



PLANNING COMMISSION SPECIAL MEETING MINUTES

Firehouse Arts Center
4444 Railroad Avenue, Pleasanton, CA 94566

APPROVED

Monday, March 19, 2012

(Staff has reviewed the proposed changes against the recorded proceedings and confirms that these Minutes are accurate.)

CALL TO ORDER

The Planning Commission Special Meeting of March 19, 2012, was called to order at 7:00 p.m. by Chair Jerry Pentin.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Commissioner Blank.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Staff Members Present: Brian Dolan, Community Development Director; Janice Stern, Planning Manager; Larissa Seto, Assistant City Attorney; Steve Otto, Senior Planner; Natalie Amos, Associate Planner; Mike Tassano, City Traffic Engineer, and Maria L. Hoey, Recording Secretary

Commissioners Present: Chair Jerry Pentin, and Commissioners Phil Blank, Kathy Narum, Arne Olson, and Jennifer Pearce

Commissioners Absent: Commissioner Greg O'Connor

2. PUBLIC COMMENTS

There were no public comments from the audience.

3. PUBLIC HEARING MATTER

a. P12-0113, Angela Joe-Willmes and Linda Martin, Appellants (Kathy Wooley/Harris French & Associates, for WalMart Neighborhood Market, Applicant)

Appeal of the Zoning Administrator's (in this case the Community Development Director's) approval of a Zoning Certificate to operate a supermarket as a permitted use at 3112 Santa Rita Road within the hours of operation and delivery limits as set forth in the existing Conditions of Approval for PUD-84-4 (Ordinances Nos. 1035, 1165 and 1214 and Planning Commission Resolution No. 2691). Zoning for the property is PUD-C-O (Planned Unit Development – Commercial-Office) District.

Natalie Amos presented the staff report and described the scope, layout, and key elements of the application.

Commissioner Blank pointed out that a pharmacy is on the list of uses allowed at this market and inquired if the application includes a drug store.

Ms. Amos said yes. She explained that a pharmacy is considered an ancillary use based on how the applicant described it in its narrative and on the floor plan. She added that drug stores and prescription pharmacies are permitted as a conditional use, and since it is considered an ancillary use, it can be bundled together with food markets.

Brian Dolan stated that it is important to note that drug stores and prescription pharmacies are also an allowed use.

THE PUBLIC HEARING WAS OPENED.

Ms. Amos noted that the Appellants, Mss. Angela Joe-Wilmes and Linda Martin or their representatives were not present.

Dorothy Anderson, project site property owner, stated that she is the owner of the property under discussion. She indicated that Nob Hill was a very successful market for several years and that she was devastated when it decided not to renew its lease. She noted that, nonetheless, she continued to receive a large property tax bill for this property for two years while it remained vacant and paid the taxes, which in turn paid for City schools and government; hence, she feels that she owns a little bit of Pleasanton too.

Ms. Anderson stated that she was very delighted when somebody finally came to her with an offer to lease the property. She indicated that they had been working hard since 2010 to get a new tenant in the property, and they felt fortunate when somebody came along to rent to operate a grocery store. She noted that Neighborhood Market is not a big box; it is 33,000 square square feet, the size of an average grocery store. She

added that neighborhood residents from the area and people who come to the shopping center kept asking her when they were going to get another grocer in.

Ms. Anderson stated that she was disappointed that competitors are battling to try to keep her tenant out. She noted that the new tenant is only going to replace Nob Hill; it will be what Nob Hill was, except that it will have a different name on the front of the store. She indicated that she thinks this appeal is self-serving and a detriment to the people in the area who would be very happy to have this store go in.

Ms. Anderson stated that she hopes the Commission will welcome the WalMart Company and allow it to go into this property as soon as possible. She noted that it will be for her family, the good investment that they had thought it was when they bought the property in Pleasanton.

Tom Foley, property manager for the shopping center, stated that he has lived in Pleasanton for 35 years and, therefore, has a little inside knowledge of the community. He noted that as property manager at the center, he has gotten to know all the tenants and is really upset that there is a 70-percent vacancy in the shopping center. He added that the tenants' volumes are off by 40 percent, and there are people who have no understanding that what the property owner is trying to do is to replace a tenant with a grocery store for another tenant who has a grocery store. He explained that they are trying to complete the center and not have a 70-percent vacant center sitting in Pleasanton, which positively does no one any good; and without an anchor, it could be 90 percent vacant.

Mr. Foley stated that he has always had a policy that this is private property and there's no overnight parking. He added that the center is signed accordingly and indicates that any vehicles parked there overnight would be subject to being towed at the owner's expense.

Deborah Herron, Senior Public Affairs Manager for Northern California, stated that she gets to work with many people in a lot of communities in the Bay Area. She indicated that they are pleased to bring a WalMart Neighborhood Market to the Meadows Plaza Shopping Center where they are re-using an existing building to provide a grocery option to the neighborhood, businesses, and other customers. She noted that there will be very few minor sustainability upgrades to the building, making it more efficient as a grocery store.

Chair Pentin stated that he would like to give the Appellants another chance to speak.

There was no response from the audience.

Scott Raty, CEO of the Pleasanton Chamber of Commerce, stated that he is present this evening to speak in support of the Zoning Administrator's original approval for a Zoning Certificate to operate a WalMart grocery store in the Meadows Plaza Shopping Center, as well as of the small businesses in Meadows Plaza Shopping Center that

have been hurting since the closing of the Center's anchor tenant, Nob Hill, two years ago. He indicated that he has read and re-read PUD 84-4, the staff report, and the application itself, and the appellants have provided no compelling detail or testimony this evening upon which to challenge the Zoning Administrator's highly qualified conclusion that the application is in fact, consistent with PUD 84-4. He urged the Commission to reject the appeal unanimously and send a message of certainty to homeowners and business owners alike. He noted that in Pleasanton, those who follow the rules and act in accordance with the law will be treated fairly and have the freedom to exercise their rights within those laws, just as the owner of the Shopping Center and WalMart have done.

Teralyn Fredricks stated that she lives, works, and is raising a family in Pleasanton. She indicated that she has lived in Pleasanton for almost 20 years and owns two restaurants in town, one in Meadows Plaza Shopping Center which has been there for 30 years and she has been there for 12 out of those 30 years. She stated that the reason she is here tonight is because their shopping center is hurting with the loss of their grocery store, and any further delays could cause undue hardship to all the small businesses, the owner of the Center, the City's tax base, and folks looking for work here in Pleasanton. She noted that she has been fortunate enough and has enough resources to stay in business, but other businesses in the Shopping Center have not been as lucky.

Ms. Fredricks stated that WalMart chose its position to offer lower prices to its consumer and asked what is not to love about lower-priced groceries for the same product that one can get from the competitors. She added that WalMart will be offering health care, 401K plans, and 75-100 jobs in the City of Pleasanton. She noted that WalMart will be located on Santa Rita Road, a main thoroughfare in and out of Pleasanton, and people drive by that shopping center every day. She added that WalMart would have the same amount of traffic as when Nob Hill Foods was there, so there should not be any additional traffic impact.

Ms. Fredricks stated that the subject building has been used as a supermarket for over 20 years and that all WalMart is asking to do is change the name to Neighborhood Market. She added that any restoration to be done to the supermarket should not create any significant impacts. She indicated that this is a huge opportunity for the area and noted that neighborhood residents have talked to many residents in the area and taken polls and positions throughout the last couple of years since Nob Hill left, and over the last six months, hundreds of them have indicated that they are in favor of the new grocery. She concluded by saying that WalMart has the right to operate in the Shopping Center under the terms spelled out in PUD 84-4, and what they are asking is to allow this to be carried through with a new supermarket.

Jim Cence stated that he has been a resident of Pleasanton for over 40 years. He indicated that there are two things that concern him: one is that he likes to pick the supermarket that he can shop at, and he does not want someone to tell him where he

can and cannot shop; and second is that he thinks it is tragic that the shop owners that surround the former Nob Hill site are really taking a hit.

Ed Evans stated that he is a resident in the neighborhood since 2006, four blocks away from the former Nob Hill site, and he and his family have found that store very convenient. He noted that its hours were great and that it was nice to be able to come down and pick something up late at night. He added that he thinks it is great that the new store will create 75 new jobs, and it is difficult to tell people who are down at the unemployment office waiting in line for jobs that they cannot have a job because some people in this town do not like WalMart, or they do not like the name on the sign out front.

Mr. Evans stated that everyone just pledged allegiance to the flag, and everyone needs to work together to rebuild the community out of this recession. He added that here is an opportunity to generate 75 jobs, which will have a spillover effect to the other businesses in the community as those 75 people will have to go to lunch and will be eating at Golden Chopsticks or Girasole, and when they go home at night, they will be filling their tanks at the Valero gas station; so it is a win/win situation for all.

Linda Krikorian stated that she is also a resident in the neighborhood and that her family and she loved having a grocery store, Nob Hill, to walk to, and feel like another grocery store, whether it is WalMart or any other, should be given a chance. She added that she feels people are making this all about WalMart, but it is not; WalMart submitted the permits and did everything legally. She noted that nobody has a right to tell her where she should buy her groceries and how much she pays for them.

Maurice Turner stated that he has lived in Pleasanton for 26 years. He noted that he lives in the neighborhood and that Nob Hill was a great place to shop at. He indicated that he would sit at his window and look out on the street, and he used to see a lot of older folk walking down the street to Nob Hill and back. He added that he does not see that anymore and so he does not know where they go shopping now. He noted that there is a store around the corner, but that is certainly a little more expensive than what WalMart would be. He indicated that he is in favor of having WalMart get in there and get moving.

Kathleen Tollworthy stated that she is a naturalized citizen of America for 55 years and that the Constitution provides that its citizens have the right to be able to shop, buy, and live wherever they want. She indicated that it is a great opportunity to have WalMart come in; it is another store, and people can call it whatever they want. She noted that so many stores have come into Pleasanton since she came here in 1980, and it has become a "megatropolis" of different varieties where anyone can choose upscale or WalMart scale.

Ed Heuer stated that he lives about 150 yards away from the store and that he and his family were there before there was a Nob Hill. He noted that they loved having this new

store, which was truly a neighborhood store, and that they really miss it. He indicated that like everybody else, he is here obviously to support this new store.

Mr. Heuer stated that he wanted to ask the appealing parties tonight some questions and was shocked that they are not present. He stated that he wanted to know what the issue was for them, if it was traffic, because he cannot believe that it will be that much different than what the old Nob Hill generated. He asked if the issue is unions and what the model of a local neighborhood store is because 99 Ranch, Gene's Fine Foods, Fresh & Easy, and Trader Joe's are all non-union stores. He added that out-of-town local neighborhood stores, such as Grocery Outlet and Whole Foods, or a big box, Smart and Final, are all non-union as well. He further asked if the issue is the change of operation or that it is an eyesore, as there is no change of operation and that it is now an eyesore.

Mr. Heuer stated that he went online to look at WalMart's neighborhood store, and it is bright, clean, crisp, attractive, and welcoming, and it looks a lot like these other stores. He noted that the neighborhood loved Nob Hill, and the residents did not care if it was a union or non-union. He added that he felt sorry for local officials who have to put up with bullying from local unions. He asked the Commission to reject the appeal and not to let the bullies have their way.

Al Phillips stated that he lives in Livermore and that his wife works in Pleasanton. He indicated that this is more than just a discussion of WalMart moving in; this is more about property rights, sales tax revenue, and supporting the needs of the community. He noted that Mrs. Anderson has been making the payments here for the last couple of years, and no one else has been making the payments on it. He added that WalMart has put in a contractual agreement to lease the store, and there are outsiders trying to prevent that from happening. He indicated that he supports the store as well as Mrs. Anderson.

Kathy Stieg stated that she and her husband moved to Pleasanton in 1986 and started their own business in 1996. She indicated that to her, this simply seems to be an economic decision. She noted that the last time she drove through Downtown Main Street, she was stunned at the number of vacancies. She added that when they first set up their business in 1996, they were lucky to find a lease space Downtown, and now there are vacancies everywhere. She stated that she cannot see any downside to someone who wants to move into a building and to create jobs.

Robert Bacon stated that he has been in this town since 1966 and that first of all, he would like to commend the Planning Commission for approving this project. He stated that he thinks it is appropriate and it is good for the town. He added that bigger than that is this is going to be a job-creating machine, not just the 75 or 95 jobs that are going to be created on-site but related jobs for the businesses there. He noted that these people will now be able to hire more people, who will then have more money to spend someplace else. He added that it is a multiplier in the sense that when people go in to buy a sandwich, someone will be making the bread; when they buy a dress,

somebody has the job making boxes that the dresses go in. He stated that the importance of this in this economy is paramount. He thanked the Commission for its decision and hoped that there will be more decisions like this in the future.

Sharrell Michelotti stated that she had the privilege of serving both on the Planning Commission and the City Council in the City of Pleasanton and that she is here to support the people of Pleasanton. She told the Commissioners that their job, after reading the staff report, is very simple, as this is a permitted use; and so she wants to support them in their decision to deny this appeal, to be open to all the residents who are here to support this, to the businesses who need it, and to the people of Pleasanton who deserve it. She stated that WalMart has followed the rules and has done everything that needed to be done to be in compliance with Mr. Dolan's decision. She asked the Commission to uphold the original decision and welcome WalMart and allow it to move forward. She thanked the people for coming out and supporting this Pleasanton issue.

Pat Mayo stated that he lives about a block away from the shopping center and that he used to send his kids there to get milk, but he cannot send them across Santa Rita Road which has gotten insane. He indicated that it is time to get this done as the neighborhood needs a grocery store there. He added that anybody who says that WalMart is evil should see the posting that Apple just made on its money going off shore, but he carries an I-Phone. He asked the people to get real; they need a grocery store in the neighborhood.

Brad Hirst stated that he is present to support the staff recommendation. He indicated that he is not a WalMart customer and is not a huge WalMart fan; but he is a fan of customer benefits for the community of Pleasanton. He stated that he knows quite a bit about neighborhood retailing, shopping centers, and traffic circulation, and by every aspect, this is a win-win-win. He addressed the walkability of this particular application, noting that it will be easy, as pointed out by a previous speaker, to have young people and adults walk from the condominium project across the street and from the two apartment complexes just outside Hacienda Business Park. He added that it would not be easy to walk up to Fresh & Easy or 99 Ranch and asked where the opposition against Fresh & Easy and 99 Ranch is. He noted that this is a much better location for all of the neighborhood residents, for people who live east of Santa Rita Road off of Stoneridge Drive; it will be a very easy in-and-out. He added that his wife asked him if this would be opposed in Pleasanton if this were a Whole Foods, and he did not think that would be the case. He asked the Commission to support staff's recommendation.

Bill Fazakerly stated that he has lived in Pleasanton for 50 years, next to Raley's Supermarket. He indicated that he thinks he will probably continue to shop there but that this is a win-win for the residents around that neighborhood. He noted that he was expecting some opposition tonight but that it sounds like he will just add his voice to all the people who are supporting the Commission and the decision it has already made.

John Stoker stated that he has lived in Pleasanton since 1961 and has seen a lot of changes in this town. He indicated that he is here to support the market going in there. He noted that he lives very close to the complex, that he could actually walk to Nob Hill and would like to walk to WalMart. He expressed his surprise that the people who supposedly opposed this are not here tonight and asked the Commission to approve the application.

Donna Raabe stated that she and her husband have lived in the area 27 years. She indicated that she is not a hater of WalMart but expressed concern about how 66,000 people and a few more in the City's population would support another grocery store. She noted that she observed Nob Hill's "customership" going down, down, down and inquired where the people who will shop at this store will be coming from. She indicated that as somebody gains business, somebody else will lose business, and it could be Fresh & Easy or Safeway or Raley's. She stated that Nob Hill was planned or zoned to be a grocery store in either 1982 or 1985, and Levitz was rezoned for a furniture store. She added that if Nob Hill is not rezoned to something that is a family-friendly place, every grocery store in Pleasanton will lost 10 percent of its business, which may lessen its employees; so it will be a win-win for the current tenant going into the Nob Hill store, but a loss for some of the other stores.

Ken Morgan stated that he lives near the former Nob Hill store and is excited about the possibility of getting a store to replace Nob Hill. He indicated that he thinks it is a great use for the property and for the building that already exists, and the last thing he would like to see is for the building to remain vacant because that is never good for a neighborhood.

David Miller stated that he is a Pleasanton resident and noted that a lot of great arguments in support of Wal-Mart have already been presented, and he would like to take it one level higher and explain why people are really here tonight. He stated that people are here tonight because America is the greatest country in this world because of three principles in place that make it that way: (1) Property rights, which is the manifestation of one's work. He stated that when people work, they are able to acquire things that, under this Constitution, they are able to do and dispose of however they see fit and not how their neighbor sees fit. (2) Free markets. He stated that no one can tell anyone else whether or not he or she can open a store or not. He noted that people vote with their pocketbook, with their dollars, and the best ideas will win; the best solutions will be profitable. He added that those who cannot keep up will fail, but new businesses will pop up. (3) Rule of law; not the rule of mobs, not the rule of the majority. He stated that there are laws in place that all have agreed to follow and adhere to. He noted that this property has been zoned for a grocery, and it is just being replaced with another market. He added that people out there who are busy-bodies and have to go and tell the property owner what she has to do with her property and the business owners whether or not they can open a business is not what this country is about.

Kay Ayala stated she has been living in Pleasanton since 1983 and that it is nights like this that makes her decision even brighter. She thanked all those present for coming out because she did not think anyone was going to come out. She stated that she thought she was going to be the lone wolf here saying she surveyed her neighbors and her aerobics group, and all of them want a free enterprise system here in Pleasanton. She addressed the Commission that she thinks its job is easier tonight, and she appealed to all the people present tonight to go to the City Council meeting because the Council will also need their support. She thanked the Commission for doing its job and asked that it deny the appeal.

Chris Pareja stated that he actually has two business addresses in Pleasanton and that he is also registered to attend the Catholic Community of Pleasanton. He indicated that for full disclosure, he is actually a candidate for the House of Representatives governing this area. He stated that one of the things that has not been addressed previously in detail is that it is not only the property owner and the anchor tenant who are going to suffer, as well as the businesses in the complex that are dependent upon having an anchor tenant, but also people on fixed incomes and low incomes who will be brought into Pleasanton by recent legislation. He indicated that it is not fair to bring in lower income and affordable housing into communities and not provide options for them to get low-cost foods, which is one of the things that he has heard from the beginning as opposition to approval of this plan. He added that he has also heard, in talking with other citizens, that this is the same type of orchestrated effort that is happening with the other WalMart neighborhood stores, including the one in San Ramon. He indicated that he supports people's rights to unionize, but he does not support the views of this kind of bullying or the use of government zoning as a weapon against other citizens of the community. He added that it is not right and is almost a dysfunctional relationship kind of scenario where "if we cannot have you, then no one else can." He requested the Commission, as voiced by everyone except for one, to deny the appeal and move forward with bringing in the new WalMart grocery store into town.

Linda Gheno stated she has lived 30 years directly across from the shopping complex and that she liked having Nob Hill; however, she was not exactly in favor of this grocery store going in. She indicated that she has watched this whole area grow, and while she does not buy her groceries at WalMart, she is fine if WalMart wants to go in there. She stated that she is fortunate enough that she can drive all over the place to buy whatever she wants to buy, and she thinks it will be great for people in the area who do not have cars and who can walk over there. She stated that her main concern is that shopping carts are left all over the place. She indicated that she recently wrote a letter to the Mr. Dolan about WalMart shopping carts left all over around that City block and that nothing has been done. She indicated that she would really like to see some regulation about that because it trashes up the neighborhood. She added that she was afraid there would be RV's and campers in the parking lot, like those in the WalMart parking lot on Rosewood Drive. She noted, however, that this was addressed earlier by the property manager who would be monitoring the matter.

Ms. Gheno also expressed concern about the traffic. She stated that there are a lot of people walking from across the street but cannot cross the street because there is a lot of traffic and vehicles make right-hand turns to go into that shopping center. She indicated that it is very inconvenient for people to walk to the signals to cross the street and then walk back another half a block just to get to the grocery store. She stated that she would like to see something done with the traffic and regulation on signs for the benefit of pedestrians, bicyclists, and a lot of mothers with strollers in that area. She noted that she can hardly make a right-hand turn into Navajo Court where she lives and further noted that last year she proposed that no parking be allowed there because it made it very difficult to make a right-hand turn due to the fast-moving traffic, and the City came and painted the curb on both sides of the street.

Robert Allen stated that he lives in Livermore and represented Pleasanton on the BART Board of Directors for 14 years. He indicated that he supports very definitely having the WalMart grocery store in the area. He noted that there are people in Livermore who come to the BART station by way of Stanley Boulevard and Santa Rita Road, and the store will be right on the way home for people coming from BART and will be a good place to stop and do business with the community in Pleasanton.

Jenna Wainaina, Marketing Manager for WalMart, stated that she lives in the area and is a 14-year WalMart associate currently supervising nine WalMart stores. She indicated that she was hired out of college, started out as a Management Trainee, and worked her way up with the company, mostly here in Northern California, but also abroad in Germany. She indicated that WalMart has been a wonderful place to work in and that she is proud to say that she works for Wal-Mart.

Ms. Wainaina stated that a neighborhood market is just like any other grocery store which carries a variety of products, including a bakery, deli, fresh meat, and produce, and name-brand merchandise such as Hines and Kellogg, along with Wal-Mart's Great Value-brand merchandise. She noted that she believes WalMart will be of great benefit for the City of Pleasanton and encouraged the Commission to deny the appeal.

Kent Anderson stated that his family bought the center about ten years ago because they really like Pleasanton. He noted that the city and community here are fantastic and that they like grocery-anchored centers because they provide a draw for the entire community and provide a staple that people really need. He indicated that he thinks the community is kind of suffering now because it does not have a grocery store right there. He added that he is a little upset about how high grocery prices have been rising and that WalMart provides the pressure needed to keep those prices down. He noted that he is not entirely surprised that the appellants have not shown up because he thinks the appeal was just a mere attempt by them to delay what has already been a dragged-out process. He requested the Commission to deny the appeal.

Derek Wensky, Store Manager of the Mountain View Wal-Mart, stated that he is a native of Pleasanton, he and his wife grew up here and still live here. He stated that he has been with the company for 12 years at 11 different stores, and that through

WalMart, he was able to go to school while being a manager. He noted that after he graduated from UC Davis, he was able to travel around the nation, going to Los Angeles, Houston, and Arkansas to learn about leadership and looking at all the other competitors and markets. He indicated that what Walmart offers is really not just a job but a career for young Pleasantonians and people coming from this area.

Mr. Wensky stated that he is really excited to see a new neighborhood market come to Pleasanton and offer fresh and affordable groceries. He indicated that it will offer close to 95 jobs, in addition to the 200 jobs at the other Pleasanton store where he started out as a cashier. He added that he is really proud of what Walmart does in communities and how Walmart is an important part of the community with its different grant foundations for local community groups like the Tri-Valley Community Foundation and local schools like Hearst Elementary. He asked the Commission to approve the project and consider this new Walmart to be part of this community.

Linda Ross stated that she is from out of the area, Fremont, but that she came here because she thinks individual property rights should be supported. She indicated that when there is a blight area and people think that they should wait for something better, it does not happen. She noted that Fremont has a lot of empty lots around her neighborhood and thinks it is great that Walmart is coming to this piece of property. She urged the Commission to take advantage of this opportunity and not have an empty space.

Jaime Castro stated that he is from Dublin, not from Pleasanton, but that he noticed over the years and really most currently, the energy and the recovery that the area is going through. He indicated that he is a small business consultant and that something is needed here for small businesses. He stated that he has seen some of his clients lose not just their business but also their homes, and a couple clients take their own lives. He added that he drives by this eyesore every day and wonders why, with Pleasanton being so dynamic, this building has been empty for years. He noted that to do anything to take away from this recovery would be a big, big mistake. He asked the Commission to get on with it and continue with the synergy that has been created.

Judy Davidoff, Sheppard Mullin, representing Walmart, stated that the issue before the Commission tonight is really a simple issue of whether or not this proposed use is consistent with the zoning and prior approvals. She noted that City's staff, the Director of Community Development, has determined that it is, and urged the Commission to listen to its staff. She indicated that there is no doubt that Walmart will be a terrific contributor to the City of Pleasanton, but the issue here is about the use and not the user; the fact that it is Wal-Mart or another operator is not what is important but that the use consistent with the regulatory approvals.

Ms. Davidoff stated that the appellants, in their notice of appeal, have provided the Commission with no more than a very generalized statement that it is not consistent. She noted that they obviously have not appeared here tonight and provided any further

information, so there is really no basis in the record for the Commission to consider anything other than rejecting that appeal.

Pat Ferguson stated that she was a user of the former Nob Hill store and was sad to see it go. She noted that it was not too far away from where she worked in Pleasanton, and the City gets a lot of sales tax from this shopping complex because it is right on the way out of town. She indicated that she thinks the appeal exemplifies what is broken in California and that something like this would not happen in Texas. She noted that the economy is growing in Texas with so many jobs being created because Texas has a part-time legislature that just meets every other year.

Ms. Ferguson stated that she is a small business owner and that she works with small businesses, which is in no recovery. She indicated that she appreciated the Commission's approval that will provide wonderful jobs. She noted that one thing WalMart does is take a hard-working person with very little education and gives the person the steps to advance far more than any union job could offer. She asked the Commission not to let this kind of an appeal slow down the process that has been so costly for not only the store coming in but also for the owners of the property.

Rob Schultz stated that he lives in the neighborhood since 2004. He indicated that he shops based on the time of day, pricing, where he is at, and other types of errands. He noted that he really used the Nob Hill store quite a bit and found the people to be very friendly, so he was sad when Nob Hill had to go and was looking for another store to come in. He stated that they now shop in other places as obviously, they still have to get groceries. He noted that someone mentioned other people would lose out on business and that probably the biggest one would be the Safeway store across in Dublin. He indicated that he shopped there because it was convenient on his way home from work, so basically any tax on items goes to Dublin. He added that he would not mind having a WalMart Neighborhood Market in the center as he would have the option to go there and keep whatever sales tax revenues here in the City to help the community.

Mr. Foley thanked the public for showing up tonight and supporting the applicant.

Chair Pentin called on the Appellants and offered them one more opportunity to speak tonight if they were in the room.

No response was received.

A lady from the audience inquired how the fact that the Appellants did not show up will affect the hearing.

Chair Pentin replied that he does not believe that has any bearing on the fact that there is an appeal. He referred the question to staff.

Larissa Seto stated that because the Planning Commission still went ahead and took public hearing, the Commission can still take an action on the appeal submitted by the Appellants, even though they were not able to come.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Narum stated that with regard to the RV parking overnight, she heard that the property owner or property management enforces that. She inquired if this is something consistent with the PUD or can be a part of this to memorialize the appeal.

Ms. Seto replied that staff always works with property owners with regard to illegal overnight parking, which is not part of an application in a commercial district to actually have that as a use; overnight parking is not allowed. She explained that staff requires the property owners to post the signs required by the California Vehicle Code to allow them to call for towing of vehicles.

Commissioner Blank inquired if a vehicle parked overnight becomes an automatic tow situation for Code Enforcement.

Ms. Seto replied that is correct. She added that staff could work with the property owners or managers that they would be the ones responsible for this if they have someone on-site to call. She noted that sometimes it becomes a bigger problem in some private parking areas where the property owner or manager do not have a person on-site; people then call the City and complain, and it is worked out through Code Enforcement, or if the property owners or are aware, they or their agents can call the towing company themselves.

Chair Pentin asked Commissioner Narum if she wanted this to be part of the PUD.

Commissioner Narum replied that her concern was whether or not the City would be protected from a change in management, should the new property manager allow overnight RV parking. She indicated that Ms. Seto had answered that question that the City is protected.

Ms. Seto confirmed that was correct. She explained that it would be part of an application, so staff would work with the property owner, whether it is the manager or the owners, to make sure that is properly signed and enforced for towing.

Commissioner Blank inquired what the hours of operation are and if they were comparable to those of the previous tenant.

Ms. Amos replied that from the research staff has done, throughout California, WalMart typically operates from 6:00 a.m. to no later than 11:00 p.m.

Commissioner Blank inquired if, assuming the store closes at 11:00 p.m. but the permitted use is until midnight, Nob Hill could have stayed open until midnight without any application to the City.

Ms. Amos replied that was correct, as long as it is not a 24-hour use.

Commissioner Blank moved to deny the appeal, thereby upholding the Director of Community Development's determination that Neighborhood Market is a supermarket permitted use allowed by the PUD, consistent with the General Plan Land Use policies and programs, that the proposed hours of operation and delivery limits are consistent with existing zoning approvals, and that the operation without modification to the site, building exterior, or parking lot is a properly issued zoning certificate. Commissioner Narum seconded the motion.

Commissioner Olson stated that he was going to vote to deny the appeal. He noted that this will probably go to the City Council and that it would be great if there were a similar turnout then. He noted that one of the speakers stated this is a simple issue, and he agreed it is a simple issue. He emphasized that it is not about WalMart, it is not about the union; it is about land use and permitted use. He added that there is no question in his view that if a City Councilmember votes to uphold this appeal, it is an irresponsible vote; it is a vote against Pleasanton, and it is a vote that does not recognize the land use situation here. He indicated that he wanted to get that on the record.

Commissioner Narum stated that she will be voting to deny the appeal. She noted the Commissioner Olson could not have said it better, noting that this is just strictly about the land use and probably one of the easiest ones she has seen come through where it is consistent. She added that there is nothing here to quibble about so she is happy to deny the appeal.

Commissioner Pearce stated that she agrees with everybody else. She indicated that this is a permitted use, and there are no land use issues here. She noted that everybody knows she probably has the most expansive view of the Planning Commission's purview for being up here, and even she does not think that there are any land use issues. She added that this is a political discussion happening in front of an apolitical body, and she wished it had gone to the City Council first. She indicated that she is voting to deny the appeal.

Commissioner Blank commented that it is just a little disappointing that the Appellants were not present.

Chair Pentin concurred. He added that as was mentioned by some speakers, he was also very disappointed that the Appellants were not here tonight to speak to explain why they appealed this. He stated that this is a land use issue, at least in front of the Planning Commission, and that he will also be supporting denial of the appeal.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: Commissioner O'Connor

Resolution No. PC-2012-17 denying the appeal, thereby upholding the Zoning Administrator's approval, as filed under P12-0113, was entered and adopted as motioned.

4. ADJOURNMENT

Chair Pentin adjourned the Planning Commission meeting at 8:06 p.m.

Respectfully,

JANICE STERN
Secretary