



City of Rohnert Park PLANNING COMMISSION STAFF REPORT

Meeting Date: January 11, 2018

Agenda Item No: 9.1

Subject: File No. PL2009-02SR Walmart Site Plan and Architectural Review and
File No. PL2010-08SR Sign Program – Consideration of a One-Year
Extension of the Approvals for the Site Plan and Architectural Review and
Sign Program for the Walmart Expansion project

Location: 4625 Redwood Drive (APN 045-055-004)

Applicant: PACLAND, on behalf of Walmart, Inc.

SUBJECT

A one-year extension of the approvals for the Site Plan and Architectural Review and Sign Program for the Walmart Expansion project, which would add approximately 35,256 square feet to the existing 131,532 square-foot store located at 4625 Redwood Drive.

1. Resolution No. 2018-01 approving a one-year extension of the approvals for Site Plan and Architectural Review and Sign Program for the Walmart Expansion project located at 4625 Redwood Drive

BACKGROUND

On August 14, 2014, the Planning Commission certified the Rohnert Park Walmart Expansion Project Final Environmental Impact Report ("Final EIR") and Partially Recirculated Final EIR ("PRFEIR"), adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, and approved the Site Plan and Architectural Review and Sign Program applications for the project (collectively, the "Entitlements"). On January 13, 2015, the City Council considered appeals of the Planning Commission's August 14, 2014 decisions, denied the appeals, certified the Final EIR and PRFEIR, adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, and approved the Entitlements.

On January 28, 2016, the Planning Commission approved a one-year extension of time of the Site Plan and Architectural Review and Sign Program entitlements to January 13, 2017. A second one-year extension of time was approved by the Planning Commission on January 12, 2017. The extension of time was approved due to the ongoing litigation against the project.

ANALYSIS

The applicant has applied for a third one-year time extension for the Entitlements (i.e., Site Plan and Architectural Review and the Sign Program permits) on December 12, 2017. The application was received prior to the expiration date and this matter is being brought before the Planning Commission for its consideration. The Walmart litigation has not been resolved and is still pending as described in the attached letter (Exhibit 1) from the applicant. There have been no changes in the approved plans submitted with the application to expand Walmart. No modifications have been made in the chapter in the Zoning Ordinance regarding signs that would result in any changes in the approved Sign Program.

Pursuant to Zoning Ordinance Section 17.25.035, regarding Lapse of Approval/Renewal for Site Plan and Architectural Review approvals:

- A. A Site Plan and Architectural Review approval shall lapse one year after the date of final approval or at an alternative date specific at the time of approval, unless
 - 1. A building permit has been issued and construction has diligently commenced; or
 - 2. A Certificate of Occupancy has been issued; or
 - 3. The use is established; or
 - 4. The Site Plan and Architectural Review approval is renewed in accordance with subsection B below.
 - 5. The project is a residential development that does not require the approval of a tentative subdivision map, or otherwise not vested through a development agreement with the city, then the approval shall expire after a twenty-four-month period, unless extended for special circumstances by the city Council.
- B. A Site Plan and Architectural Review approval may be renewed for an additional period of one year provided that to the expiration date, an application for renewal is filed with the Planning Commission. The Commission shall not deny the renewal request without first holding a Public Hearing and making findings supporting the reason for denial. If the Planning Commission denies the renewal request, the applicant shall have ten calendar days to appeal the decision to the City Council as set forth in Chapter 17.25 Article XII.

Pursuant to Zoning Ordinance Section 17.27.040(H), regarding expiration of Sign Permit and Sign Program approvals:

- H. Approval Period, Expiration and Time Extensions. A sign permit or sign program approval will expire one year from the date of issuance unless the sign or at least one sign in an approved sign program has been installed in accordance with the conditions of approval. If the sign permit or sign program is for a building or shopping center under construction, the one year approval period will commence on the date of issuance of the first certificate of occupancy for the project.

1. Prior to expiration, the applicant may apply for an extension of up to one additional year. The extension shall be reviewed by the review authority that acted on the original request.
2. The permit or approval will be null and void if the zoning ordinance changes significantly prior to the installation of the sign to a point that given the new regulations in the zoning ordinance such a sign would not be permitted.

Staff concurs with Walmart's request for a third one-year extension of the approvals for the Site Plan and Architectural Review and the Sign Program.

As noted above, City Council approval of the project has been challenged and litigation is pending. Walmart has not been able to exercise the project approvals while the litigation has proceeded through the court system. The Rohnert Park Municipal Code allows for one-year time extensions of the approvals. Staff recommends approval of the request for a one-year extension.

ENVIRONMENTAL REVIEW

As noted above, on January 13, 2015, the City Council certified the Final EIR and PRFEIR and adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Entitlements. No further environmental review is necessary for the extension of the Entitlements.

PUBLIC NOTIFICATION AND INFORMATION

A public hearing notice denoting the time, date, and location of this hearing was published in the *Community Voice* on December 29, 2017. Property owners within 300 feet of the Project site and interested parties requesting notification were also mailed notices, and the notice was posted pursuant to State law.

RECOMMENDED ACTIONS

Based on the analysis above and the findings listed in the attached resolutions, staff recommends that the Planning Commission take the following actions:

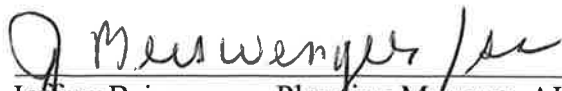
1. Approve Resolution No. 2018-01 approving a one-year extension of the approvals for Site Plan and Architectural Review and a Sign Program for the Walmart Expansion project located at 4625 Redwood Drive.

ATTACHMENTS: Resolution No. 2018-01

EXHIBITS:

1. Time Extension Letter

APPROVALS:


Jeffrey Beiswenger, Planning Manager, AICP

PLANNING COMMISSION RESOLUTION NO. 2018-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ROHNERT PARK, CALIFORNIA APPROVING A ONE-YEAR EXTENSION OF THE APPROVALS OF THE SITE PLAN AND ARCHITECTURAL REVIEW AND SIGN PROGRAM FOR THE WALMART EXPANSION LOCATED AT 4625 REDWOOD DRIVE (APN 045-055-004)

WHEREAS, the City processed applications for the Site Plan and Architectural Review (Planning Application No. PL2009-02SR) and Sign Program (Planning Application No. PL2010-08SR) for the Walmart Expansion Project located at 4625 Redwood Drive, APN 045-055-004 (“Project”) in the time and manner prescribed by State and local law; and

WHEREAS, on January 13, 2015, the City Council of the City of Rohnert Park certified the Final Environmental Impact Report and Partially Recirculated Final Environmental Impact Report for the Project, adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program, and approved the applications for Site Plan and Architectural Review and Sign Program; and

WHEREAS, the applicant, PACLAND on behalf of Walmart, Inc. has submitted an application for a one-year time extension of the approvals for Site Plan and Architectural Review and Sign Program for the Project, due to ongoing litigation surrounding the Project; and

WHEREAS, on January 11, 2018, the Planning Commission held a public meeting at which time interested persons had an opportunity to testify either in support or opposition to the proposed time extension for the Site Plan and Architectural Review and Sign Program; and

WHEREAS, the Planning Commission, using their independent judgment, reviewed the time extension request and all evidence in the record related to the proposed project including the staff report, public testimony, and all evidence presented both orally and in writing; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rohnert Park, California, hereby makes the following findings:

- A. The Planning Commission, at a public hearing on January 11, 2018, reviewed the applicant’s request for a one-year extension of the approvals of the Site Plan and Architectural Review and Sign Program for the Project, and all evidence in the record related to the Project including the staff report, public testimony, and all evidence presented both orally and in writing.
- B. The Planning Commission finds that a one-year extension of the approvals of the Site Plan and Architectural Review and Sign Program for the Project is consistent with the approved plans for the Walmart expansion and with the Rohnert Park Municipal Code Sections 17.25.035 B. and 17.27.030 H. 1.

- C. The Planning Commission finds that a one-year extension of the approvals of the Site Plan and Architectural Review and Sign Program does not necessitate further environmental review of the Project under CEQA, because the City Council has certified a Final Environmental Impact Report and Partially Recirculated Final Environmental Impact Report (SCH# 2009052008) for the Project.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Planning Commission does hereby approve the applicant's request for a one-year extension of the approvals of the Site Plan and Architectural Review and Sign Program for the Walmart Store expansion located at 4625 Redwood Drive (APN 045-055-004) subject to the following conditions:

1. The applicant shall comply with all applicable sections of the City of Rohnert Park Municipal Code.
2. The applicant shall secure all necessary permits and clearances from the Rohnert Park Building Department prior to commencement of construction.

DULY AND REGULARLY ADOPTED on this 11th day of January, 2018 by the City of Rohnert Park Planning Commission by the following vote:

AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____

ADAMS _____ BLANQUIE _____ BORBA _____ GIUDICE _____ HAYDON _____

Chairperson, City of Rohnert Park Planning Commission

Attest: _____
Susan Azevedo, Recording Secretary



December 12, 2017

VIA E-MAIL AND U.S. MAIL

City of Rohnert Park
Development Services Department
Attn: Suzie Azevedo
130 Avram Avenue
Rohnert Park, California 94928
sazevedo@rpcity.org

Re: Request for Extension of Entitlements for Walmart Expansion Project

On behalf of Wal-Mart, Inc., we are writing to request a one-year extension of the approved entitlements for the Walmart Expansion Project located at 4625 Redwood Drive, Rohnert Park, California. Enclosed is a completed Zoning and Land Use Application. The City is authorized to deduct the required application fee from the Walmart deposit account.

On January 13, 2015, the City Council approved the project's entitlements, consisting of a Site Plan & Architectural Review/Environmental Impact Report (PL2009-02SR/EIR) and Sign Program (PL2010-09SR). Both entitlements were valid for an initial period of one year. On January 28, 2016, the Planning Commission approved Resolution No. 2016-03, granting Walmart's request for a one-year extension of the entitlements to January 13, 2017, due to ongoing litigation against the project. On January 12, 2017, the Planning Commission approved Resolution No. 2017-03, granting Walmart's request for a further one-year extension of the entitlements to January 13, 2018, due to ongoing litigation against the project.

Walmart is requesting a further one-year extension of the entitlements because both lawsuits against the project are still ongoing. (*Sierra Club et al. v. City of Rohnert Park*, Sonoma County Superior, Case No. 248112 and *Nancy Atwell et al. v. City of Rohnert Park*, Sonoma County Superior, Case No. 256891.) Because litigation is pending, Walmart is unable to begin construction of the project and will not be able to vest the entitlements before January 13, 2018. Because the City does not provide for litigation tolling, unlike most other California jurisdictions, Walmart must apply for entitlement extensions.

Rohnert Park Municipal Code sections 17.25.035 and 17.27.040(H) authorize the City to grant one-year extensions of the Site Plan & Architectural Review and Sign Program, respectively, provided that an application for extension is submitted before the entitlement expiration date. Because the ongoing litigation continues to prevent Walmart from proceeding with development of the project, we believe an extension is justified and in the best interests of both Walmart and the City. Accordingly, we respectfully request that the City grant a further one-year extension of each entitlement to January 13, 2019.

City of Rohnert Park
December 12, 2017
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Very truly yours,



Scott G. Franklin
for PACLAND

SMRH:484956134.1
Enclosure

cc: Mary Grace Pawson, Rohnert Park, Development Services Director
Deborah Quick, Morgan Lewis
Alex Merritt, Sheppard Mullin
Michele Kenyon, Burke Williams
Mary Kendall, Walmart