

1 **1. Conditional Use Permit (CUP 10-01) and Design Review (DR 10-01) Grocery**
2 **Outlet:** Consideration of a Conditional Use Permit to allow off-site alcohol sales
3 and Design Review to for a façade modification and new business sign for
4 Grocery Outlet.

5
6 Associate Planner Anne Hersch presented the staff report dated February 22,
7 2010.

8
9 Commissioner Sekins asked if there is a master sign program approved for the
10 Center.

11
12 Ms. Hersch indicated that the Conditions Covenants and Restrictions (CCRs)
13 default to the City's Sign Ordinance.

14
15 Commissioner Sekins asked if there are requirements in the Zoning Code which
16 require a shopping cart corrals in the parking lot for a grocery store use.

17
18 Ms. Hersch indicated that there are no requirements specified in the Code for
19 shopping cart corrals in conjunction with a grocery store use. However, this is
20 something that could be considered as part of the Zoning Code update.

21
22 Commissioner Martinez-Rubin asked a question related to page7 of the staff
23 report regarding a statement addressing tobacco sales and single sales of
24 alcohol bottles.

25
26 Ms. Hersch explained that there are no tobacco sales at Grocery Outlet or single
27 servings of alcohol, such as single servings of screw top alcohol products.

28
29 Commissioner Toms inquired about including a condition to retrieve grocery carts
30 found off-site.

31
32 Commissioner Kurrent expressed concerns about parking on-site. He indicated
33 that he observed congestion and parking problems during a recent Sunday visit.
34 He identified Condition # 12 on the alcohol sales use permit which reads as
35 follows:

36
37 *"If the operation of the use results in conflicts pertaining to parking, noise,*
38 *nuisance, traffic or other impacts, at the discretion of staff, the use permit may be*
39 *referred to the Planning Commission for subsequent review at a public hearing."*

40
41 He asked if the Commission has any discretion to apply this condition given the
42 existing congestion issues at the Center.

43
44 Ms. Hersch explained that the condition becomes applicable after project
45 approval and after Grocery Outlet has been operating. At that time, if a conflict

1 was identified or there was a problem, revocation could be considered.

2
3 PUBLIC HEARING OPENED. MARC DRAYSON, GROCERY OUTLET,
4 explained that Grocery Outlet is a west coast grocery business with over 100
5 stores that provides name brand food at discounted retail prices. They sell
6 regular beer and wine as part of providing full service groceries to its patrons.

7
8 He indicated that the parking situation is not optimal and is in fact less than what
9 Grocery Outlet prefers. However, they will require their employees to park in
10 specific spaces farther away from the store. He indicated that Grocery Outlet has
11 invested \$1.2 million in this project and would not do so if there was a substantial
12 risk involved. He also indicated that approximately 30-40 employees will be hired.

13
14 Commissioner Toms asked if employees will be able to enter the store from the
15 rear entrance.

16
17 Mr. Drayson indicated that there would be access from the rear entrance for
18 employees to enter the store.

19
20 Commissioner Sekins asked who is responsible for cart retrieval.

21
22 Mr. Drayson indicated that there are typically cart corals located in the parking
23 lot. He e-mailed the project architect to confirm if this detail is planned for the
24 Pinole location. He also indicated that carts are supposed to be retrieved hourly
25 from parking lot.

26
27 Commissioner Martinez-Rubin asked if cart retrieval would be included for the
28 entire shopping center or just the parcel occupied by Grocery Outlet.

29
30 Mr. Drayson indicated that Grocery Outlet is responsible for cart retrieval and due
31 to the cost of shopping carts, they have a vested interest in keeping carts on-site.

32
33 Commissioner Kurrent reiterated his comments about parking concerns at the
34 shopping center and encouraged the applicant to speak to the property manager
35 about addressing the issues.

36
37 Mr. Drayson indicated that he is aware of the concerns and recognizes the need
38 to speak to the property manager and managers of adjoining businesses.

39
40 Commissioner Martinez-Rubin asked about Grocery Outlet's level of tolerance for
41 congestion and parking issue.

42
43 Mr. Drayson replied that Grocery Outlet has not experienced parking problems at
44 other locations. He also indicated that the store will be operated by a husband
45 and wife team local to the community.

1
2 Ms. Hersch informed the Commission that supplemental information including
3 pictures of parking conditions from earlier in the day were provided on the dais at
4 their seats.

5
6 Commissioner Kurrent asked the applicant if he objected to memorializing the
7 operating hours in the Conditions of Approval.

8
9 Mr. Drayson indicated that the hours are standard for all Grocery Outlet stores
10 and that he did not have an issue memorializing the hours.

11
12 PUBLIC HEARING CLOSED.

13
14 Commissioner Sekins indicated that Food Maxx encountered similar difficulty
15 with congestion and parking management when they first opened. However, they
16 were able to modify the site and provide an additional driveway approach. He
17 encouraged the applicant to contact the property manager in the event that there
18 are exacerbated parking problems.

19
20 Commissioner McGoldrick noted that there are parking concerns at the Pinole
21 Valley Shopping, but that that is the sign of a healthy, vital shopping center.

22
23 Commissioner Toms requested that a condition be added to the Conditional Use
24 Permit that requires cart retrieval for Grocery Outlet, both off-site and in the
25 parking lot, on a regular basis.

26
27 **MOTION to approved CUP 10-01 and DR 10-01 with the added condition**
28 **that shopping cart retrieval both off-site and in the parking lot shall be**
29 **conducted on a regular basis.**

30
31 **MOTION: Toms SECONDED: McGoldrick APPROVED 5-0**

32
33 Commissioner Toms asked that staff prepare a letter to the property manager
34 politely asking them to designate employee parking.

35
36 Commissioner McGoldrick asked what oversight staff has to make findings for
37 denial.

38
39 Ms. Hersch explained that staff needs to consult with the City Attorney's for
40 additional information related to requiring a parking study. She also indicated that
41 the findings for a seasonal sales use permit are very general.

42
43 Commissioner Kurrent noted that parking has been lost between the original
44 construction date and the present. He noted he thought there could a deficit as
45 high as 80 parking spaces.

1
2 Commissioner Sekins asked if this shouldn't be examined further with itinerant
3 vendors seeking future temporary use permits.

4
5 Ms. Hersch explained that there are three requirements for a temporary use
6 permit for itinerant vendors and include: Property owner permission, a temporary
7 use permit, and a City issued business license. Many times, sellers are unable to
8 successfully satisfy these requirements as they are unable to obtain property
9 ownership information directly.

10
11
12 **THE PLANNING COMMISSION AS STEERING COMMITTEE FOR**
13 **THE GENERAL PLAN UPDATE PROCESS**
14
15

16
17 **F. OLD BUSINESS:**

18
19 **1. Draft Housing Element Status Report**
20

21 Planning Manager Winston Rhodes and Redevelopment Analyst Leslie Carbahal
22 presented the staff report dated February 22, 2010. Ms. Carbahal noted that the
23 State Department of Housing and Community Development (HCD) mentioned in
24 its December 2009 comment letter that an additional adequate housing site
25 needs to be provided.

26
27 Commissioner Kurrent remarked that he could envision a residential building as
28 tall as five stories tall at the existing Appian 80 Shopping Center.

29
30 Commissioner Martinez-Rubin noted recent health studies that show
31 environmental impacts of living close to freeways. She asked that if high-density
32 residential development were proposed around the highway corridors, additional
33 health factors be analyzed as part of project review.

34
35 Mr. Rhodes noted that a site specific environmental study would be required
36 analyzing air quality both inside and outside in the event a residential project site
37 was proposed adjacent to Interstate 80.

38
39 Commissioner Kurrent identified the vacant property within the Appian 80
40 Shopping Center near the intersection of Tara Hills and Appian Way which was
41 formerly used a gas station and indicated that there could be possible hazardous
42 material clean-up issues.

43
44 Commissioner Kurrent also noted that staff was supposed to meet with
45 representatives from HCD on February 16 regarding the draft Housing Element.

1 He asked if that meeting occurred and what was the decided outcome.
2

3 Mr. Rhodes explained that the meeting did not occur due to a scheduling conflict
4 on the HCD's end but that they are working to reschedule the meeting.
5

6 Commissioner McGoldrick inquired about ownership of the identified parcel on
7 2885 Pinole Valley Rd.
8

9 Mr. Rhodes indicated that is owned by a Baptist church and mentioned that
10 attempts have been made to speak with the legally listed owner but staff was
11 only able to leave a telephone message.
12

13 Commissioner McGoldrick asked about the feasibility of residential development
14 on this site given the site size, FAR/lot coverage requirements, and density
15 potential.
16

17 Mr. Rhodes explained that the site is almost two acres in size. A typical
18 residential developer could buy the entire site and pursue development
19 entitlements. However, with the proposed designations, the church would still be
20 able to operate.
21

22 Commissioner Toms noted that if the zoning/land use designation was to change
23 for the church site, HCD would need to be made aware the proposed changes.
24 She also noted that if housing was eliminated at one location identified in the
25 Housing Element, the Element would need to be amended and housing would
26 need to be provided elsewhere in the City.
27

28 Mr. Rhodes noted that there are few sites in the City which currently satisfy the
29 density criteria outlined by the State or that are suitable based on the minimum
30 density requirements for HCD recognized affordable housing sites.
31

32 Commissioner Toms noted that she agreed with Commissioner Martinez-Rubin
33 about the need for additional air quality review for housing proposed in the
34 vicinity of I-80. She also noted that based on her experience with HCD, they
35 might not allow a blanket designation of a 2.5 acre site.
36

37 Mr. Rhodes noted that if the precise 2.5 acres within the Appian 80 Shopping
38 Center is unspecified, more flexibility will be provided for a future housing
39 developer at a later date without triggering a need for a Specific Plan
40 amendment.
41

42 Commissioner Toms reiterated that 2.5 acres is starting point but that her
43 experience with HCD has been that a specific site must be specified as part of
44 the Housing Element. She did not envision a residential use in the back of the
45 parking lot at the Appian 80 Shopping Center and saw no pedestrian activity

1 which would easily support the project.
2

3 Mr. Rhodes noted that Safeway has recently renewed their lease and that the
4 entire site has a proposed mixed-use designation which could accommodate
5 future residential development. Additionally, new residential development could
6 place residents footsteps away from existing retail businesses, creating a future
7 pedestrian environment, and a better jobs housing balance.
8

9 Commissioner Kurrent noted that if a multi-story residential structure were to
10 develop, it could alleviate traffic impacts in the surrounding area.
11

12 Commissioner Toms identified Monica Shaw's property located in the San Pablo
13 Ave. Specific Plan Area and noted that an alternative designation of "Residential"
14 should be considered in the Environmental Impact Report.
15

16 Mr. Rhodes explained that Ms. Shaw requested Residential Mixed Use as a
17 future designation and that additional Residential development would be included
18 as an EIR alternative.
19

20 Commissioner Martinez-Rubin noted that the proposed land use changes are
21 intended to meet the requirements of HCD for an acceptable Housing Element.
22 However, the actual construction could conceivably happen in the next 10-25
23 years provided a residential developer and property owner reached an
24 agreement to allow for new housing to be proposed.
25

26 Commissioner Sekins noted that in the original presentation there were
27 previously 30 acres identified for residential development and now the number
28 has changed to 50 acres.
29

30 Ms. Carbahal noted that there are two different sets of opportunity sites for the
31 Housing Element. One list is based on existing zoning and the other reflects the
32 opportunity sites contained within the proposed Draft Specific Plan.
33

34 Commissioner Sekins asked about the new Safeway prototype which includes
35 residential development and inquired if this could be considered for Pinole and
36 who would initiate that discussion.
37

38 Mr. Rhodes explained that that model has been proposed for other Safeway
39 locations in the East Bay including the North Berkeley, Rockridge, and Albany
40 areas. For the purposes of the Housing Element adequate sites analysis,
41 exclusively residential sites must be zoned in addition to mixed-use sites where
42 residential development may occur.
43

44 *The Subcommittee moved by consensus to move forward with staff direction.*
45

1 **G. NEW BUSINESS**

2
3 None.

4
5 **H. CITY PLANNER'S/COMMISSIONER'S REPORT:**

6
7 Mr. Rhodes presented a memo from City Attorney Ben Reyes in response to a
8 question asked about EIR review at a joint study session between the Planning
9 Commission and City Council. The memo indicates that the administrative draft
10 EIR should only be reviewed by City staff and not members of the Planning
11 Commission to prevent any review irregularities and provide greater legal
12 defensibility in the event the EIR is legally challenged.

13
14 Mr. Rhodes also shared information with the Commission about an upcoming
15 parking regulation lecture and discussion sponsored by the cities of Lafayette
16 and Walnut Creek presented by Donald Shoupe, a UCLA planning professor,
17 who wrote the book "The High Cost of Free Parking." The presentation will be
18 held on Thursday, February 25, 2010 at 7 pm at the Lafayette Library.

19
20 Commissioner McGoldrick asked about the AT&T faux tree at 1106 San Pablo
21 Ave. and its progress.

22
23 Mr. Rhodes indicated that a budget adjustment is needed by AT&T to modify the
24 tree. He also reminded the Commission that the improved product will be shared
25 with the Commission prior to final field approval.

26
27 Commissioner Sekins noted that there is no signage for the dog park located in
28 Pinole Valley.

29
30 Ms. Carbahal shared that she is scheduled to take a marketing/branding package
31 to Council for consideration.

32
33 Commissioner Toms explained that she recently heard a speaker at the City of
34 Walnut Creek who discussed branding ideas and that the information was
35 available on the City of Walnut Creek's website.

36
37 Commissioner Martinez-Rubin asked if an intern or volunteer was considered for
38 branding.

39
40 Ms. Carbahal noted that she was aware of this idea and that it could be pursued
41 further.

42
43
44 Commissioner Kurrent asked about Commissioner re-appointment and expiration
45 of terms in April.

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Mr. Rhodes noted that Mayor Long and the City Clerk are reviewing the appointment process for current Commissioners whose terms will be up April 30, 2010 and further information would be provided.

I. ADJOURNMENT: 8:45 P.M.

Transcribed by: Associate Planner Anne Hersch