Ordinance, the RPC cannot approve or disapprove this Preliminary Plan, but can only make a recommendation for approval or disapproval to the City Council. The City Council must then consider the preliminary plan in accordance with the requirements of Section 153.201(c). This implies, then, that the Plan Commission should make findings now for the benefit of the City Council as to the factors listed in that section, which are as follows:

(c) A variation from the requirements of this chapter may be granted if the planning commission finds that the subdivision substantially complies with the following requirements:

- (1) The intent of the chapter is maintained;*
- (2) Extraordinary circumstances of topography, land ownership, adjacent development or other circumstances not provided for in the chapter exist;*
- (3) The extraordinary circumstances will result in a hardship, not merely an inconvenience;*

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(4) *The circumstances upon which the request for variance is based are not common to most other tracts of land;*

(5) *The circumstances upon which the request for variance is based are not the result of the subdivider's affirmative act or failure to act; and*

(6) *The purpose of a variation is not based exclusively on the desire to eliminate development costs at the expense of the public improvement standards as outlined in this chapter.*

Naturally, my clients and I contend that this proposed plan in general, and the requested change from the 2003 approved Preliminary Plan in particular, cannot possibly meet these requirements. The proposal fails on each and every one of these points. It would needlessly extend this letter to detail why; suffice it to say that the change from the 2003 Preliminary Plan is motivated not by any extraordinary circumstances other than extraordinary greed and indifference to the neighbors.

For the foregoing reasons, my clients object to this proposed revised Preliminary Plan. I am requesting an opportunity to appear and be heard at the Land Subdivision Committee meeting on June 8, 2006 as well as at the Regional Planning Commission meeting on June 21, 2006. I request the opportunity to ask questions of Wal-Mart's and Cobblestone Development's witnesses at these meetings.

Sincerely,


John M. Myers

cc: Southwest Springfield Neighbors Association
Cobblestone Development Co.
Roger Kanerva
Deb Woods
Asst. Corporation Counsel Tracy Johansson
Steve Shroll