

## GENERAL INFORMATION

Applicant: Walmart Realty Management

Location: 701 E 78th Street  
700 American Boulevard East

Request: Change of Condition in Case 9951A-02

Existing Land Use and Zoning: Retail sales; zoned Regional Commercial Planned Development CR-1 (PD)

Surrounding Land Use and Zoning: North – Interstate 494 right-of-way  
South – Office, warehouse and multiple-family dwelling; zoned FD-2 and R-4  
East – Hotels; zoned FD-2 and FD-2 (PD)  
West – Retail shopping center; zoned B-2 (PD)

Comprehensive Plan Designation: Regional Commercial

## HISTORY

City Council Action: 03/29/93 – Approved a Comprehensive Plan Amendment, Rezoning, Preliminary and Final Development Plan for a Walmart retail store (Case 9951AB-93).

10/21/02 – Approved a Major Revision to a Final Development Plan for a garden center addition (Case 9951A-02).

## CHRONOLOGY

City Council	09/12/2016	Public Hearing Scheduled
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## PROPOSAL

Walmart Realty Management requests a change of condition in Case 9951A-02 to initiate the release of a City held escrow. On October 21, 2002, the City Council approved a Major Revision to Final Development Plans for Walmart to construct an approximately 3,000 square

foot garden center addition to the existing retail store located at 700 American Boulevard East. As a condition of approval of Case 9951-02, Walmart was required to enter into a development agreement with the City that required the applicant to establish a \$30,000 escrow fund intended to address ongoing Code violations related to outdoor storage and display of merchandise. As no related Code violations have occurred since the establishment of the escrow in 2003, Walmart is now requesting that the escrow be released per the adopted terms of the development agreement. To approve this request, condition #1 of Case 9951A-02 must be amended from:

- 1) A development agreement, including all conditions of approval, be executed by the applicant and the City. The development agreement shall include provisions for establishing a permanent and replenishable escrow fund in the amount of up to thirty thousand dollars (\$30,000) to assure compliance with City Code requirements, Conditions of Approval and requirements of the development agreement. Violations found by the City shall be charged against the escrow at the rate of one thousand (\$1,000) per violation per day. The development agreement shall specify a procedure for notification when violations are detected.*

To:

- 1) A development agreement, including all conditions of approval, be executed by the applicant and the City.*

By amending the condition as noted above, specific reference to the required escrow account will be removed, thereby allowing for the release of the escrow as directed by the terms of the development agreement.

## ANALYSIS

The subject escrow account terms are fully described within the development agreement executed by Walmart and the City on July 9<sup>th</sup>, 2003. The development agreement and approval letter for Case 9951A-02 are attached. The development agreement outlines the circumstances and procedures by which the City would draw upon the \$30,000 escrow to address violations of City Code. In addition, the development agreement includes a provision (section 1.d.vi) that the escrow requirement will be removed if the property remains violations-free for a period of 5 years. Should the property be violation-free for a 5-year period, the City must release the escrow and remove the condition from the development agreement.

According to the City's Environmental Health Division, there have been no substantiated City Code violations at the Walmart property located at 700 American Boulevard East since the development agreement was executed in 2003. The City has not drawn on any funds in the subject escrow account. Given that the property has been free of substantial violations for a period of 13 years, staff recommends the escrow be released per the terms of the executed

development agreement associated with Case 9951A-02. Release of the escrow requires Condition #1 of Case 9951A-02 be changed to strike the specific requirement of the escrow account.

## **RECOMMENDATION**

Staff recommends approval of the requested change in condition through the following motion:

In Case PL2016-133, I move to adopt a resolution approving a change of condition for Case 9951A-02, authorize the development agreement to be amended to reflect the revised wording of Condition #1, and to direct staff to release the escrow account associated with the Walmart property located at 700 American Boulevard East.