

Lompoc City Council Agenda Item

CITY COUNCIL MEETING DATE: January 18, 2011

TO: Laurel M. Barcelona, City Administrator

FROM: Lucille T. Breese, AICP, Planning Manager
e-mail: l_breese@ci.lompoc.ca.us



SUBJECT: APPEAL OF PLANNING COMMISSION DENIAL OF CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE WALMART EXPANSION PROJECT (Planning Division File No. 09-02 and DR 08-09).

An appeal, by Walmart Real Estate Business Trust, Inc., the applicant, of Planning Commission Resolution No. 682 (10) adopted October 13, 2010 denying certification of the Final Environmental Impact Report (FEIR 90-02) for the Walmart Expansion Project. The Commission did not take action on the Development Plan (DR 08-09) request for the addition of 41,433 net square feet of retail area to an existing 104,453 square foot existing facility or the requested amendment to the approved sign program. The project is located at 701 West Central Avenue at the northeast corner of the intersection of West Central Avenue and North O Street. (Assessor Parcel Number: 93-450-36). The appeal was submitted by Ellen Berkowitz of Manatt, Phelps & Phillips, LLP on behalf of the applicant.

RECOMMENDATION:

1. Receive the staff report and consider the written material presented;
2. Open public hearing; receive input from the project representative; take public comments; close public hearing; and
3. After deliberation and decision, direct staff to prepare a resolution(s) reflecting the City Council's determination. Potential options for Council action are as follows:

OPTIONS:

- 1) Direct staff to prepare a City Council Resolution upholding the appeal, certifying the Final Environmental Impact Report (FEIR 09-02) and returning the Development Plan (DR 08-09) to the Planning Commission to review the project and amendment to the approved sign program and apply conditions of approval.

- 2) Direct staff to prepare a City Council Resolution denying the appeal and upholding the Planning Commission determination of October 13, 2010 to not certify the FEIR.
- 3) Provide alternate direction to staff.

BACKGROUND:

On August 25, September 22, and October 13, 2010, the Planning Commission held public hearings to review a request from Amanda Neufeld, representing the property owner, to:

- 1) **Certify the Final Environmental Impact Report** – An Environmental Impact Report (EIR 09-02) was prepared for the project and circulated through the State Clearinghouse (SCH No. 2009081045) pursuant to the requirements of the California Environmental Quality Act (CEQA); and
- 2) **Approve a Development Plan** – A Development Plan for the addition of approximately 41,433 new net square feet of retail area to an existing 104,453 square foot Walmart store. The application includes a request to amend the approved sign program for the shopping center.

The project is proposed on approximately 12.03 acres located at 701 West Central Avenue at the northeast corner of the intersection of West Central Avenue and North O Street (Assessor Parcel Number 93-450-36).

After reviewing the staff report, taking public testimony, and discussing the project with the applicant, in October 13, 2010 the Commission:

- 1) Adopted Resolution No. 682 (10) denying certification of the Final Environmental Impact Report (EIR 09-02), on a 5-0 vote; and
- 2) Took no action on the requested Development Plan, which could not be approved without an adopted environmental document.

The Planning Commission staff reports, adopted Resolution, and minute excerpts for the August 25, September 22, and October 13, 2010 meetings are attached for Council review (Attachments 2, 3 & 4).

APPEAL:

Ms. Ellen Berkowitz, Esq. of Manatt, Phelps & Phillips, LLP, representing the property owner, has filed a timely appeal requesting that the Council review the Planning Commission action of October 13, 2010.

Ms. Berkowitz is requesting that the Council:

“Certify FEIR 09-02 and approve DR 08-09.”

A copy of the notice of appeal is included as Attachment No. 1. The grounds for the appeal are set forth in a letter attached to the appeal form.

PROJECT DESCRIPTION:

The applicant is proposing an expansion of the existing approximately 104,453 square foot Walmart store. The project includes demolition and removal of the existing Tire & Lube Express facility and a portion of the garden center to accommodate an increase in general merchandise area. The expansion will result in an increase in the total square footage of the facility to approximately 151,271 square feet, inclusive of an approximately 5,385 square foot garden center. The front parking lot will also be re-surfaced and re-stripped. The request includes consideration of an amendment to the existing sign program for the shopping center.

Surrounding uses include a wine processing facility immediately to the north with the Lompoc Airport beyond; an existing retail center to the east; Central Avenue and an existing residential neighborhood to the south; and O Street, an equipment rental facility, and vacant property to the west of the site.

The proposed project and conformance with the Zoning Ordinance development standards was analyzed in the Planning Commission staff report of August 25, 2010.

DISCUSSION:

On October 13, 2010, the Planning Commission adopted Resolution 682 (10) denying certification of the Environmental Impact Report on a 5-0 vote. The findings listed in the Resolution were as follows:

- A. The Urban Decay Study prepared for the FEIR is based on dated information regarding vacant retail commercial square footage and is possibly factually inaccurate.
- B. The Study should be updated with information consistent with the current economic condition of the community and peer reviewed for accuracy.
- C. The Study should provide additional information regarding the problem of re-tenanting vacant retail commercial spaces under current economic conditions.
- D. The Study should provide additional information on General Merchandise vacancies in addition to the Grocery Store information.

- E. The Study should provide additional information on recent store closures not reflected in the Study.

On December 20, 2010, the appellant submitted an Update to the Urban Decay Study for the Expansion of Lompoc Walmart. The original report was dated December 28, 2009 and the Update was dated December 17, 2010. Both reports were prepared by The Natelson Dale Group, Inc. The Update to the Urban Decay Study was distributed on December 20 and is available on the City website. The updated Urban Decay Study is based upon a field study performed on December 8, 2010 and the conclusion that the proposed expansion project would not cause urban decay remains valid according to the consultant. This study has been reviewed by Impact Sciences, Inc. the firm who prepared the Walmart Environmental Impact Report (EIR) and it was found that there is no change to the EIR conclusion as a result of the updated Urban Decay Study.

An in-depth discussion of the Environmental Impact Report (EIR) is contained in the Planning Commission staff report dated August 25, 2010 (Attachment No. 2). The discussion summarizes the preparation of the EIR, the CEQA required circulation dates, and identifies individuals who commented on the draft EIR. Also summarized are the specific sections of the EIR requiring detailed analysis and the potential environmental impacts that were found to be *Not Significant*. Analysis in the EIR found that there were no impacts that were *Significant and Unavoidable*.


Certification of the Proposed FEIR acknowledges that the document:

- 1) was prepared and completed in compliance with CEQA,
- 2) was reviewed by the decision-making body, and
- 3) represents the City's independent judgment.

Draft CEQA Findings will be prepared for City Council review and consideration if the direction is to certify the Environmental Impact Report. CEQA Findings determine that, for each significant impact, adoption of recommended Mitigation Measures will mitigate impacts to a less than significant level. If any or all applications associated with the project are to be approved, the CEQA Findings must be approved. Should the CEQA Findings not be adopted, the project (any or all applications) cannot be approved.

SUPPLEMENTAL INFORMATION:

1. Correspondence from Ms. Betty Lewis, received Jan. 5, 2011
2. E-mail dated Jan. 10, 2011
3. Correspondence from Ms. Catherine Hayes, received Jan 11, 2011

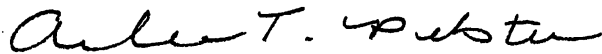


Lucille T. Breese, AICP
Planning Manager

Attachments:

1. Notice of Appeal dated October 27, 2010
2. Planning Commission Staff Reports dated August 25, September 22, and October 13, 2010
3. Minutes of the August 25, September 22, and October 13, 2010 Planning Commission Meetings
4. Planning Commission Resolution No. 682 (10)
5. Supplemental Information
6. Site Plan, Elevations, and Map
(City Council only, available in Planning Division for review)

APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR:



Arleen T. Pelster, AICP, Community Development Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:

Laurel M. Barcelona, City Administrator