

CITY COUNCIL
SPECIAL MEETING AGENDA

Date of Meeting: Monday, November 24, 2008
Time of Meeting: 6:00 p.m.
Place of Meeting: Red Bluff Community/Senior Center
1500 South Jackson Street
Red Bluff, CA 96080

COUNCILMEMBERS PRESENT:

Forrest Flynn, Mayor
Wayne Brown
James Byrne
Jeff Moyer

Councilmembers Absent:

Daniel Irving Mayor Pro Tem
(Excused)

Staff Present:

Martin Nichols, City Manager
Richard Crabtree, City Attorney
Jo Anna Lopez, City Clerk
Scott Capilla, Police Chief
Scot Timboe, Planning Director
Mark Barthel, Public Works Director

Mayor Forrest Flynn called the meeting to order at 6:03 p.m.

CITIZEN'S COMMENT:

None

CURRENT BUSINESS

**PUBLIC HEARING ON THE NOVEMBER 2008
FINAL ENVIRONMENTAL IMPACT REPORT AND
PROJECT APPLICATIONS FOR THE WAL-MART
SUPERCENTER PROJECT – 608 LUTHER ROAD;
APN 033-180-860; SCH NO. 2004012088**

Scot Timboe, Planning Director, reviewed the project with a presentation that also included

associated corrected power point for the minutes and gave staff's recommendation that the City Council:

1. Conduct the Public Hearing.
2. Consider all public testimony and all other information relating to this project submitted to the City Council and Staff.
3. Adopt Resolution No.60-2008, certifying the Final November 2008 EIR (FEIR) for the Wal-Mart Super Center Project at 608 Luther Road, Red Bluff CA (SCH No. 2004012088)_ as adequate and complete with the Final Mitigation Monitoring Plan and adopting the "CEQA Findings of Fact and Statement of Overriding Consideration".
4. Adopt Resolution No. 61-2008, approving the General Plan Land Use Map Amendment (GPA-03-002) and Waive the first reading and introduce Ordinance No. 992; Rezone No.194, Rezoning of the Zoning Map.
5. Adopt Resolution No. 62-2008, approving Design Review (DRG-04-02-15) and Tree Replacement Plan (TRP-04-02-15), with attached Conditions of Approval, Mitigation Measures, and reduced project plans.

Ed Ballantine, concerned citizen, hand delivered a letter to the City Clerk and stating that he is in opposition of the Wal-Mart Superstore. His letter will be placed in the project file.

Bill Moule, President of the Tehama EDC along with Claudia Martin, Executive Director, Tehama EDC stated that the Tehama Economic Development Corporation is strongly in favor of the Wal-Mart Supercenter being built. They also have given a letter to the City Clerk, which will be placed in the project file.

Kathy Bonner, concerned citizen, feels that the super center will be a drain on the Police Department with shoplifting calls. She gave an example of the disappointing encounter she had with the supercenter in Anderson.

Tim Prest, Food Maxx Store Manager, stated he was not in favor of this Wal-Mart Superstore and gave a letter to the City Clerk that will be added to the project file. He stated that they start receiving at 5 a.m. and usually find 5-6 trucks waiting to unload at that time; he questions if there will be sufficient truck parking for the supercenter. Based on his experience he does not feel the loading

configuration for the proposed Red Bluff supercenter is adequate.

Steve Codner, concerned citizen, is in favor of Wal-Mart Superstore. There is a large store in the northeast corner of Red Bluff that has reasonable prices, but those that live in the southwest corner of Red Bluff do not have anything with reasonable prices. The supercenter will benefit those who live in this area. The bad intersection is the one located at Main, Oak and Antelope, where the traffic backs up.

Mary Anker, concerned citizen, is in opposition of the Wal-Mart Superstore. She stated that Reeds Avenue is a busy street as it is used as a short cut to the Raleys shopping center. She stated that the current truck noise is bad; there is no sidewalk from South Jackson to Reeds on the residential side. On any given day, you can see trucks parked on Mill Street where the new supercenter will be and there is not room on Reeds for these trucks to park.

Kenneth Sanford, concerned citizen, stated that Mill Street is named Mill because there used to be mills back in that area. There was a lot more trucks that went in and out of the mills than what will be going into the supercenter, as there are only 3 docks.

William Kopper, attorney represented Citizens for Sensible Planning, Wilkie Talbert, Clarice Meyer and Mary Anker. He stated that the project description has been changed from the original. In the current site plans provided in the re-circulated EIR the truck bays were much closer than previously stated which, impacts Air Quality along with other options for the revised building size. The design of the truck bays and sound walls have also been changed. He again is stressing that the parking is inadequate. It is clear that Wal-Mart doesn't need to have as large as store as the new design has been reduced and this store could be moved away from Reeds Avenue.

Jackson Williams, concerned citizen, spoke in favor of the Wal-Mart Superstore. He feels that taxpayer's money is being wasted by continuing to review this project. In regards to noise, the people in the neighborhood have to deal with railroad noise and the other stores in the shopping center delivery trucks.

Jim Watt, whose firm had been asked by several Red Bluff retailers and property owners to review and evaluate the FEIR, stated that his review indicates that the FEIR is still inadequate and site

plan modifications are necessary. He stated that he feels that the landsite needed for this project needs a minimum of 19 acres and Mr. Timboe stated that this site was 16 acres. The supercenter would be taking 100% of its deliveries off of Reeds Avenue. He stated that the EIR analysis of this project by both the traffic and noise consultants suggests a lack of understanding of truck delivery activity in general and it's his conclusion that these consultants have grossly underestimated the traffic and noise impacts and that further analysis is warranted. He also believes that the aesthetic and visual aspects of this project have not been adequately evaluated, although the revised site plan has saved one heritage oak tree, one heritage tree and seven major oak trees have been lost. There is also no provision in the current mitigation measures that the applicant pay a market value of these heritage oak trees which would be in the \$10's of thousands of dollars. There also appears to be no basis for the landscaping strip along Reeds Avenue. Wal-Mart has build much smaller stores, such as the one in Modesto, and he feels that Wal-Mart needs to look at a smaller store that eliminates access from Reeds Avenue and saves as many trees as possible. For all these reasons he requests that the City Council deny the project and not certify the EIR.

Patricia Talbert, concerned citizen, spoke in opposition of the Wal-Mart Superstore, as she is concerned with the safety of the children in the area that use the streets. In addition to the schools, there is a senior residence in the area that is impacted by the traffic in the area. She asked for clarification on where the 4 traffic mitigations where as indicated in his report he gave.

Mr. Timboe stated that those where not mitigations, but were traffic sections or intersections that were impacted so that overriding considerations were going to be proposed. Those were areas that were impacted enough that they could not be mitigated and those are overriding considerations findings. There will be widening of Luther Road for acceleration and deceleration.

Kenneth Sanford, concerned citizen, stated that he was a 62 year resident of Red Bluff and that his family goes back about eight generations. His grandmother used to talk about wagons coming to town to shop and the thing is progress is going to be made. He stated that he wanted to see this done, as it's been four, five years now. He also stated that he had lived by an airport with F seven fours (Airplanes) taking off every five minutes, it

took a little time but he got use to them taking off and slept through it.

Willkie Talbert, concerned citizen, stated that he doesn't believe the super center is a desirable project for several reasons; that site is a beautiful site because of the trees, and he believes there are other desirable uses of the site which should have been discussed sooner. Mr. Talbert believes that we have adequate grocery services now and that with the Wal-Mart Super Center they will do damage to the existing Grocery stores. Wal-Mart's objective is to under price their competitors so they will go out of business, they don't really offer a better or more diverse product choice. Local smaller stores will provide more for the Community than one larger store. It was already detrimental. It was very well proved 12 or 13, 14 years ago when Wal-Mart built the first store and decimated our downtown. It still has not recovered from that. So it seems to me that what we don't need is a super store. What we need is more individual stores that would be of greater contribution to the community and a project built on that site that is a much more aesthetic value and use to the community. The site could be a park for the kids and for the seniors across the street along with small businesses and a section with Senior Housing leaving the trees.

Fannie Goodwin, concerned citizen, spoke in opposition of the Wal-Mart Superstore location road conditions and local drivers along with her believe that Council has already made up their minds about the project.

Chris Nor, concerned citizen and interim Wal-Mart Store Manager, stated that he just wanted to bring to light that there's a lot of good things that come out of Wal-Mart. Wal-Mart didn't put them out of business including grants and infrastructure that would cost a lot of tax dollars. Competition decides who and what businesses stay open. Sam Walton said basically that our customers are our boss. They choose where to shop. They choose who closes and doesn't close. They choose to shop in our store every day. So I'm completely for this expansion, as you know.

Linda, concerned citizen, stated that she had lived here for 19 years and is against the super center also. She thinks it would be a huge mistake and agrees with Pat and Fannie in asking what's wrong with the one that we have there. The traffic is terrible now and is only going to get worse. People will go to other places like Chico, and Anderson to shop not this Wal-mart Supercenter. She would

rather see a child park like in Redding with a big volcano that shoots water, rather than see them dig up that beautiful meadow.

Richard Clapp, concerned citizen, stated that he wouldn't talk on this long. However, Wal-Mart has a lot of negative employment; Women's medical care cost issues; Low wage issues, which he doesn't care to, talk it about because he's sure you're already aware of that. The issues that need to really come out are the facts that that area is highly impacted already with traffic with the emergency services and the fact that we have an elderly folks place. There's three of them on Luther and there's all the development out to the south and the west, new homes that were not figured into traffic impacts. In addition, with more and more development out there it will get worse. There won't be a prayer if some one has an emergency in that area during certain times like getting off work time, getting off school, going to school, going to work. Other than the paying for the impact that Wal-Mart is paying for, there is still an E or F rating to that area. The impacts they're going to pay for it doesn't wash, so between the trees and the emergency service impacts and too small a place it's just not wise.

Larry Stevens, concerned citizen, notes he was a former City Councilmember who voted on this project. He stated that there are traffic impacts and that studies have been done that indicate alternative routes to be developed that revolve around CalTrans. The State is not in a position now to do the interchange, but Givens and Metzger would take pressure off Luther Rd., which has been previously noted. The EIR studies a larger area, some commercial operation have gone out of business near the center of town, this is going to add jobs and fill a habitable Commercial business space, it is going to be good for the community and people will not use as much fuel going to other towns spend our tax dollars there. We will need this project's improvements as the City continues to grow.

Lamar Bayles, concerned citizen, stated that he had worked with Wal-Mart for ten years. He stated that he knows a lot of people that work at Wal-Mart that walk work and that this new store will give more people a chance to move up, as there will be more management positions. The other thing he wanted to point out is that if we have stoplights we're going to have control of the stoplights. The City Fire, Police, everybody will be able to go through them a lot quicker. It will be a lot safer for

people. We give them the control and we'll be better off.

Greg Latourell, concerned citizen, stated that he has lived in Red Bluff and worked in land development for many years. The EIR originally took the traffic counts without the schools in session and in February. Since then we have several changes to the system, such as Salisbury High School, Tehama College along with the other schools that complicate the issue Metteer, Jackson Heights, Vista and, as he said previously Salisbury. A new subdivision approved south and west of town, a new bridge at Rawson Rd. There are other businesses in the project area convalescent homes that will be affected. Before you make a decision based on five year old data he would be very careful and really understand the data that was taken, revised and approved by a three two vote at the Planning Commission which was a one vote difference and could have been a different recommendation.

Shell MacPherson, PacLand, stated that he was also the applicant on behalf of Wal-Mart stores. With him this evening are Wal-Mart's design team, the consulting architects from Perkowitz and Ruth, Don Fukumoto and Hans Kaufmann. Also in

attendance is Miriam Montesinos, legal counsel, with the firm of Sheppard & Mullin and a member of their public relations Team. He stated that his team would be available at the conclusion of public comment for questions raised during the public hearing process, and also the City Council in response to the court order requiring further environmental analysis and re-circulated EIR to address parking and noise. In addition comments and concerns addressed in prior public hearings regarding size of the proposed Wal-Mart store. The Wal-Mart team is pleased to present a scaled down version of the prior approved application. Mr. McPherson then gave a PowerPoint presentation for those in attendance.

An unknown speaker questioned why Wal-Mart have a major design flaw of choosing to use Reeds Avenue, for the entrance and/or exit of trucks when that is the closest to the residential area and, the heaviest residential area, They also questioned why Wal-Mart chose that so that then not only are the trucks closer to Reeds Avenue but then there's no sound wall that goes along there so you give them a double edged sword; Residents would have twenty-four seven sleep interruption along with air quality impacts that will be harmful to the neighbors to the north.

Ms. Miriam Montesino, Sheppard & Mullin Attorneys at Law, gave a little bit of background and that the attorneys can comment on it after the testimony is closed. She stated that this is the second time around and it is the result of the legal lawsuit that was filed against the original approved project. She stated that a lot of the concerns heard tonight about traffic, circulation, air quality, noise, all were raised during the prior approval process and a lot of them were raised again during the legal challenge. She stated that once you have had the opportunity to raise or have raised issues during the legal challenge and the court has acted on them you don't get to raise them over and over and over again in subsequent lawsuits. Here the court was very specific and it looked at all the issues that were raised with respect to parking, air quality, traffic noise and it only had eight specific, very specific points that it told the City it needed to revisit. One related to parking and seven related to noise. As a result of the court's decision and as a result of the comments that Mr. Kopper submitted throughout the process the project was revised to do away with the parking issues, so that left seven issues related to noise. However, these were adequately addressed in the EIR, so everything that the court took issue with has been addressed.

She stated that a lot of the other issues were raised before and the court said that it sided with the City and the City's decision on the fact that adequate analysis had been done with that. She stated that she just wanted to give a little bit of background as to where we are today and why we are here. If you have any questions I am sure the City's Attorney can answer them a lot better than she could, but she would be happy to answer any questions with regard to the litigation as well.

Kathy Bonner, concerned citizen, stated that she just wanted to further support what she had said about her experience of not seeing a good variety of selection for all of the needs. She stated that she was for water kingdom, but we have to have some money to build it.

Mayor Flynn called for any more comments, hearing no comments closed the public hearing and called for a 10-minute recess.

Mayor Flynn called the meeting back to order, stated that the public comment has been completed and brought the discussion back to the City Council.

Councilmember Moyer, requested clarification on how many employees the current store had since they are saying they will have 600 plus employees at the new store.

Mr. MacPherson stated that he could not honestly answer that, but a speaker believed they had about 250 right now.

Councilmember Moyer questioned if there any estimate of what type of dollars the current store lost when the new Super Center opened up (Anderson).

Mr. MacPherson, stated that he could not speak to those terms either, but a speaker in the audience stated that it was right around 14 to 15 %.

Councilmember Moyer questioned if Chico has a Supercenter.

Mr. Macpherson stated that Chico currently does not, but they are looking to expand their store.

Mayor Flynn stated that there was a question about trucks parking in the parking lot while waiting to load and unload.

Mr. MacPherson stated that loading is a function of operations and distributions, typically a store like this with 6 loading bays and the larger receiving area its much more efficient design than the existing store and/or older stores along with distribution computer control from headquarters, their ability to plan and schedule deliveries to a store is much more efficient so trucks are not sitting around taking up parking on and/or off street.

Mayor Flynn stated that the issue was brought up about why having trucks come in and out of Reeds.

Mr. MacPherson stated that with the loading facility behind the store backed up to Reeds, it was important to keep most of the trucks close to Reeds at the first access point to Mill St. Keeping the trucks maneuvering at the intersection of Reeds and Mill we determined was an efficient way to do it.

Mr. Timboe, Planning Director, stated that the best orientation for the Wal-Mart building was facing towards a major public way rather than the backs of building so that there would be mid block big rig interaction along with the Wal-Mart building across the street along with the major customer parking lot

would exit onto Reeds Ave. creating bigger problems there.

Mayor Flynn requested clarification if this meant the least impact.

Mr. Timboe stated that along with Wal-Mart you have all the other trucks that are currently going down Mill to Reeds to turn into the Raley's Shopping Center for deliveries, and this would be the least impact.

Mayor Flynn requested clarification on the change at South Main for the Montgomery Rd. intersection as traffic mitigation.

Mr. Timboe stated yes Sir.

Mayor Flynn questioned if this would be prior to them moving in to the new building.

Mr. Timboe stated yes, and that the infrastructure plans required according to the mitigation and monitoring program that is proposed for adoption here would require that those improvements are done prior to final building occupancy.

Mayor Flynn requested clarification on the Southside Traffic Study issue for future planning and that no one of can say when its going to happen, but is something we are planning on taking place in the future.

Mr. Timboe stated yes and that we are trying to utilize studies done by CalTrans and Omni-Means for the Southside Neighborhood Revitalization Project or plan and one of those has recently been agreed to formally by City officials and CalTrans for the Vista Way/Interstate 5/So. Main overcrossing and interchange. This will open up the whole are south of Luther to connect with the I-5. That in itself would relieve an enormous amount of pressure on the Luther and South Jackson intersection.

Mayor Flynn requested clarification that there was only a small part of this project that was a zone change.

Mr. Timboe stated that was correct, only approximately 2 acres out of 16 acres leaving 14 acres already zoned C-3 General Commercial, as is the same across Reeds Ave.

Mayor Flynn stated that he had no more questions at this time.

Councilmember Byrne stated that he had been in construction all of his life and there was no perfect projects, but he thinks that this project will benefit more people in the City than not.

Councilmember Brown stated that he thanked Mr. Timboe, the Planning Department and staff and would like to commend them, as they have represented the City's interest in this project along with the professionalism and skill that we have asked. He wanted to compliment all other departments involved for a project of this magnitude, and stated that they had done an excellent job. He continued by telling Mr. MacPherson that he had mitigated every impact to its fullest and beyond and presented a project that appears to be flawless and classy. He stated that Mr. MacPherson went to extreme measures to address those rulings from litigation against your customers and he was very impressed. He continued by saying that his convictions and concerns settles in the overriding consideration that were asked as part of the recommendations, which encompass a number of significant and unavoidable traffic impacts that result in a level of

service that is currently or will be plus this project scored with an E or an F. He stated that this project could not be asked to do any more to mitigate these issues. The City Council hereby determines that the benefits of this project outweigh the risks and the adverse environmental impact of the project further determines that this project's significant and unavoidable impacts are acceptable. Accordingly the City Council adopts the statement of overriding considerations recognizing that significant unavoidable traffic impacts shall result from implementation of this project and it goes onto with some more similar wording.

And so what that really means is that we understand that the area is under stress now and plus this project is going to become even more stressed but because of the project benefits we will be asked to determine if this project is worthy of adoption and the project benefits, include more employment, Taxes, high quality development with the needed infrastructure. Because of those benefits, we are being asked to overlook what it is going to do, and he hopes Council has read these statements. He hopes you understand what that means, that what we're being asked to do, because of the benefits, to overlook the significant and unavoidable traffic. We've heard a lot of talk about

that tonight and we've also heard a lot of statements that we need to quit worrying about the traffic because it's been addressed for the last four or five years which, you know, it has. He doesn't know how we can overlook it out there now as we've already seen some of these are already in Fs and some are already in Es. It is only going to continue unless -- we have a stop light. You yourself said that is about all you can do there to address that area.

Mayor Flynn asked if there were any further comments and that he would entertain a motion on each item one separately.

M/S/C Byrne, Moyer to adopt Resolution No. 60-2008, certifying the Final November 2008 EIR (FEIR) for the Wal-Mart Super Center Project at 608 Luther Road, Red Bluff CA (SCH No. 2004012088) as adequate and complete with the Final Mitigation Monitoring Plan and adopting the "CEQA Findings of Fact and Statement of Overriding Consideration".

AYES: Councilmembers: Byrne, Flynn and Moyer

NOES: Councilmember: Brown

ABSENT OR NOT VOTING: Councilmember Irving (absent)

M/S/C Moyer, Byrne to adopt Resolution No. 61-2008, approving the General Plan Land Use Map Amendment (GPA-03-002) and waive the first reading and introduce Ordinance No. 992; Rezone No. 194, Rezoning of the Zoning Map.

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M/S/C Byrne, Moyer to adopt Resolution No. 62-2008, approving Design Review (DRG-04-02-15) and Tree Replacement Plan (TRP-04-02-15), with attached Conditions of Approval, Mitigation Measures, and reduced project plans.

AYES: Councilmembers: Byrne, Flynn and Moyer

NOES: Councilmember: Brown

ABSENT OR NOT VOTING: Councilmember Irving (absent)

There being no further business Mayor Flynn adjourned the meeting at 8:00 p.m. until the meeting of December 2, 2008 at 7:00 p.m.

s/b Wayne Brown, Mayor

ATTEST:

s/b Jo Anna Lopez, City Clerk