

Subject: Troxler and Wal-Mart

"You Weren't There: But I Was"

"Heed Lesson of Wal-Mart by Howard Troxler 1/23/05

When artist Christopher Still asked the question of when did the Tarpon Springs City Commissioners lose the power to say no, Mr. Troxler said there was an answer and then proceeded to give everyone a lesson in comprehensive land plans and zoning. I am sure that based on the articles he read and possibly some people he may have spoken with he thought he had the answer. Yet he was not at the meeting, but as one of the Tarpon Springs Commissioners, I was, and with that in mind would like to set the record straight as best I can. There were at least five reasons the Tarpon commission could have legally and safely said no, but since zoning was the issue in the article I will concentrate on that part of my decision.

Mr. Troxler was not quite right when he said that Tarpon had zoned the property GB(General Business.) In fact that parcel was originally zoned HB(Highway Business) and re-zoned GB a few years ago. Along with this re-zoning came some new rules for that property because GB zoning carries with it some very specialized requirements. To quote directly from the code, "The GB District is established to provide for the development of a centralized commercial area where Specialty retail, restaurant, office and residential uses are readily available. This district is intended to encourage redevelopment of traditional shopping areas and promote cultural tourism within the National Register Historic District and Cultural Preservation District which function to serve the immediate residential neighborhoods and the community as a whole." This description does not sound like the correct zoning for a Wal-Mart to me. The argument made by the City Staff and Wal-Mart lawyers was that this entire section of the code did not apply to Wal-mart as the parcel was about a mile outside the downtown area of Tarpon. Yet the City staff conceded that if Wal-Mart wanted to build in the downtown area it would not be permitted to do so based on the same code that they say permits them to build a mile away. In other words they would require one parcel that is zoned GB to meet all the requirements of the zoning but would allow Wal-Mart exceptions to the code.

There were two reasons I made the motion to deny the Wal-Mart application on the zoning issue and I felt that the other commissioners should have done the same. First, there is no mechanism in our zoning for requiring the entire and complete section of the code on one site zoned GB enforced, and then using only part of that same code on another parcel that is zoned exactly the same GB zoning, and not enforcing the same section. That is an interpretation, not a law and allows for a legal right of any commissioner to say no if he or she does not agree with that interpretation. Second, is the fact that the property was originally zoned HB which says, "The HB District is established to provide for predominately retail shopping and highway oriented service areas outside the central business district." That to me sounds like and is, a much better zoning for a proposed Wal-Mart than GB. As a side note, all the immediate properties surrounding the proposed Wal-Mart site, both on the north and the south are all zoned HB except for the Wal-Mart site which was zoned GB. It stuck out like a sore thumb.

In my opinion as a Commissioner, the best solution to this problem was to have had Wal-Mart apply for a re-zoning of the property back to the original zoning of HB which would be appropriate for that area. It appears Wal-Mart was not willing to do this because in the re-zoning process, traffic and environmental issues can be then more fully considered than when a property is already zoned. You may remember that traffic and the environment were the two main reasons the County Board of Commissioners turned down Wal-Mart a few months ago in Palm Harbor. For the reasons I have mentioned and at least 3-4 more which I do not

have room here to discuss, the City of Tarpon Springs, in my opinion, did have valid reasons to say no to this site plan. The other commissioners chose to go with the Wal-Mart and Staff experts instead of the two competent land experts who testified otherwise. In a democracy we all have the right to these choices. To answer Christopher Still's question: Chris, we did not lose the power to say no, it is just that a majority of the commission, right or wrong, did not exercise this option, and opted to say yes.

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