

## THROW THE BUMS OUT: TWO CASE STUDIES AT THE LIMITS OF WAL-MART'S RETAIL EMPIRE

*Jesse LeCavalier*

Swiss Federal Institute of Technology, Zurich, lecavalier@arch.ethz.ch

**ABSTRACT:** This paper will examine two case studies related to the spatial practices of Wal-Mart Stores, Inc. in order to better understand how instruments of governance and planning can be circumvented or creatively deployed. The first case, regarding Wal-Mart and Vermont, demonstrates how architecture is not the result of politics but produces its own, while the second, in Hercules, California, will demonstrate the capacity of instruments of governance to be deployed in novel ways. Looking closely at these two instances can contribute to a larger understanding of how architecture, planning, and politics intersect.

**KEYWORDS:** Wal-Mart, Real Estate, Eminent Domain, Vermont, Hercules

### 1 WAL-MART AND TERRITORY

This paper will examine two case studies related to the spatial practices of Wal-Mart Stores, Inc. in order to better understand how instruments of governance and planning can be circumvented or creatively deployed. The first case, regarding Wal-Mart and Vermont, demonstrates how architecture is not the result of politics but produces its own, while the second, in Hercules, California, will demonstrate the capacity of instruments of governance to be deployed in novel ways. To examine these two cases, I will use a combination of material including legal documents, records of city council meetings, real estate maps, and site visits in an effort to understand the implications and possibilities of such inventive approaches to land use regulation. Doing so suggests the political capacity of architecture as well as new avenues of public engagement or surprising techniques for collective action in the shaping of future cities.

Wal-Mart Stores, Inc.—more commonly known simply as Wal-Mart—masks itself with an image of small town Americana and humble values. However, behind this lies a sophisticated operation whose scale and reach is astonishing. In 2007, for example, Wal-Mart secured the top position on the Fortune 500 list with earnings for the year of over 351 billion dollars, making it America's largest corporation and the world's largest retailer. While the spaces of other large companies are often concentrated in corporate headquarters or office parks, the space of Wal-Mart's retail empire comprises a diffuse net that covers the entire United States.<sup>1</sup> It opens a new store almost once a week and has its own real estate company and its own architecture division.

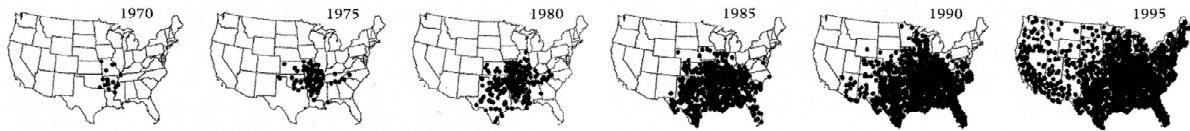
Wal-Mart's primary units of growth are large shed buildings that are calibrated to align specifically with the company's logistics enterprises and are deployed as standards to extend both territorial and market control. By mining vast quantities of information that it regularly collects and by mobilizing its efficient logistics machine, Wal-Mart is able to maintain unparalleled control over its expansive operations. Wal-Mart's size and reach can be one the company's biggest sources of power but can also become one of its greatest liabilities. According to the retailer's own account, it was sued 4,851 times in the year 2000 alone—nearly once every two hours.<sup>2</sup> It is also currently the defendant in the largest class action lawsuit in history in which 1.6 million plaintiffs are suing Wal-Mart for discriminatory labor practices. Though less

---

<sup>1</sup> The company has nearly saturated its sales area in the United States because “fully 60 percent of the entire U.S. population lives within 5 miles of a Wal-Mart location and 96 percent are within 20 miles.” (Source: Matthew Zook and Mark Graham, “Wal-Mart Nation: Mapping the Reach of a Retail Colossus,” in *Wal-Mart World: The World's Biggest Corporation in the Global Economy*, ed. Stanley D. Brunn (London: Routledge, 2006), 20.)

<sup>2</sup> Richard Willing, “Lawsuits a Volume Business at Wal-Mart,” in *USA Today*, August 13, 2001.

spectacular, many of these conflicts with Wal-Mart, including that of Vermont, are at community levels and concern the company's real estate procedures and urban impacts.



**Figure 1** Diffusion of Wal-Mart stores from Bentonville, Arkansas

## 2 LOCATION, LOCATION, LOCATION

Vermont was the last of the United States to have a Wal-Mart store within its borders. Largely because of local conviction that the Bentonville-based retailer's presence in the state would increase traffic, threaten local businesses, and produce "urban sprawl," opponents waged a tenacious policy and media campaign that kept the company at bay for several years. This struggle between the small state and the large corporation was seized upon by the news media whose coverage of the conflict consistently relied on military comparisons with headlines like: "Battle of Vermont: Wal-Mart Plots its Assault on Last Unconquered State"; "Wal-Mart Lost Battles, Won the War: Vermont Store Opens"; "Waging War on Wal-Mart"; etc.<sup>3</sup> Though perhaps overstated, these analogies do provide a useful way to understand the approaches adopted by both sides in pursuit of their aims. In spite of resilient opposition, Wal-Mart continued its high-profile policy-based efforts to gain purchase in Vermont. Simultaneously, and more quietly, the company proceeded to systematically build a physical line of stores along the Vermont border. This blockade of retail outlets proved to be more potent than policy negotiations because it effectively saturated the market without ever entering it. By the time Wal-Mart was allowed entry into the state, the real "battle" had already been won.



**Figure 2** Vermont, the last state in the union to have a Wal-Mart

Confronted by Wal-Mart's imminent arrival, concerned citizens, flatlanders, "New Ecotopians," and even the Vermont government mobilized their resources to frustrate the company's entry into the state.<sup>4</sup> Most of the usual approaches were adopted including petitions, demonstrations, and the strict enforcement of

<sup>3</sup> These articles include Frederic M. Biddle, "Battle of Vermont: Wal-Mart Plots Its Assault on Last Unconquered State," in *Boston Globe*, July 18, 1993; Malcolm Gladwell, "Wal-Mart Encounters a Wall of Resistant in Vermont," in *The Washington Post*, July 27, 1994; John Greenwald, "Up Against the Wal-Mart," in *Time*, August 22, 1994; Ross Sneyd, "Wal-Mart Lost Battles, Won the War: Vermont Store Opens," in *St. Paul Pioneer Press*, September 20, 1995; Pam Belluck, "Preservationists Call Vermont Endangered, by Wal-Mart," in *The New York Times*, May 25, 2004; George F. Will, "Waging War on Wal-Mart," in *Newsweek*, July 05, 2004; and Alex Beam, "Wal-Mart and the Battle of Vermont" in *The Boston Globe*, September 12, 2007.

<sup>4</sup> "Flatlanders" is a term used by native Vermonters to describe outsiders who have moved to the state. "New Ecotopians" is a term established by the marketing firm Claritas to describe the demographic group made up of "consumers with above-average education who are technology-oriented and civically active. They are more likely than other Americans to make bread from scratch, drive a jeep, watch the Learning Channel and read *Outdoor Life* and *American Health* (Source: Malcolm Gladwell, "Wal-Mart Encounters a Wall of Resistant in Vermont," in *The Washington Post*, July 27, 1994). According to Claritas, Vermont has 20% more New Ecotopians than the national average.

---

design guidelines. However, in the case of Vermont, other more inventive measures were taken. For example, in an effort to raise awareness of the situation, The National Trust for Historic Preservation—a private non-profit organization dedicated to the preservation historic places—included the entire state in its annual list of “11 Most Endangered Places” in both 1993 and 2004.<sup>5</sup> Though this inclusion has no immediate policy impact, it nonetheless holds significant sway over public opinion. At the governmental level, Howard Dean, former presidential primary candidate and the governor at the time, flew to Arkansas to meet with David Glass, the CEO of Wal-Mart. According to Dean, “We had a good meeting. I don't think they'd had many governors come to meet with them. I wanted them to understand that we're not against Wal-Mart, but that we're just against suburban sprawl... They agreed to consider downtown locations in the future.”<sup>6</sup> As if seeking to broker peace with hostile invader, Dean's ambassadorial role is significant because it implicitly elevates the status of Wal-Mart beyond that of a mere retail operation. Indeed, Wal-Mart already demonstrates many characteristics common to nation-states and Dean's diplomatic efforts only reinforced this.<sup>7</sup> The governor's focus on property and territory is revealing because asserting that the state has no opposition to Wal-Mart as a retail enterprise but instead opposes its choice of sites suggests that the conflict is not ideological or aesthetic but spatial.

Wal-Mart has consistently relied on a territorial strategy to expand its operations and thus spatial concerns have always been central to its approach. As the company originated in rural areas serving a dispersed clientele, it adopted a procedure of peripheral market saturation. According to Sam Walton, the company's founder, “We figured we had to build our stores so that our distribution centers, or warehouses, could take care of them, but also so those stores could be controlled...each store had to be within a day's drive of a distribution center.”<sup>8</sup> A claim like this supports an understanding of Wal-Mart's operations as a dynamic totality rather than a collection of isolated retail locations and is significant because it helps illuminate how highly calculated their operation is. Walton goes on to write, “We never planned on actually going into the cities. What we did instead was build our stores in a ring around a city.”<sup>9</sup> Though one can be tempted take Walton's anecdotal statements casually, this one has been backed up by a recent study that found 49 percent of Wal-Mart locations are within 500 meters of a city boundary, and 18 percent of stores are within 100 meters of a city boundary.<sup>10</sup> This same geographical precision of property acquisition played no small role in Wal-Mart's efforts to enter the Vermont market.

Faced with intense opposition within Vermont, Wal-Mart adopted an aggressive siege strategy and proceeded to systematically surround the state with outlets in attempt to lure its inaccessible target market across the borders into New York, Massachusetts, or sales-tax-free New Hampshire. One reporter even suggested that Wal-Mart was building a “Maginot Line of four open or soon-to-open stores along the state's border.”<sup>11</sup> If Wal-Mart could not enter Vermont, it would get as close as possible and distribute its locations

---

<sup>5</sup> The other entries for the 2004 list of “11 Most Endangered Places” include: 2 Columbus Circle, New York; Bethlehem Steel Plant, Pennsylvania; Elkmont Historic District, Tennessee; George Kraigher House, Texas; Gullah/Geechee Coast, South Carolina; Historic Cook County Hospital, Illinois; Madison-Lenox Hotel, Michigan; Nine Mile Canyon, Utah; and Ridgewood Ranch, Home of Seabiscuit, California; and Tobacco Barns of Southern Maryland, Maryland. The 1993 list also includes the following: Brandy Station Battlefield, Virginia; Downtown New Orleans, Louisiana; Eight Historic Dallas Neighborhoods, Texas; Prehistoric Serpent Mound, Ohio; Schooner C.A. Thayer, California; South Pasadena/El Sereno, California; Sweetgrass Hills, Montana; Thomas Edison's Invention Factory, New Jersey; Town of Ste. Genevieve, Missouri; and Virginia City, Montana. (Source: [www.preservationnation.org/issues/11-most-endangered/](http://www.preservationnation.org/issues/11-most-endangered/))

<sup>6</sup> Sally Johnson, “Vermonters are up against the Wal-Mart - effort to stop retail chain from entering Vermont,” in *Insight on the News*, Jan 10, 1994.

<sup>7</sup> Wal-Mart is used by economists as a bellwether for consumer confidence, it was able to deliver aid to victims of Hurricane Katrina faster than the U.S. National Guard, and its environmental initiatives could position it as a leader in sustainability efforts. According to Matthew Zook, “While not a nation-state in the classical sense, Wal-Mart is nevertheless a central actor in the development of local and national economies, cultures, and politics around the world.” Zook and Graham, 17.

<sup>8</sup> Sam Walton, *Sam Walton: Made in America: My Story* (New York: Bantam, 1992), 140-141.

<sup>9</sup> *Ibid*, 141 (author's emphasis).

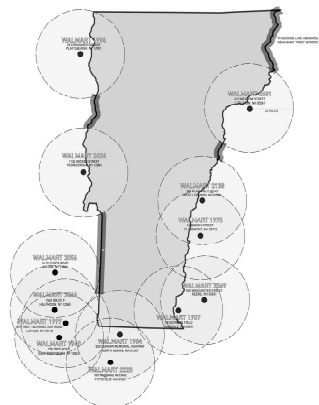
<sup>10</sup> Zook and Graham, 2006, 23.

<sup>11</sup> Frederic M. Biddle, “Battle of Vermont: Wal-Mart Plots Its Assault on Last Unconquered State,” in *Boston*

to ensure saturated border coverage. As indicated, there are seven Wal-Mart locations within 5 miles from the border (two are even less than 2,000 feet away) and another six in a slightly larger ring around the state.<sup>12</sup> Taking a standard 20-mile radius as an index of coverage, the Vermont border is effectively sealed by Wal-Mart coverage. If one of the stakes in Vermont's "battle" against Wal-Mart is a kind of authentic "Vermont-ness," then Wal-Mart's spatial tactics would, according to its opponents, threaten this quality. By encircling the state with precisely targeted retail locations, Wal-Mart, without ever entering Vermont itself, effectively acquired the market territory it was pursuing. The state border that served as a political boundary is trumped by the "catchment areas" of the store locations and their strategic constellation effectively inscribes a new kind of elastic border within and around Vermont. Faced with the increasing migration of its tax-base, the state eventually agreed to allow Wal-Mart entry into its domain.



**Figure 3** Wal-Mart stores within 20 miles of the state border



**Figure 4** The parts of the Vermont border outside of the 20-mile catchment areas

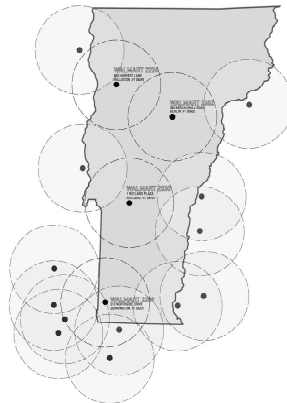
Wal-Mart's deliberate space-based take-over strategy is significant because it implicates architecture in practices of power and control. The single discount store or supercenter, when understood collectively, becomes an insidious territorial instrument capable of securing space within an established logic of market control. Architecture can be understood here not as a system of isolated buildings but instead as an

*Globe*, July 18, 1993. Perhaps it is worth noting that the comparison, however evocative, is misleading because the Maginot line of bunkers and fortifications was designed to serve protective and preventative purposes.

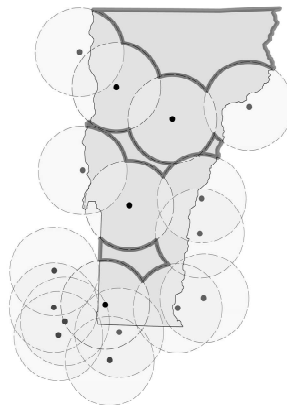
<sup>12</sup> Though there are Wal-Marts in Canada, there are currently no locations within 20 miles of the Vermont border.

---

interlinked network united in a common purpose. In this sense, rather than developing the symbolic content of its buildings, Wal-Mart emphasizes their symbolic presence and in doing so, asserts the importance of architecture within a territorial practice. By using buildings to create and enforce its own policy, one that eclipses federal divisions and desires, Wal-Mart demonstrates that architecture is not the result of politics; it *is* politics.



**Figure 5** Wal-Mart locations within the state border



**Figure 6** Areas of Vermont untouched by Wal-Mart

### **3 THROW THE BUMS OUT!**

The second case study also focuses on a highly contested entry bid on the part of Wal-Mart, this time to the small city of Hercules, California in the San Francisco Bay Area. The city council, with the support of its constituents, consistently thwarted the efforts of Wal-Mart to open a retail outlet in the town largely through bureaucratic means. Through the use of eminent domain rights, the City attempted to forcibly buy a parcel of land owned by Wal-Mart to prevent it from building a store in Hercules. Though the County Superior Court struck down this action on a technicality, Wal-Mart surrendered nonetheless and sold its land to the city in 2009, four years after the process began.

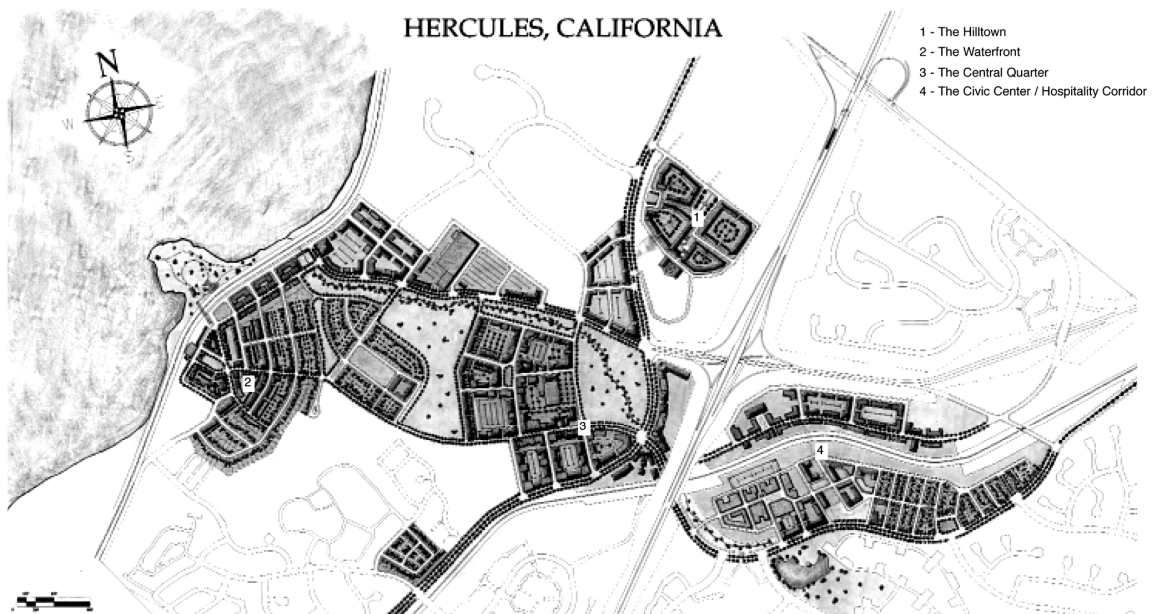
The Hercules story actually began much earlier — and with a bang. Dynamite, to be exact. In 1879 the California Powder Works acquired 3,000 acres from the 17,000-acre Pinole Rancho as part of an 1838 Spanish land grant. The area started manufacturing explosives immediately and after a series of divestures and reorganizations became Hercules Powder Company in 1913. After World War II, the emphasis expanded to include fertilizer manufacturing and in 1964 production of explosives ceased. The detailed

---

history of the site is accounted for elsewhere, especially in the reports of the staff of the Hercules Redevelopment Authority. For the purposes of this paper, it is significant to note that the larger Hercules parcel was subdivided and changed hands repeatedly through the intensive environmental remediation work required to mitigate the toxic soil conditions. These transactions, in combination with the zoning plan and “Plan for Central Hercules” adopted in 2000 (as the result of a community-wide design workshop), allocated the site for commercial use.



**Figure 7** The recently constructed Bayside development of Hercules, CA



**Figure 8** Resulting plan after community design workshop in 2000

On November 7, 2005 the title for the parcel was granted to Wal-Mart Stores, Inc. Shortly after, on December 13, 2005, Wal-Mart submitted an application to the City of Hercules in an effort to gain approval to build a 141,685 square foot Wal-Mart discount store. According to the developers acting on behalf of Wal-Mart:

---

The building architectural theme is of a Main Street style and uses construction materials that are widely found in the local area. Architectural materials such as concrete masonry block, brick veneer, wood siding, awnings, shingle roofing, and exterior plaster finish will be utilized on the building. Proposed colors are earth tone with multi-color accents. The building's walls will be broken up by offsets of the roofline, architectural pop outs, articulated entry vestibules, accent wall colors and other interesting and attractive features.<sup>13</sup>

This proposal was denied by the Redevelopment Agency on the grounds that it was not in accordance with the 2000 "Plan for Central Hercules" that promotes high-density pedestrian-oriented development. The city commissioned a peer-review of the proposal, which concluded that "Wal-Mart is not an appropriate retailer to serve Hercules residents, a Wal-Mart could deter consumers seeking a higher-end retail experience in Hercules, and the presence of a Wal-Mart would affect the types of businesses that locate in Hercules."<sup>14</sup> Based on this recommendation, the City also found that Wal-Mart's "proposed use and densities" would be inconsistent with the town's General Plan. Without dwelling on the minutiae of Conditional Use Permit Requests, Variance Requests, Environmental Impact Reports and the like, it will suffice to note that Wal-Mart then resubmitted its application on March 31, 2006 in an effort to conform to the requests of the City. The revision called for a smaller building (roughly 100,000 square feet) that would include groceries and would be open 24 hours a day. These are significant concessions for Wal-Mart because they require more staff, maintenance, and distribution requirements appropriate for handling food. The company also modified the design of the building as follows:

Per the Initial PDP, the building architectural theme includes elements of Craftsman architecture. Architectural materials such as wood siding and cement plaster with stone and brick veneer will be utilized on the buildings. The buildings will have metal seam roofs. Proposed colors are earth tone with multi-color accents. The buildings' walls will be broken up by offsets of the roofline, architectural pop outs, articulated entry vestibules, accent wall colors and other interesting and attractive features.<sup>15</sup>

Significant in the application is the emphasis both on architectural features and format. Though the community objected to Wal-Mart's bid on programmatic, urban, and architectural grounds, the response by the company is constrained by its limited architectural vocabulary. To handle to such critiques, the best it can do is make a store smaller in footprint and more articulated in façade. These design "solutions" are reinforced in a similar way by the narrow scope of the New Urbanist planning document of the City of Hercules. Derived largely from a set of architectural references that predate large format discount retail, plans like these demonstrate their inflexibility when confronted with incompatible building types.

---

<sup>13</sup> Hercules Bayside Marketplace: Application for Development Review. Submitted December 14, 2005 to the City of Hercules Planning Department by PacLand on behalf of Wal-Mart Stores, Inc.

<sup>14</sup> Quoted in City of Hercules Planning Commission Staff Report, February 6, 2006, page 9. The full report, *City of Hercules: Peer Review of the Economic Impact Analysis of the Lewis / Wal-Mart Bayside Marketplace Project*, was prepared in September, 2005 by Strategic Economics in association with Main Street Property Services, Inc.

<sup>15</sup> Hercules Bayside Marketplace: Revised Application for Development Review. Submitted March 31, 2006 to the City of Hercules Planning Department by PacLand on behalf of Wal-Mart Stores, Inc.

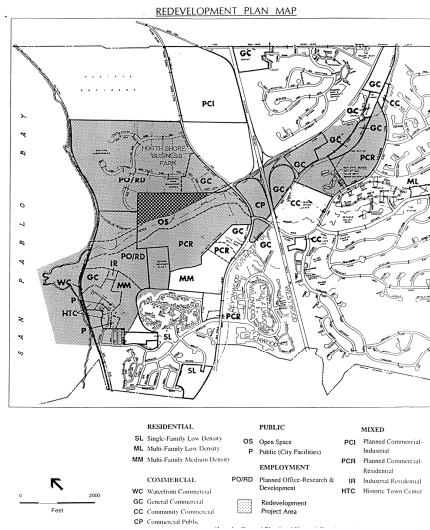


Figure 9 Hercules Zoning Plan with contested “Parcel C” indicated

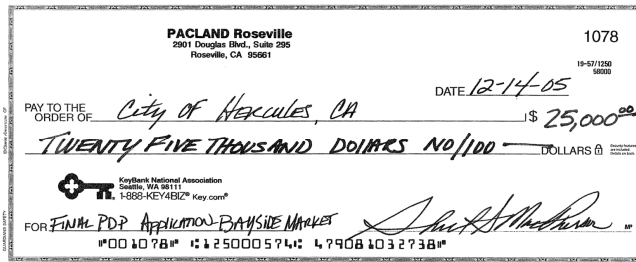


Figure 10 Wal-Mart application fee

Even before Wal-Mart submitted its revision, the City of Hercules and the Redevelopment Agency had already begun proceedings to establish a Resolution of Necessity for the acquisition of the property from Wal-Mart that would be put before the council on May 23, 2006. Their justification for drafting such a resolution was based on the power of eminent domain in which a government can acquire property for “public use” in exchange for “just compensation.” In the case of Hercules, the city, based on testimony from its citizens and constituents, determined that it would be in the public’s interest to forcibly prevent Wal-Mart from opening a store in its jurisdiction. In one especially fervent statement, a resident of Hercules urged the City Council to do whatever it could and to “throw the bums out!”<sup>16</sup>

Eminent domain has a fraught history in the United States but has most recently been upheld by the Supreme Court case *Kelo v. The City of New London*. Eminent domain is often used as a means to acquire territory in order to implement infrastructural improvement projects that were obviously intended for “public use” and quality of life improvements. However, understanding what constitutes “public use” has been complicated by different ways of measuring a proposal’s outcomes. In recent cases, the “public good” that would attend a large new commercial development is often linked to abstract notions of overall economic development. Consequently, the justification for an eminent domain taking becomes more ambiguous and also able to be applied to commercial projects. In *Kelo v. City of New London*, the court ruled 5-4 in favor of the city and upheld that its takings were justified because they are intended to improve the economy, create jobs, and revitalize the area. In her dissenting opinion, Sandra Day O’Connor wrote, “Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political

<sup>16</sup> City of Hercules City Council, *Redevelopment Agency Meeting and Public Hearing*, May 23, 2006, transcribed by author.



process, including large corporations and development firms.”<sup>17</sup> The opinion of the 2004 case *County of Wayne v. Hathcock* put the issues in similar terms: “If one’s ownership of private property is forever subject to the government’s determination that another private party would put one’s land to better use, then the ownership of real property is perpetually threatened by the expansion plans of any large discount retailer, “megastore,” or the like.”<sup>18</sup> In both statements, the implicit belief seems to be that the will of private entities will trump those of the public.

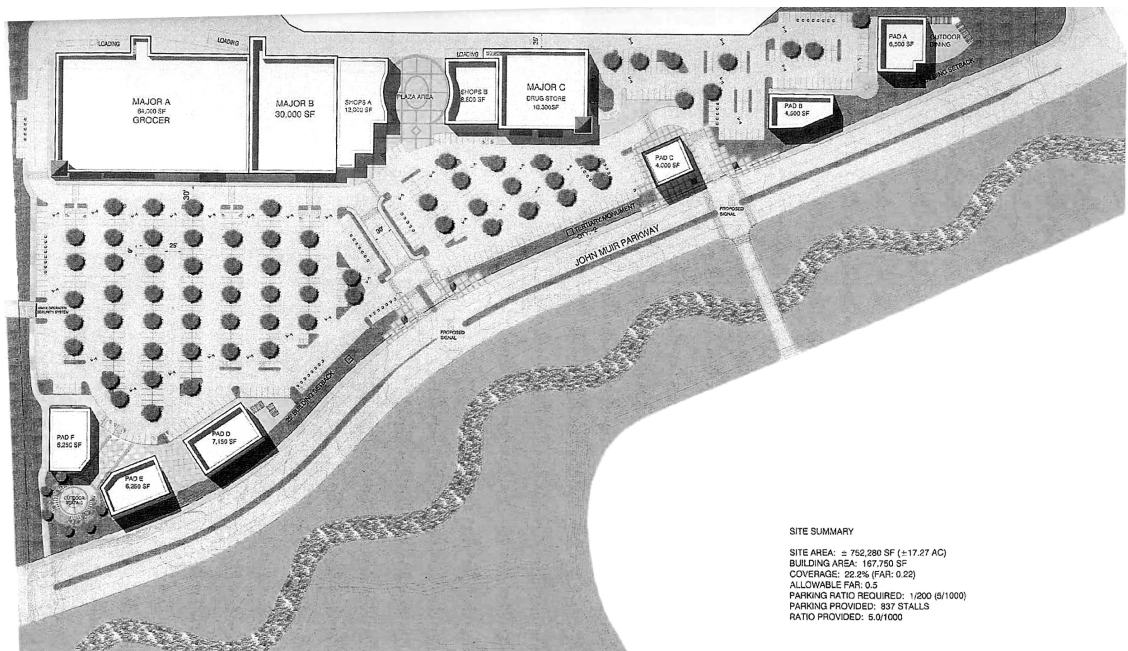


Figure 11 Original concept for development of “Parcel C”

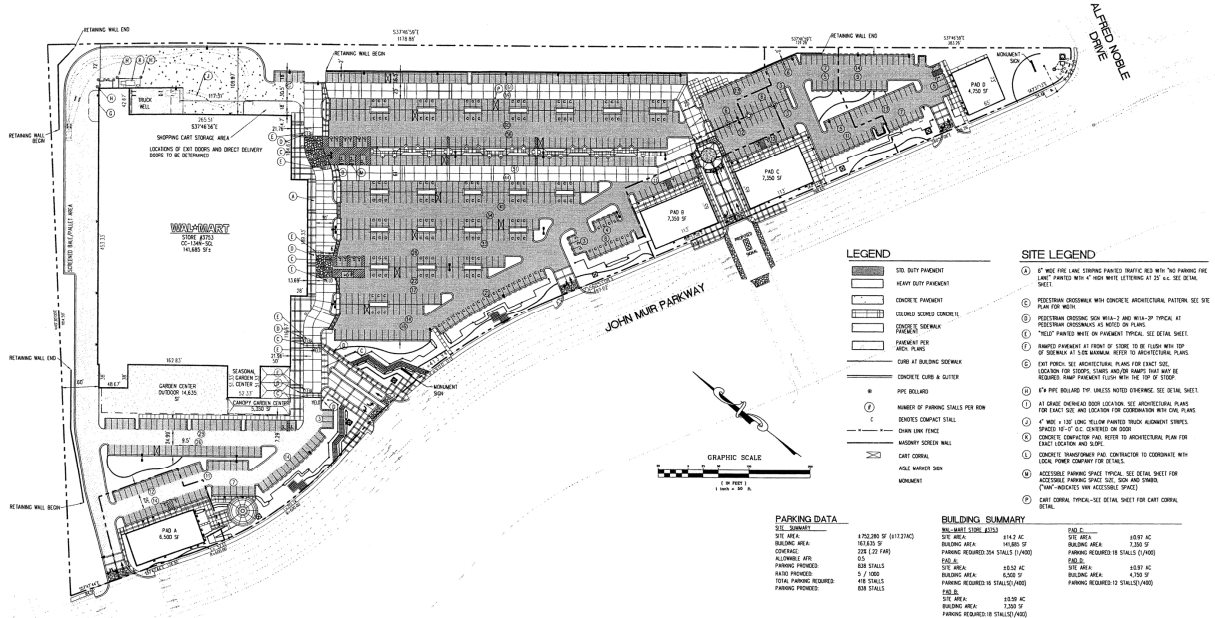


Figure 12 Wal-Mart’s initial proposed site plan

<sup>17</sup> *Kelo v. New London*, 04-108 U.S. 469 (2005). Dissenting opinion of Justice Sandra Day O’Connor, June 23, 2005.  
<sup>18</sup> *County of Wayne v. Hathcock*, 684 N.W. 2d765 (Mich. 2004).

---

The case of Hercules is different because the opposite occurred. Rather than foreclosing on individual property owners, the city forcibly bought land back from one of the largest corporations in the world. Furthermore, it did this as a result of intense community involvement. How can we account for this and what does it suggest about the role of government and participation in planning processes? Certainly the small size and relatively high affluence of a town like Hercules played a role in the consistent community involvement. As the proceedings were drawn out and costly, there is a demonstrated willingness on the part of the taxpayers to “invest” in this process. Also significant is the city council’s willingness to take legal risks knowing that they are acting on behalf of their constituents. Threatening Wal-Mart with an eminent domain taking was a surprising move and was resolutely supported by the citizens’ testimony at the May 23, 2006 public hearing. In spite of the assertions from Wal-Mart’s legal representation that the city’s resolution to buy land from the company would “not withstand judicial scrutiny,” the council voted to do so unanimously. In the end, the Superior Court of Contra Costa County found that the City of Hercules eminent domain rights had expired but the message to Wal-Mart was clear and they consented to sell their property back to the city.

In a similar way that Wal-Mart circumvented planning instruments in Vermont through the undeniable presence of its buildings, Hercules frustrated Wal-Mart’s efforts through a sustained bureaucratic siege. Though they never admitted it, it seems that the City Council was never going to let Wal-Mart build a building in Hercules. Such conviction on the part of a local government against a corporation and developer is uncommon and begs the question of its source. According to urban governance scholar Paul G. Lewis: “The *institutional configuration* of a region’s local governance influences the perceptions, opportunities, and actions of elites. Most notably, the configuration involves the relative fragmentation or unity of the public sector.”<sup>19</sup> In the case of Hercules, the Hercules General Plan drafted in 2000 played a central role in producing this public sector unity. By relying on a somewhat visionary document that had already been agreed upon by the community, the city council could operate with the confidence, and even audacity, that it did. This is especially relevant to architecture and urban design because it offers evidence of the power of such design documents. Through the articulation of a collective vision for a region’s development, the City of Hercules could then more easily make decisions about how better to direct that growth. What seems necessary then, at least in the case of the United States, is to invest considerable creative capital into developing an expanded architectural and urban vocabulary for these kinds of projects. The current “new urbanism” based on regressive models of pre-war inner suburbs is convincing in its comprehensive articulation but limited by its source material. Through a renewed commitment to articulating collective visions of growth it is hoped that alternative “new” urbanisms can emerge.

#### ACKNOWLEDGEMENT

The author would like to acknowledge the Swiss National Science Foundation for its research support and Doreen Matthews, Administrative Services Director and City Clerk of Hercules, California for her help with document acquisition.

---

<sup>19</sup> Paul G. Lewis. *Shaping Suburbia: How Political Institutions Organize Urban Development* (Pittsburgh: University of Pittsburgh Press, 1996), 2.