

PLANNING COMMISSION MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL
1401 Marina Way South, Richmond, CA
November 6, 2008
7:00 p.m.

COMMISSION MEMBERS

Virginia Finlay, Chair
Stephen A. Williams
Charles Duncan

Vice Chair Nagarajo Rao
Jeff Lee, Secretary
Vacant

The meeting was called to order by Chair Finlay at 7:03 p.m.

Chair Finlay led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Finlay, Vice Chair Rao, Secretary Lee and Commissioners Duncan and Williams

Absent: None

INTRODUCTIONS

Staff Present: Lina Velasco, Jonelyn Whales, Kieron Slaughter, Hector Rojas, Janet Harbin, Everett Jenkins

MINUTES

September 6, 2007

ACTION: It was M/S (Rao/Lee) to accept the minutes of September 6, 2007; unanimously approved (Finlay and Duncan abstained).

October 4, 2007

Chair Finlay submitted minor corrections to staff.

ACTION: It was M/S (Rao/Lee) to accept the minutes of October 4, 2007; unanimously approved (Duncan abstained).

December 10, 2007

Chair Finlay submitted minor corrections to staff.

ACTION: It was M/S (Lee/Williams) to accept the minutes of December 10, 2007; unanimously approved (Rao and Duncan abstained).

January 17, 2008

ACTION: It was M/S (Williams/Lee) to accept the minutes of January 17, 2008; unanimously approved (Rao and Duncan abstained).

February 7, 2008

ACTION: It was M/S (Williams/Lee) to accept the minutes of February 7, 2008; unanimously approved (Duncan and Rao abstained).

July 3, 2008

ACTION: It was M/S (Rao/Duncan) to accept the minutes of July 7, 2008; unanimously approved (Finlay abstained).

August 7, 2008

ACTION: It was M/S (Rao/Williams) to accept the minutes of August 7, 2008; unanimously approved (Finlay and Duncan abstained).

CONSENT CALENDAR

Chair Finlay provided an overview of the Consent Calendar, meeting procedures for speaker registration and public hearing functions and procedures. She said certain items approved by the Commission may be appealed in writing to the City Clerk by Monday, November 17, 2008, by 5:00 p.m. and announced the appeal process after each affected item.

Chair Finlay noted the Consent Calendar now consisted of Items 1, 2, 3, 4 and 6.

Chair Finlay requested a change for Item 4, stating on the bottom of Page 2, and asked that "statement of effect" be changed to read, "statement of fact".

Vice Chair Rao requested removal of Items 2 and 3.

ACTION: It was M/S (Williams/Rao) to adopt the Consent Calendar consisting of Items 1, 4 and 6; unanimously approved (Duncan abstained on Item 4).

Items Approved:

- 1. PLN08-041 – Research Drive: Tentative Parcel Map for Commercial/Industrial Building, 3023-3025 Research Drive - PUBLIC HEARING** to consider a tentative parcel map to subdivide an existing commercial/industrial building into four condominium units at 3023-3025 Research Drive (APN: 405-373-023). M-1 (Industrial/Office Flex) Zoning District. D & K Metcalf Partnership, owner; David Metcalf, applicant. Planner: Lina Velasco. Tentative Recommendation: Conditional Approval.
- 4. V/PLN08-042 – Nicholl Apartments: Variance to Minimum Lot Size, 32 & 34 Nicholl Avenue - PUBLIC HEARING** to consider a Variance to convert an existing office above a garage into a studio apartment at 32 and 34 Nicholl Avenue (APN: 558-101-009. General Plan Designation 922A; MFR-1, Multifamily Residential Zoning District. Glen Myers,

owner/applicant. Planner: Jonelyn Whales. Tentative Recommendation: Conditional Approval.

6. **PLN08-027 – Bayside Village Live Work: Appeal of Director’s Zoning Determination, Goodrick Avenue and Richmond Parkway** - PUBLIC HEARING to consider an appeal of the Director of Planning and Building Services’ zoning determination pursuant to the Richmond Municipal Code Section 15.04.012 for property located at the intersection of Goodrick Avenue and Richmond Parkway (APNs: 408-220-007, 036-039, and 041-043) in the M-1 (Industrial/Office Flex) Zoning District. The Director determined that the proposed Bayside Village 222 residential units by definition are more residential than live/work based on the number of units and site configuration. Joshua Genser, owner/applicant. Planner: Jonelyn Whales. Tentative Recommendation: Hold Over To 12/4/2008.

Brown Act – Public Forum – None

Chair Finlay announced the public hearing protocols and confirmed with staff that for Item 5 there were 31 speakers against and 3 with no position. Chair Finlay stated each public speaker for Item 5 would be limited to 2 minutes.

Items Discussed:

2. **PLN08-031 – Target Stores: Conditional Use Permit for Alcohol Sales, 4500 Macdonald Avenue** - PUBLIC HEARING to consider a request by Target Corporation for approval of a Conditional Use Permit (CUP) to allow sale of beer, wine and distilled spirits for consumption off the premises (License Type 20 Off-Sale Beer and Wine). The subject property is located at 4500 Macdonald Avenue (APN 517-290-010). General Plan designation C-3, Regional Office Retail Commercial; Zoning District, C-3-Regional Commercial District. Target Corporation, owner; Hinman & Carmichael LLP, applicant. Planner: Kieron Slaughter. Tentative Recommendation: Conditional Approval.

Mr. Slaughter gave the staff report and described the request for a beer, wine and distilled spirits at the recently constructed Target Store. Staff is recommending approval of the request with conditions recommended by the applicant and the Police Department. The applicant also met with the West County Alcohol Policy Working Group and the police department and all conditions were agreed upon between the parties.

Secretary Lee questioned and confirmed with Mr. Slaughter that the request is only for beer and wine, and not distilled spirits as outlined on the agenda. Vice Chair Rao questioned the necessity for a Police Department report, and confirmed with staff that the Police Department had not been submitting formal reports to staff, but recommended conditions which are agreed upon. Chair Finlay noted that the store is such a new facility and it is hard to comment on it by the Police Department at this time.

The public hearing was opened.

Beth Aboulafia, Hinman and Carmichael, representing Target Corporation, introduced Rhonda Harrington who is the store manager of the Target Store, said the staff report is comprehensive and outlines their request. She confirmed it is the type license that only permits beer and wine sales off-site. Given Target’s expanded grocery section, the request will add a convenience to customers, and it will be a very small portion of Target’s overall floor space and sales revenues. She said the store has an alcohol sales training program that all cashiers are required to

complete prior to being allowed to sell alcoholic beverages, asset protection personnel and state-of-the-art video surveillance systems. They have been working closely with the police department and have come to an agreed upon list of conditions. They also met with the West County Alcohol Policy Working Group who are supportive of the application with conditions. There have been no objections from the community and requested approval of the application.

Vice Chair Rao questioned how asset protection personnel are utilized by the store and Ms. Bavalafia provided a brief explanation.

Naomi Williams, Chair, West County Alcohol Policy Working Group, described Target's initial contact with the group, said all conditions have been agreed upon and supported the request.

Chair Finlay said with the new computer system, she questioned and confirmed that the attached resolution should be reflected as PLN08-031. She also referred to the top of page 3; and asked that the words, "West Contra Costa Working Group" be changed to the "West County Alcohol Policy Working Group."

The public hearing was closed.

ACTION: It was M/S (Duncan/Williams) to approve PLN08-031 with the previous noted changes to the Resolution including the findings and the 22 conditions of approval; Vote: 4-1 (Rao voted no).

3. PLN08-046 – Wal-Mart: Conditional Use Permit for Alcohol Sales, 1303 Hilltop Mall Road - PUBLIC HEARING to consider a request by Wal-Mart for approval of a Conditional Use Permit (CUP) to allow sale of beer, wine and distilled spirits for consumption off-the-premises (License Type 21 Off Sale General). The subject property is located at 1303 Hilltop Mall Road (APN: 405-320-009-5). General Plan designation C-3-Regional Office Retail Commercial; Zoning District, C-3-Regional Commercial District. Wal-Mart, owner; Ilene Dick, applicant. Planner: Kieron Slaughter. Tentative Recommendation: Conditional Approval.

Mr. Slaughter gave the staff report and brief description of the request and staff is recommending approval with conditions. He said modifications of conditions were submitted to the Commission, as a meeting was held with the applicant after the staff report was distributed, and the applicant have agreed to revised conditions and staff recommendation to acquire a Type 20 permit and not transfer a Type 21 into the City of Richmond. Staff received communication from the West County Alcohol Policy Working Group and several neighborhood councils, which was noted for the record.

Commissioner Williams confirmed that the request eliminates the distilled spirits portion of the application, and Mr. Slaughter said originally a Type 21 license was applied for; however, the applicant has subsequently agreed to transfer in a Type 20 license for beer and wine only. In addition, the Police Department submitted recommended conditions of approval.

Commissioner Duncan noted the City received a letter from Supervisor Gioia where he states it was his understanding that there are 3 active liquor licenses in the census tract and adding another vendor constitutes a saturation, and Mr. Slaughter agreed with this fact, but said it is staff's charge to find a public convenience and necessity if there is undue concentration, and staff is recommending approval.

The public hearing was opened.

Ilene Dick, Applicant, representing Wal-Mart, said they agree with conditions and modifications. They will be in escrow shortly for purchase of a Type 20 license, said they provided elaboration of their security and training, said alcohol sales will be in the center of the store and not easily accessible to consumers, they will have two security cameras dedicated in the area and the sales area is a very small area of their total floor area. He said they also have an excellent relationship with the mall that provides security, as well and the store closes at 10:00 p.m.

Vice Chair Rao questioned if the neighborhood councils had been contacted and Ms. Dick said they left messages with them, but did not receive return calls.

Jeen V. Singh, Store Manager, Walmart, said she was available for questions. Vice Chair Rao questioned and confirmed that the majority of stores sell beer and wine, said they were very involved with loss prevention and security, they also have mall security and have experienced no problems.

Ms. Dick further stated that there are three off-sale outlets in the census tract; however, two are internet sales and located in areas without pedestrian traffic. They also provided findings to make and they believe the offering of beer and wine compliments to the store being a full-service shopping center.

Secretary Lee questioned which liquor sales were in the census tract. Assistant City Attorney Privat noted the Arco PM Mart at 15531 San Pablo Avenue (at Atlas) has an existing license. He said the others are the Tamalpais Wine Agency and Robert Sawicki who are distributors as Internet sales operations.

Vice Chair Rao said the City of Richmond is full of beer and wine sales, and he questioned the necessity of the sales. Ms. Dick said it is language in state law in how a local jurisdiction can make findings of public convenience and necessity. For those customers who come to Wal-Mart, they are able to purchase multiple products which can be used together, which is a public convenience for one-stop shopping.

Public Comments:

Judy Herrmann said she lives nearby the Wal-Mart and has served as Crime Prevention Coordinator for two neighborhoods. She cited crime-related activities in the parking lot, voiced opposition to allowing beer and wine sales, and asked for the Commission to consider nearby residents.

Naomi Williams, Chair of the West County Alcohol Policy Working Group, said their charge is to empower the community, create a healthy environment and improve quality of life and to make sure establishments do not serve to under-age drinkers. She clarified with staff that the Commission can require a Type 20 license, confirmed the store was located within 20 feet where children play, 500 feet from a church, the store is located inside a shopping mall and most neighbors do not support another off-sale license in the location. She asked the Commission to consider denying any more alcohol sales in the City, as there are already too many. She said if approved, the application should abide by all police department conditions, change to Type 20 license, and remove Condition 9 which relates to the sale of distilled liquor. She asked that everyone be carded that purchases alcohol, that there be no beer and wine near checkout counters or doors, that there be no signage or advertisements of alcohol, and all

clerks must be trained to be able to identify intoxicated individuals. She also questioned if the granting of the application would pay for additional police calls to the store, and she asked the Commission to consider denying the application, regardless of conditions.

Chair Finlay confirmed Ms. Williams reference to Condition 9 was not contained in the resolution.

Vice Chair Rao questioned if Ms. Williams was aware of the neighborhood council's position on the application, and Ms. Williams said there would be representatives to speak on the matter who are present.

Ruby Molinari said there are residential neighborhoods located on all sides of the store, two churches, a school, and a park in close proximity and all will be affected by alcohol sales in Wal-Mart. She said the mall is a place where young people congregate and hang out, and she felt alcohol has no place in the setting. She believed that the public convenience and necessity does not exist, spoke of several off-sale and on-sale licenses in the Fitzgerald Square area and said there is also an off-sale store at San Pablo and Atlas, which are both met with public convenience.

Eleanor Loynd said the addition of the Wal-mart store has improved the quality of shopping for people in the neighborhood, but if the application is approved, the sale of beer and wine will have an continuing downturn of affect for neighbors. She cited recent increases in crime, felt the staff report is flawed, noted that less than 1% of Wal-mart's sales is attributable to alcohol sales and she requested denial which she believed would have little effect on the store's profits. She felt the license will jeopardize, endanger and constitute a menace to the public health, safety and general welfare of adjacent neighborhoods. She said the existing three alcohol licenses already meet the standards set for the census tract and the total number of offenses in the district is 9,576 and she asked the Commission to deny the request.

Paul Conner, member of the Hilltop Village Neighborhood Condominium Council and a member of the Richmond Coordinating Council, said he was amazed that they have not been contacted by the City about the proposal, noted he had been President of the council at the time Wal-Mart located at the mall and they were very opposed to them locating there. At the time of their approval, Wal-Mart was to have only limited grocery sales and no alcohol sales, which he was skeptical of. He said 553 homeowners of their neighborhood currently look down on Wal-Mart and are strongly opposed to the request and very disappointed with the fact that the City has never contacted them.

Emmanuel Dean said no one has contacted Hilltop Village neighbors about the request, questioned the public noticing process, and vehemently opposed the request.

Jerry Richardson, President of the Hilltop Village Neighborhood Council, said Wal-Mart has promised to be good neighbors, they tried to contact Wal-Mart managers for months and they have yet to attend a neighborhood council meeting. He said he heard about the request through Eleanor Loynd, said they brought the topic to their general membership meeting of September 25, 2008 and those present opposed the request. He said they meet with police on a regular basis who speak about the draining of resources from the mall and he felt alcohol sales would only draw more resources.

Patricia Smith urged the Commission to vote no on the application, re-emphasized the dangerous aspects of having liquor in that area, said Wal-Mart keeps long hours until 11PM,

and she said there are two entrances and exits where people can drink in the parking lot and in the mall. She said she could not think of benefit that could come out of this for the community, and suggested an alternative of adding more grocery section to the store and make the money that way.

Chair Finlay confirmed there were no speakers in favor of the application, and asked staff for a summation.

Mr. Slaughter responded to the question regarding noticing and said a 300 foot radius notice was given, and unfortunately, the Hilltop Village neighborhood was not within that radius. Ms. Harbin discussed advertisement in the newspaper and staff does transmit to the Richmond Neighborhood Coordinating Council a list of applications for public hearing.

Chair Finlay believed staff would need to go beyond the typical noticing radius, as there will be an effect on those communities. She also questioned the operating hours of Wal-Mart.

Jeen V. Singh, Store Manager, Walmart, confirmed that the operating hours of the store are 7AM to 10PM.

Vice Chair Rao referred to the application being nearby a school and church, and Mr. Slaughter said there was an ordinance regulating the identity of this; however, the parking lot is closest to the church and not the store. Staff also believes there is a public convenience and necessity. He summarized staff's recommendation for the Commission to approve PLN 08-046 to allow the sale of beer and wine for a Type 20 license at the Wal-Mart store, with modified conditions as reflected in the resolution.

Chair Finlay requested two amendments to the resolution; page 1, Resolution title--PLN 08-046. On page 4, item 1, Type 21 needs to be changed to Type 20.

Commissioner Duncan disagreed with having the two applications for Target and Wal-Mart back to back and said he would not support the same logic with this application as he did with Target. He said the Target application is not an over-saturation of the area; however, Wal-Mart's is. Supervisor Gioia submitted a letter stating severe concerns from those in the community and he said he could not support approval of the application.

Mr. Slaughter said staff received Supervisor Gioia's letter which was discussed with the Planning Director. It was his recommendation that as a condition of approval, that Wal-Mart acquire a license from within the City, as well and not transfer an existing license.

Commissioner Duncan questioned if the application saturated the census tract, and Mr. Slaughter confirmed that the application did through the crime rate criteria and not the saturation rate criteria.

The public hearing was closed.

ACTION: It was M/S (Rao/Duncan) that that Planning Commission deny PLN 08-046; which carried by the following vote: Ayes: 3; Noes: 2 (Lee and Williams). The application was denied.

BREAK

Chair Finlay called for a three-minute break and thereafter reconvened the regular meeting.

5. **GPA/RZ/ZTC/DR 1104490 – Kohl’s Department Store, 2700 Rydin Road, 4903 Central Avenue** - PUBLIC HEARING to consider a recommendation to the City Council on the General Plan Amendment, Rezoning, Zoning Text Amendment, Draft Mitigated Negative Declaration (MND), and Design Review Permit for the Kohl’s Department Store project at 2700 Rydin Road and 4903 Central Avenue (APNs: 560-390-018, 560-390-013, 560-390-020). The project consists of a new two-story 99,011-square-foot retail building, and a 76,008-square-foot commercial pad site. The requested General Plan Amendment and Rezoning would change the site’s General Plan land use map designation from 920, Industrial/Office Flex to 930, Regional Commercial, as well as the zoning category for the site from M-1, Industrial/Office Flex to the C-3, Regional Commercial Zoning District. The Zoning Text Amendment would reduce the parking stall depth requirement from 18’-6” to 18’.” L&S Properties and Central Spur Properties, owner; Oliver and Company, Inc., applicant. Planner: Hector Rojas.

Hector Rojas gave the staff report and brief description of the request for a Kohl’s Department Store. He noted a correction in the noticing stating the store has 35,000 square feet. He described surrounding uses and zoning, presented pictures of surrounding sites, operation of the store, its entrances, green building design, pad development, landscaping and lighting, stormwater management facilities, and the addition of 130 new jobs for the City. He said staff prepared a mitigated Negative Declaration and Mitigation and Monitoring Reporting Program for the project, and other entitlements include a General Plan Amendment, Rezoning, Zoning Text Change, and Design Review.

Chris Carnes, Oliver and Company, Inc., applicant, said the City prepared an Initial Study in addition to what was described by Mr. Rojas, staff concluded that the impacts of the project would require a traffic study, a biological report to analyze existing conditions for those properties bordering the site, and based upon the conclusions of these reports, staff concluded that a mitigated Negative Declaration could be prepared. Six areas were identified for mitigation which included air quality, cultural resources, geology and soils, hydrology and water, transportation and traffic, and utilities and sewer systems. The Initial Study also identified mitigation measures to reduce impacts to less than significant levels, staff concluded an EIR was not warranted, and he said the majority of proposed mitigation measures are typical and required of any site.

Mr. Carnes further expanded on specific mitigation measures, noted the public review period was from October 3-22 for the Initial Study, staff received 89 comments on the document and staff prepared responses to comments which were included in the packet. Concerns raised included potential impacts of the project on the Hoffman Marsh, the potential change in land use, and that the General Plan Amendment be incorporated with the City’s General Plan Update process. The Initial Study includes the pad which is not slated for development at this time; however, the applicant has no future tenants for that building and the City will require that future development go through the environmental process because of its location next to the marsh.

Mr. Carnes said the City received four additional letters on the project application; three involve comments regarding the traffic studies and one letter was in support of the project. Some issues raised in the letters include a comment that because the project did not include development of the pad, this is piece-mealing in regards to CEQA, and he said this is not the case. At this time the City has not considered any development on the pad but it can review the potential impacts because of the rezoning and development parameters for what the maximum development

could be. The City received a letter also that the new signage on the building had an adverse visual impact on the vista at the intersection of Rydin and Central Avenue; however, the new signage is substantially set back from that intersection and in no way blocks or hinders existing vistas. There is also concern raised that future noise at the Kohl's Store would have an adverse impact on the habitat at the marsh, and these centers are not typically known to be sources of loud and consistent noises.

Staff recommends adoption of the mitigated Negative Declaration and its accompanying mitigation and monitoring reporting program, which includes 11 mitigation measures, as discussed. He also noted that those consultants who prepared the studies were present in the audience.

Secretary Lee referred to the traffic study and questioned if there was any traffic allocated to the undeveloped pad, and Mr. Carnes said yes, the study analyzed it as a bank business and said the traffic engineer could provide further information.

Pang Ho, Traffic Consultant, PHA Traffic Consulting, said they included in the calculations with the Kohl Store a 6,000 square foot bank on the undeveloped pad. They looked at three scenarios; a sit-down restaurant, a general retail center, and a bank, and they chose the bank stating it would generate the highest traffic use.

Commissioner Duncan said the site is zoned M-1 and proposed is a giant box store for a C-3 zoning. He questioned if this type of commercial use was allowed years ago in an M-1 site, and Mr. Rojas said staff would need to research this, but there has been historic conversations regarding the Pt. Isabelle area, and could ask the developer when buildings were constructed on the site. He said Costco did get approved as a conditionally allowed use at the time it was developed.

Commissioner Duncan questioned if this was an example of spot zoning, and Mr. Rojas said it is not. The area is adjacent to another that is zoned C-3 district. Commissioner Duncan said land uses under the General Plan are in the EIR stage right now, and he asked if Mr. Rojas knows what was intended for Pt. Isabelle. He questioned where land use changes were going for that area and questioned if this use would "square up" with what the City will be seeing. Mr. Rojas said this is consistent with land use alternative number 3 that is being considered as a preferred alternative under the General Plan EIR. Commissioner Duncan also questioned and confirmed that the proposed signage complies with the City's sign ordinance.

Secretary Lee questioned whether the Costco store were brought in now, would it require such an extensive process as the Kohl's application. Ms. Harbin said she believes that if the Costco were presented now, staff would require them to go through an environmental process similar to this application.

Secretary Lee said there used to be a patio furniture store on the site and he questioned how this use sufficed. Mr. Rojas said the current zoning is M-1 (Industrial/Office Flex) and it was an allowed use under the zoning district. He said it was the intent that the majority of square footage of uses would be for warehouse use, but it does allow for a small percentage of office and retail space.

Chair Finlay said if the Planning Commission denied the application and left the space with its current zoning and usage, she questioned what types of businesses would be able to locate on the property. Mr. Rojas said Table 1 in the staff report summarizes those uses, and he briefly

described examples. Secretary Lee noted that currently, there is over 100,000 square feet of commercial uses and most of those businesses have been moved to other spaces in anticipation for demolition.

Vice Chair Rao referred to the installation of traffic lights and asked for impacts on circulation going onto I-580.

Pang Ho, Traffic Consultant, said one signal will be at the ramp at Central and Rydin at I-580 and the other will be on the other side of the ramp. The signals will reduce delay at both locations. Currently, there are four-way stop signs and at least 50% of the traffic volume from both directions will be able to move through given installation of the signals which will improve air quality, circulation and safety. Chair Finlay noted that the second signal is proposed to be located at the crest of the overpass where I-580 on- and off-ramp goes into Central Avenue.

Secretary Lee questioned and confirmed that Mr. Ho's position was that with the addition of the two signals, traffic flow will be improved over its current state, even with the additional traffic from Kohl's.

Chair Finlay disclosed she met this week with Eric Zell and Associates, Jeffrey Pool, and Amy Stephens of Kohl's Department Store, and Steven Oliver and David Popolka of Oliver and Company.

Steven Oliver, Oliver and Company, Inc., Applicant, said they are very proud of the project, they have been good corporate citizens of the community for years, and after 30 years of ownership of the site, they are looking at its evolution. He said today, they have two interested industrial distribution uses for the site, had applications from 5 retail users, and made a decision that Kohl's was their number one choice. He said approximately 180 new jobs would be brought to the City, tax revenues of up to \$500,000 a year, are reducing the footprint by 60%, there is no impact to the Pt. Isabelle dog park, propose over 100 new trees, the project results in little or no impact to marshlands, the traffic during the week is actually lighter and slightly elevated on weekends, the traffic study was done by renown traffic consultants, have donated to various projects in Richmond, and they took 80% of the tenants from existing buildings and found them new homes. He presented before and after slides and asked Mr. Pool from Kohl's to speak on the application.

Jeffrey Pool, Kohl's, Wisconsin, said Kohl's is a New York stock exchanged fund, they are stable, have sales of approximately \$18 billion a year, have 1,004 stores throughout the United States; 16 of which are in the San Francisco Metro area, they are a specialty department store, are family focused and value oriented, and cater to convenience shopping. They have had record sales in every consecutive year for the last 16 years since 1991 to 2007, opened 173 stores last year and anticipate another record sales year this year, even though their comparable sales are down 6%. Regarding commitment to communities, they offer products where 100% of their proceeds go to Kohl's Cares for Kids program that go back to child center programs in communities. Last year, \$42 million was donated to various community based organizations. He discussed their product brands, said they want to be able to build a 50,000 floor plate on the ground and 90,000 square feet in total and will be able to create a less intensive site. The front of their store will be 300 feet further from the Hoffman marsh and their southern elevation will be 60 feet further north. Oliver & Company is the owner and are also tenants.

Commissioner Duncan questioned the store's LEED level, and Mr. Pool said they will be LEED certifiable and are hoping for silver status. They may or may not be entertaining solar panels yet, but will be LEED certified regardless.

Chair Finlay opened the public hearing.

Public Comments:

Bruce Brubaker, TRAC, said he sent a letter to the Commission and staff, said the Bay Trail currently is located close to the site, crossing Central Avenue and Rydin Road at the corner. TRAC is interested in ensuring the Bay Trail users will be able to access the area and are asking for mitigations to allow safe and comfortable travel. He asked for the following conditions; 1) intersection improvements to Central Avenue and Rydin Road; 2) crosswalks to be highly visible and incorporate pedestrian refuges; 3) pedestrian and bicycle-friendly signal activation provided; 4) a wide sidewalk on the northwest corner of the intersection; 5) signage and rest areas for trail users; 6) retail building should be oriented to allow for a front door entry.

Secretary Lee confirmed that if such conditions were added into the project, TRAC would find it a more serviceable interchange and would not oppose the project.

Mary Selva, Richmond Annex Neighborhood Council President, said they submitted a biological study in response to the Richmond's study, provided background on the neighborhood council's charge and work over several years, and said this project is incompatible development, it is cumulatively excessive and all studies are deficient and not accurate. Pt. Isabelle Shoreline is not intended for a regional commercial district and she further cited such designated commercial areas located on the east side of the freeway, none are along the shoreline with such zoning and types of uses were never intended for shoreline areas. The parcel was recognized as light industrial in the last General Plan update, and the marsh and sanctuary need to be protected. She also noted that not pointed out by staff is that the 40-acre Hoffman Marsh is under preservation lands under the General Plan Land Use designation. She said the types of uses proposed are not harmonious for the Pt. Isabelle area, said commercializing a shoreline will overwhelm the area, traffic is already heavy through the area, and a major land use change like this should go through the General Plan update process.

Garland Ellis, Vice President, Richmond Annex Neighborhood Council, said Costco went in as a warehousing type of use and if proposed today, they could not without the same type of review Kohl's is going through now. He said several traffic studies have been done such as the Caltrans for Measure J monies for the I80/I580 interchange project. Central Avenue has major traffic problems at present and engineers conclude they cannot fix it or without acquiring land through eminent domain. He cited problems with the traffic study as truck traffic is not considered or addressed, traffic will back up in Costco and people will not be able to get out, trip rates were inaccurate, employees will be mostly part-time workers, numbers of customers is under-estimated, and questioned why they did not compare the Vallejo Kohl's in their comparisons.

Eleanor (speaking for Jerry Yukie), said she is a resident of Albany but spent thousands of dollars at Hilltop, feels very strongly about preserving the shoreline especially for future generations, and said the study done by Kohl's was done over the course of only one month, and believes the process needs an EIR. No thought was given on the impact of the park, there is only one road accessible to the site and traffic is horrible.

Silvia Schlila, Berkeley resident and former President of Pt. Isabelle Dog Owners, said they have 4,500 active members; 1500 of which are Richmond residents, voiced concern with the proposal being so close to open space, marshlands, and recreation. She asked the Commission to preserve the area the way it is and asked the Commission to deny the project.

David Harris, member of Richmond Annex Neighborhood Council, presented photographs to the Commission showing the view of the Central Avenue/Rydin Road area as viewed from the same level as the roof at the Costco and Sanderson buildings. He said Costco and Sanderson buildings are 30'8" in height, the building at 2700 Rydin Road is 25', and the bulk mail center is 43'6" and an additional raised section of 50 feet making it 47'9". He said the second photo shows the 39' Kohl's building the same height as the Costco building, which is in error. He feels Kohl's or the developer was disingenuous.

Debbi Landshoff asked the Commission to reject the mitigated negative declaration and require a full EIR, given the impacts to wildlife, air, traffic, marsh, and safety. She said mitigations should be better than those specified, and a better plan would be seen through an EIR. Item 4E in the Initial Study relating to tree preservation and she said a policy is being reviewed by the City Attorney and they have indicated it will shortly be released for Council review and approved and included as an update to the Municipal Code early next year, which would be timed well with an EIR.

Bill Pinkham, Boardmember for East Bay Bicycle Coalition, Friends of the Richmond Greenway, the new Richmond Bicycle Pedestrian Advisory Committee, and the Contra Costa County Bicycle Advisory Committee and all organizations are concerned with safety of bicyclists and pedestrians on all streets. The intersection of Central and Rydin is the most heavily used section of the Bay Trail, especially on the weekends. He said traffic signals provide a false sense of security and when traffic is combined, it will place riders and people using the trail in great peril and he believed that drivers would be frustrated with the proposed changes and running lights.

Bruce Tompkins said he is a bicycle commuter, pointed out how any new development at the intersection would further interrupt the trail which is an important commute and recreational corridor. If a traffic light is added of Central/Rydin/Bay Trail, bicyclists and pedestrians will have to wait for two changes of the light prior to being able to cross, and the intersection is already treacherous. He opposed the location for Kohl's, was opposed to increased traffic and development, and believed the area should remain as a recreational area.

Marla Miyashiro discussed current traffic conditions of the park, stating Pt. Isabelle gets well over 1 million visitors per year, shoppers at Costco and its gas station, described Central Avenue as an over-burdened corridor, said the City has made no provisions for emergency situations and urged the Commission to deny the application. She questioned if Caltrans has indicated in writing that they would fund the traffic signal at the I-580 overpass.

Elaine Gerber, Richmond Annex Neighborhood Council member, voiced opposition to the development of Rydin Road and Central Avenue for a department store and a bank. She questioned why someone would want to drive into the shoreline to do their banking. She believed the use was inappropriate and the types of uses under the retail commercial district are not suitable for shorelines.

Silvia Falcon, El Cerrito and Boardmember for Pt. Isabelle Dog Owners Association, stressed the land in question was never intended to house retail commercial businesses and prior City

Commissions, City staff and other groups fought to keep the land the lowest possible intensity for this area. She believed a full EIR is needed, traffic congestion is acknowledged by many, and said the environment would be destroyed as a result of development and asked the Commission to deny the application.

John M. Anderson said the proposed use of Kohl's store will cause great increase in traffic, cited existing truck traffic and safety, Costco congestion, discussed statistics in delays at traffic signals and Pt. Isabelle site is large and averages almost 26,000 visitors per week for the park alone and asked the Commission not to change the land use to Commercial zoning.

Lindsay Holmgren voiced concern with the hours of operation of 9AM to 10PM, said special sales events go from 6:30AM to 12 midnight, noted crime problems at the Pacific East Mall due to late hours and asked the Commission to not change the land use.

Michael Beer said he was impressed by Oliver and Company and their loyalty to the City of Richmond, believed a Kohl's store is needed, but there are many other sites in which to locate and asked the Commission to reject the application as well as the mini-mall proposed next to it.

Elizabeth Stockholm said the City and residents have worked years to preserve the Pt. Isabelle area, long term planning should not be thrown out the window to accommodate a single project, and asked the Commission to not change the land use and spoke on behalf of a speaker who had to leave, who was opposed to the project, as well.

Tony Susteck believes there is a possible win/win if the project could be pushed to the west using some of the under-utilized areas, which would be more accessible to Central Richmond and the 23rd Street corridor.

Christine Matthews, Chair of the Pt. Isabelle Dog Owners, presented a 4,500 signed petition opposed to the Kohl's project, submitted 450 letters opposing the project previously, said she would love to have Kohl's in Richmond but not at the proposed site. She said a speaker had to leave who was also against it.

Tom Webb opposed the change in land use designation to regional commercial because permitted uses are incompatible with the shoreline environment and believes the project requires a full EIR.

Megan Keelaghan said the particular stretch of shoreline is incredibly rich, said marshland and wetlands are a very ecologically complex system and cannot be rebuilt if disturbed, and she felt that a full EIR should be required.

Mary Jean Moore said the biological study was only conducted for one month with only one site visit on July 17th which is insufficient and inaccurate. It failed to find species which are regularly seen at Pt. Isabelle and some are rare or endangered. Also, the California Reese Tern has only been observed one time in the year 2000, and in fact, the bird has been observed several times recently. The bird is specific to Pt. Isabelle and the Richmond/Albany mud flats and is designated as endangered on federal lists and the California Cropper Rail and Salt Marsh Harvest Mouse are specific to the marsh and also listed as endangered. If there is increase in use and hours of light permitted, there will be major impacts on habitat. She said the records used from Contra Costa County used in the biological study are actually outdated and she discussed the many surveys taken by them.

Vice Chair Rao referred to endangered species and questioned if there was a City ordinance or State law that prohibits this particular project being there, and Ms. Moore said she was not aware of any.

Carolyn Graves respectfully requested for the proposal to be denied because the site is in three long-term shoreline wildlife preservation areas, it has the highest density of shorebirds because of its mud flats, they support more than 5 listed species in addition to more than 140 other species. The citizens of several cities use this park and over the last 30 years, they worked hard to preserve wildlife areas from higher use zoning. She cited negative impacts from the project, traffic increase, noise and air pollution, trash, late hours, nighttime lighting, and there is much opposition. She asked to emphasize the need for long-term planning for a sustainable community and recognizing the value of open space at this location. She did not believe a bank or a sit-down restaurant made sense for the site and the developer would more likely propose a fast food restaurant which would increase traffic even more.

Peter Loubal said he has served El Cerrito for many years on the Contra Costa County Transportation Advisory Committee, said Central Avenue has been identified as the most congested street in West County, believed the traffic study was misleading and the traffic situation horrendous.

Sherri Suzanne Workman said citizens rely on the Commission to protect its interests and property rights, she asked to require an EIR be conducted, believed the project is very large, did not believe adjacent properties zoned as C-3 was an appropriate rationale for allowing such rezoning because it does not take into consideration the necessity of buffer zones for wildlife habitat and commercial uses. She said property values in Richmond are in peril and parkland supports those values, and Pt. Isabelle is so vital. She also noted recently she waited seven changes of the traffic signal to go three blocks on Central Avenue, she does not support part-time jobs and the full impact of the project was needed.

Peter Weschler said his opposition is based largely on the fact that the Initial Study is insufficient and said he has an undergraduate degree in California Ecology and a Masters degree in Planning and has done a lot of work with marshlands and the tidal basin in the Bay area. He asked that the project undergo a full EIR in order to identify true cause and effect relationships between threats and impacts to all species in the two critical habitat, it should identify past, present and future expected activities in the project area and it should evaluate the sensitivity and species to predict cumulative effect which are not addressed at all in the Initial Study. He said no inference can be made for lands that have not been surveyed and this was from comments of the biological study forwarded to the City by Mary Selva. Regarding zoning of the underlying lands, Costco was a completely different situation.

Sally Lacquiee said she strongly objected to the rezoning request, said she was shocked as she learns more information about Costco and how they got into the area, voiced concern for sustainable habitat and preservation of the environment, traffic, agreed a buffer zone was needed between the areas, and thinks it is important to make changes about how we live on the planet and think more about living with nature rather than adding to impacts. She also supported having a Kohl's in Richmond, but not at this site.

Katherine Griffith, member of Pt. Isabelle Dog Owners, echoed previous speaker points, said traffic has gotten worse and worse, the park is precious and is a respite in a very congested area, and she thinks it is critical to respect the work done which preserves the zoning nearby.

Geoffrey Blum echoed previous speaker comments, said he was intrigued by Kohl's commitments to the community and offering of money but he has noticed that Pt. Isabelle draws communities together. There are many users of the park that come from all over the area, said he notices highway signs announcing the regional park, it is a wonderful resource and visitation is growing, He asked the Commission to reject the proposal and asked that another location be found for Kohl's.

Erica Milsom said one of the reasons she moved to Richmond was for Pt. Isabelle, the Bay Trail, diversity, said she would be sad to see the shoreline environment damaged which she felt would diminish the value of the entire City, and urged the Commission to protect it.

Barbara Speed thinks it is alarming that the owner of the property has vacated and relocated tenants already in anticipation of Kohl's going into the site when everyone just does not want it. Pt. Isabelle park is 23 acres and the largest public dog park in the nation, it receives an average of 1.4 million visitors per year or 26,000 per week. She cited nearby businesses such as Costco, the bulk mail center, adding a department store and restaurant will overburden the area, and asked the Commission to deny the request for a Kohl's at that location.

Vice Chair Rao asked Ms. Speed if she felt the number of visitors would decrease if the project goes through, and Ms. Speed said no.

Phillip Price, Boardmember, Golden Gate Audubon Society, spoke of the organization's role and mission, said they have not taken a position on the project because they cannot tell enough about what the impacts from the presented material and what would be the impact on birds or wildlife, and he asked the Commission to deny the mitigated negative declaration and do a full EIR. They would object to a restaurant on the pad because of their draw of rats and feral cats which would impact adjacent wildlife.

Staffi Silivia said she thinks Richmond should be proud to have the longest shoreline of any City in the Bay and we should treasure the trail and shoreline.

Rebuttal – Applicant

Steven Oliver, Oliver and Company, Inc., pointed out that the East Bay Regional Park said there was no impact on the shoreline park. Regarding truck traffic, Kohl's runs about 3 trucks a week to the site, and they have worked since 2006 on the project and along with the General Plan, where regional commercial was recommended for zoning. He accepts the conditions of approval for the mitigation measures, they have discussed the project with Bay Trail representatives, they agree with their requests for improvements to the intersection of Central/Ridal, as well.

Rebuttal – Opponent

Garland Ellis, Richmond Annex Neighborhood Council Vice President, said at first there were to be no traffic lights and then two were added for mitigation which falls short of what Caltrans recommended under their Measure J proposal. He said the project will gridlock the area by 2035 with or without it. Caltrans cannot fix the problem and the project will further exacerbate the problem sooner. He said the neighborhood council hired a biologist and traffic engineer and they reviewed the same information and the results were completely different. The Caltrans study dealt with freeway traffic and did not deal primarily with City traffic except along Central Avenue and Rydin Road back to San Pablo. This area will be gridlocked and even worse with

the project and it will come sooner. He also said the Design Review Board recognized the traffic problem but kicked it up to the Commission hoping that the problem could be fixed by the Commission.

Ms. Harbin clarified that earlier the Commission questioned the Costco project and rezoning at that location, which is M-1. She said M-1 allows bulk sales and distribution as well as gas stations. Therefore, this is how Costco was originally approved to build there. This particular property also has a zoning designation of M-1, so if the General Plan is not changed and the rezoning is not changed, another use similar to Costco could go into the existing buildings on the site.

Mr. Rojas summarized and said staff recommends the Commission adopt Resolution 08-13 in Attachment 3, adopting the mitigated negative declaration and mitigation and monitoring reporting program in Exhibit C and D of the resolution, and adopt Resolution 08-14 in Attachment 4, granting approval of the Design Review Permit 1104490 subject to the conditions of approval contained in the resolution and as shown in Exhibit A of this report; adopt Resolution 08-15 in Attachment 5 recommending City Council approval of the requested General Plan Amendment and Rezoning as shown in Exhibits E and F of the resolution; and recommend that the Commission adopt Resolution 08-16 in Attachment 6 recommending City Council approval of the Zoning Ordinance Text Amendment as shown in the resolution.

ACTION: It was M/S (Rao/Williams) to approve GPA/RZ/ZTC

COMMISSION BUSINESS

MINUTES

March 20, 2008

ACTION: It was M/S (Lee/Rao) to accept the minutes of March 20, 2008; unanimously approved (Duncan abstained).

April 10, 2008

Vice Chair Rao referred to page 13, middle of the Chair, and he asked what corrections were to be made. Chair Finlay said it states, "Chair Finlay confirmed that the [Commission](#) can also ask Ms. Garber to research and report on new conditions the Commission may choose to follow up on, and that the Commission has all of the options identified." She said she did not believe she said that and substituted the wording as follows: "...that the Commission has the ability to pick and choose from any alternate conditions and that it was not bound by the staff's conditions." She believed it was not a substantive change, but rather her opinion about a question raised.

ACTION: It was M/S (Rao/Lee) to accept the minutes of April 10, 2008; unanimously approved.

June 19, 2008

ACTION: It was M/S (Rao/Lee) to accept the minutes of June 19, 2008; unanimously approved.

7. Reports of Officers, Commissioners and Staff

Public Forum - None

Adjournment

The meeting was adjourned at 10:59 p.m.