
TO ADDRESS THE COMMISSION
PLEASE STEP TO THE ROSTRUM &
STATE YOUR NAME & ADDRESS

YUBA CITY PLANNING COMMISSION
AGENDA

Regular Meeting
August 10, 2005 - 7 p.m.
City Hall Council Chambers
1201 Civic Center Boulevard

Roll Call.

Pledge of Allegiance.

Presentation of Outstanding Renovation Meritorious Awards for the Year 2004 to: Rick Davis for Paradiso Restaurant at 885 Richland Road and John Tuscano for Salute Italian Ristorante at 628 Plumas Street.

Presentation of Planning Commission Resolution No. 05-02 to Denis Cook in recognition of his outstanding contribution to the Planning Commission.

Appearance of Interested Citizens*

Correspondence:

1. Continued Public Hearing: Tentative Map #TM 04-09 to divide 31.7 acres at 935 Tharp Rd./900 Walton Ave. into a 18.71 acre parcel containing the Sam's Club Store and a 12.99 acre parcel containing the Wal-Mart Store; C-3 Zone; A.P. No. 58-040-044; applicant, Wal-Mart Stores.
2. Public Hearing: Tentative Map #TM 05-10 to divide 1.18 acres at 1811 Railroad Ave. into three parcels; R-1 Zone; A.P. No. 54-010-053; applicant, Joginder Bains .
3. Public Hearing: Tentative Map #TM 05-09 to divide a 1.4 acre parcel at the NE cor. of Klamath Ln. and Lassen Blvd. into a .69 acre parcel and a .72 acre parcel; C-M Zone; A.P. No. 58-050-074; applicant, Southern Cross.
4. Public Hearing:
 - a) Development Plan #DP 05-02 for the construction of a 121,840 sq. ft. retail center (Geweke Crossing) on 13.25 ac. on the W side of Rte. 99 at Sunsweet Blvd.; A.P. Nos. 58-060-006, -023, & -024;
 - b) Tentative Map #TM 05-07 to divide 10.25 ac. on the S side of Sunsweet Blvd., just W of Rte. 99 into 3 parcels; A.P. No. 58-060-024; and
 - c) Tentative Map #TM 05-08 to divide 5.47 acres at the NW cor. of Rte. 99 & Sunsweet Blvd. into 4 lots; A.P. Nos. 58-060-006, -023 & -029; applicant, Capitol Avenue Development; property owners, Geweke –Yuba Properties & Meagher & Tomlinson.

(over)

5. Other Business.
6. Report on Actions of the City Council.
7. Adjournment.

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Persons dissatisfied with any decision of the Planning Commission may appeal such action to the City Council. Appeals, accompanied by a fee of \$753 (\$363 if the project concerns a single-family residence), must be filed with the City Clerk, 1201 Civic Center Boulevard, Yuba City, CA 95993 within 10 days of such action. If no appeal is filed within this time limit, the Commission action becomes final. The exception to this is rezonings--please check with the Planning Department, 1201 Civic Center Boulevard, Yuba City for the procedure. Mailed notices of the Council hearings will be accomplished in the same manner as the Planning Commission hearings unless additional notice is deemed necessary.

If you require auxiliary aids or services (e.g., signing services) to make a presentation to the Planning Commission, the City will be glad to assist you. Please contact the City offices (530/822-4601) at least 72 hours in advance so such aids or services can be arranged. City Hall TDD: 530/822-4732.

*Members of the public may address the Planning Commission on items of interest that are within the City's jurisdiction whether or not such items of interest are on the agenda for this meeting. Members of the Commission will respond as best as they can to public comments but cannot take action or enter into a discussion on items not contained on the agenda. Public comment on public hearing agenda items will be permitted during the hearing.

July 29, 2005

TO: YUBA CITY PLANNING COMMISSION
FROM: PHILIP O. CARTER, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: AGENDA REPORT - MEETING OF AUGUST 10, 2005

1. **CONTINUED PUBLIC HEARING: TENTATIVE PARCEL MAP #04-09 TO DIVIDE A 31.7 ACRE PARCEL INTO TWO PARCELS OF 18.71 ACRES AND 12.99 ACRES; 900 SOUTH WALTON AVENUE AND 935 THARP ROAD - PROPERTY OWNER/APPLICANT, WAL-MART STORES, INC**

Project History:

On June 9, 2004, per the request of the applicant, the Commission continued this project to the July 28, 2004, public hearing so as to provide the applicant with enough time to discuss and work out specific details pertaining to condition of approval #4, which was placed on the map by the Public Works Department and required the construction of a third eastbound lane on State Route 20 between Walton Avenue and Tharp Road.

On July 28, 2004, per the request of the applicant, the Commission continued the project indefinitely to a date uncertain.

On March 30, 2005, staff received a letter from the applicant requesting that the project be placed on the next available Planning Commission agenda. On April 21, 2005, staff received a request from the applicant to continue the project to the Planning Commission hearing of May 25, 2005. On May 25, 2005, at the request of the applicant, the Commission continued the public hearing to its meeting of June 8, 2005.

On June 8, 2005, the Commission continued the public hearing to its meeting of July 13, 2005, to further discuss the removal of Condition #4 pertaining to a third lane on State Route 20.

On July 13, 2005, the Commission continued the public hearing to its meeting of August 10, 2005, in order to get further clarification from staff regarding Condition No. 4 which had been removed from the recommended conditions of approval.

Project Description:

The applicant is requesting approval of a tentative parcel map to divide a 31.7-acre parcel into two lots containing 18.71 and 12.99 acres, respectively. The 18.71-acre lot has its main frontage onto South Walton Avenue and the 12.99-acre lot has its main frontage onto Tharp Road. This will result in the Wal-Mart and Sam's Club stores being on separate parcels.

Property Description:

The subject property is a through lot identified as Assessor's Parcel Nos. 58-050-044. The property is developed with the 134,450 square foot Sam's Club, 123,809 square foot Wal-Mart store and 2,000+/- space parking area. Full street improvements are installed along South Walton Avenue, Tharp Road and Lassen Boulevard to the south.

General Plan Designation:

Regional Commercial.

Zoning Classification:

General Commercial (C-3) District.

Surrounding Land Use:

The subject site has the Highway 20 (Colusa Avenue) with retail uses across Colusa Avenue to the north, Walton Avenue and the Sunsweet plant to the east, Lassen Boulevard and A&A Storage to the south and Tharp Road and mixed commercial and vacant land to the west (see Study Sketch).

Previous Commission Actions and/or Policies:

On January 8, 1992, the Planning Commission recommended approval of PD #91-23 for the Sam's Club and Wal-Mart stores. The project was approved by the City Council on February 25, 1992. On March 11, 1992, the Commission approved TM #92-02, which was a four-parcel division that created the subject property and the three pads along the Colusa Avenue frontage.

Environmental:

The proposed tentative parcel map has been determined to be exempt from the California Environmental Quality Act (CEQA) per §15315 Minor Land Divisions.

A minor land division, such as the one being proposed, is categorically exempt from CEQA according to §15315 when the division of property is within an urbanized area, is zoned for residential, commercial, or industrial use, is being divided into four or fewer parcels, is in conformance with the General Plan and zoning, does not require a variance or exceptions, all services and access to the proposed parcels are available, the parcel has not been involved in any divisions of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

The project meets the above requirements therefore it is exempt from environmental review.

Staff Comments:

Staff has reviewed this proposal and views the proposed land division as logical. With the potential development of the Super Wal-Mart store as part of the Yuba City Marketplace project the present Wal-Mart store will no longer be needed by the company. As such this map provides for a separate parcel to be created so that the future sale and redevelopment of the site can take place.

Staff has included conditions to address both on-site and off-site landscaping deficiencies. Regarding on-site deficiencies staff examined the entire site and found areas where some trees, shrubs and groundcover need to be replaced. The condition requires a plan to be developed, based on the original landscape plan, for the installation of new replacement plant material prior to the recordation of the parcel map. This improvement will be especially helpful along the Lassen Boulevard frontage. For the off-site improvements a condition has been included that requires the excess highway right-of-way between Walton Avenue and Tharp Road to be landscaped in the same manner as has been done in front of the Home Depot shopping center and the Walgreen's store. This stretch of the highway frontage has been unsightly since the site was initially developed and by planting shrubs and groundcover the frontage of the adjoining uses and entrance into the City will be very much improved.

Recommended Action:

A. Adopt the following findings:

1. The approval of the parcel map is consistent with the Guiding and Implementing Policies and the General Commercial designation of the Yuba City General Plan, and
2. The approval of the parcel map is consistent with and meets the minimum parcel size standards for the C-3 District.

B. Approve the Tentative Parcel Map #04-09 subject to the following conditions of approval:

1. Cross easements over all property not occupied by buildings shall be reserved in deeds for all underground utilities, ingress and egress, parking, drainage and landscaping and the maintenance thereof to the benefit of all parcels including Parcels 1, 2 and 3 which are shown as not a part of this map but were required by Condition No. 14 of TM # 92-02. The deeded easements shall be approved by the Public Works Director prior to the recordation of the Parcel Map.
2. The area of unimproved Caltrans right-of-way along State Route 20 between Walton Avenue and Tharp Road and between the unpaved shoulder and the southerly edge of the highway right-of-way shall be planted and maintained with living landscape material. A landscape plan showing the plant materials, means of providing irrigation and maintenance schedule shall be submitted for review

and approval by Caltrans and the Community Development Director prior to the recordation of the Parcel Map.

3. Landscape deficiencies, based on the original landscape plan, in the parking lot and perimeter landscape areas within the boundary of the tentative map shall be corrected prior to the recordation of the Parcel Map. A plan shall be prepared showing all areas that need to have plant materials added and includes plant type, size and location shall be submitted to the Community Development Director for review and approval prior to the commencement of said work.

2. **PUBLIC HEARING: TENTATIVE PARCEL MAP #05-10 TO SUBDIVIDE A 1.18 ACRE PARCEL INTO 3 LOTS; WEST SIDE OF RAILROAD AVE, NORTH OF THE INTERSECTION OF RAILROAD AVENUE AND BOUGE ROAD – SUBDIVIDER, JOGINDER BAINS**

Project Description:

A request to subdivide a single parcel with a total site area of 1.18 acres into three residential lots, Parcel 1 sized at 8,000 sq. ft., Parcel 2 sized at 19,700 sq. ft., and Parcel 3 sized at 13,400 sq. ft. The 1.18 acre lot currently exists with a single-family dwelling which is to remain, a concrete driveway, as well as a small auxiliary structure. The site also contains a water well and septic system. The abandonment of all existing septic tanks, leach fields, and wells will occur per County Environmental Health requirements as well as those of the Yuba City Building Department. The applicant will be connected to city services, by connecting to existing water line and extending sewer services from Hastings Way. The dedication of right-of-way and street improvements will also be conditions of the subdivision. The applicant shall be responsible for the relocation of an existing utility pole behind the back of the future sidewalk.

Property Description:

The subject property contains a single-family dwelling, a long concrete drive way and small shed. Former services were provided by a groundwater system and septic system located on the 1.18 acre lot. The lot also contains a well. All previous sources of service will be abandoned and each parcel will be required to provide individual connections to city services pending development. The property is surrounded by single-family dwellings.

General Plan Designation:

Low Density Residential (LDR). This General Plan designation provides for a development density of no less than 2 dwelling units per acre and no more than 8 dwelling units per acre.

Zoning Classification:

One-Family Residence (R-1) District.

To provide areas for low density residential neighborhoods that have adequate services and amenities which will support a desirable and stable living atmosphere.

Surrounding Land Use:

Land use to the north, south, and west, are similar to the project site, though they are all single family dwellings (see Study Sketch).

Previous Commission Action and/or Policies:

No actions to report.

Environmental:

The proposed tentative parcel map has been determined to be exempt from the California Environmental Quality Act (CEQA) per §15315 Minor Land Divisions.

The division of properties into four or fewer parcels in urbanized areas is allowed to proceed without an initial study if the proposed use is in conformance with the General Plan designation and zoning, no variances or exceptions are required, and all services and access to the proposed parcel are available.

The situation withstanding, the property is not of considerable size, and services are readily accessible. It is therefore determined that no significant effect on the environment will result from the minor land division being proposed in this application.

Staff Comments:

Staff supports the applicant’s request to subdivide. As a condition of the division, the newly created parcels will connect to city water and sewer. The City will also benefit by street improvements along Railroad Avenue with the inclusion of curb, gutter, and sidewalk.

Formerly, the property was served by the Hillcrest groundwater system. Existing easements along the northern and western border of the parcel accommodate access to the water system which still serves surrounding parcels. The applicant has agreed to include a ten foot easement along the southern border of Parcel 2 in order to allow for access to the existing groundwater system if such access should become necessary for repair and maintenance.

The efficient utilization of residential space to accommodate the ever growing need for single family housing in this community is critical. This project is able to offer such utilization. According to Guiding Policy 3.5-G-3, “Allow and encourage low-medium density small-lot single-family development in new and existing neighborhoods that enable compact development and efficient infill.”

The lots surrounding the project site are similar in character and size. In no way would the division disrupt or divide an established neighborhood. Implementing Policy 3.4-I-7 states, “Promote infill development that maintains the scale and character of established neighborhoods.” Staff is satisfied with the size and configuration of the proposed parcels.

Recommended Actions:

- A. Adopt the following recommended findings:
 - 1. The approval of the tentative map and subdivision of said parcel is consistent with the Guiding and Implementing Policies, as well as the Low Density Residential designation of the Yuba City General Plan.
 - 2. The tentative map is consistent with and meets the minimum standards for the R-1 District.

B. Approve Tentative Parcel Map #05-10 subject to the following conditions of approval:

1. Prior to the recordation of the parcel map all existing well(s) and septic systems shall be destroyed in accordance with the requirements of the Sutter County Environmental Health Department and Yuba City Building Departments, respectively and provisions shall be made for the properties to be connected to city water and sewer services.
3. Prior to the recordation of the parcel map provisions shall be made for the construction of required street improvements along the Railroad Avenue frontage of the property to include additional street, curb, gutter, and sidewalk.
4. The applicant shall dedicate right-of-way along the eastern boundary of his property in order to provide the required area to maintain the width of Railroad Avenue.
5. A 10 foot public utility easement shall be dedicated along the entire length of the southern border of Parcel 2 in order to accommodate access to the current groundwater system.
6. Prior to recordation of the parcel map, the existing utility pole shall be relocated to an area behind the back of future sidewalk.
7. The improvement plans for the development of the subject property shall include all measures required to ensure that no drainage runoff resulting from the development of the property flow onto the adjacent residential lands or impede the drainage from those properties. If retaining walls are required they shall be constructed of concrete or masonry block.
8. The rear yards of the lots that are created by this division that are adjacent to existing residential development shall have the same finish grade elevation as those existing lots.

3. PUBLIC HEARING: TENTATIVE PARCEL MAP #05-09 TO SUBDIVIDE A 1.41 ACRE PARCEL INTO 2 LOTS; NORTHEAST CORNER OF LASSEN BOULEVARD AND KLAMATH LANE – SUBDIVIDER, SOUTHERN CROSS, LLC/ PROPERTY OWNER, JAMES R. SCOTT

Project Description:

A request to divide a 1.41 acre site into 2 individual parcels. The project is slated for office development consistent with the properties general plan and zoning designation. The project is requesting the further division of a parcel created in November 2003 as part of the Gateway Center Office Complex.

Property Description:

The APN for the property is 58-050-074. The project calls for the division of one parcel into 2 separate parcels. The land is currently vacant and has undergone the initial stages of preparation for development. It lies on the southwest corner of the aforementioned 10.15 acre Gateway Center parcel, a quarter circle with a radius of 274.58 feet. Grading operations have been completed on the remaining portion of the property, including the subject area, and foundation work has commenced. Public improvements are in place.

General Plan Designation:

Office / Office Park. This classification includes neighborhood, community, and downtown offices as well as office development in a low-intensity, campus-like setting. Neighborhood & community office sites could include a mix of uses, such as small-scale support services and residential uses that are secondary to the office development.

Zoning Classification:

Heavy Commercial/Light Industrial (C-M) District. This district is for a transition between commercial and industrial areas. This district provides for selected sales and services that are often considered inappropriate in primary retail areas due to size or operating characteristics. This district is not intended to provide typical retail sales found in the retail districts. This district is consistent with the Community Commercial, Regional Commercial, and Light Industrial General Plan designations.

Surrounding Land Use:

The subject property is bounded on the north by newly constructed office complexes, the first completed portions of the Gateway Center. To the east of the subject area is vacant land to be developed along with the subject property as part of the Gateway Center. The area of land west of the site is occupied by the Sutter County Board of Education. Immediately to the south across Lassen Boulevard are vacant parcels and beyond those lay a subdivision of single family residences (see Study Sketch).

Previous Commission Action and/or Policies:

In November of 2003, the Commission approved a development plan and tentative parcel map for the Gateway Center. A 10.15 acre area was divided into 15 separate parcels and development plan was produced to account for access, parking, building design and pad placement.

Environmental:

A mitigated negative declaration has been prepared for this project and is attached for the Commission's review. Potential impacts such cultural resources and air quality were identified and have been reduced to a classification of less-than-significant with the inclusion of mitigating measures.

Staff Comments:

Staff supports the applicant's request to subdivide. The development of vacant land into operational commercial and office uses will provide efficient infill for employment related development. Existing office units to the north would suggest that a continuation and integration with similar uses would be beneficial, aiding in traffic circulation and parking needs. Cross easements that would be necessary for circulation and parking have been reserved as part of the conditions of the previous subdivision and development plan.

The General Plan in its Land Use section states in Implementing Policy 3.9-I-3 "Allow small office development as a buffering or transitional use between residential areas and industrial areas or major roadway corridors." This was and continues to be the logic behind the pattern of development occurring in this area.

Recommended Actions:

- A. Adopt the following recommended findings:
 - 1. Following review and consideration of the attached mitigated negative declaration along with any mitigation measures or comments received, find that there is no substantial evidence that the project will have a significant impact on the environment, and
 - 2. The approval of the tentative map and subdivision of said parcel is consistent with the Guiding and Implementing Policies, as well as the Office / Office Park Designation of the Yuba City General Plan, and
 - 3. The tentative map is consistent with and meets the minimum standards for the Heavy Commercial/Light Industry (C-M) District.

- B. Adopt the mitigated negative declaration

C. Approve the Tentative Parcel Map subject to the following conditions of approval:

1. Temporary fencing shall be erected around the perimeters of the property during construction and the construction site shall be watered down so that transport of construction debris can be retained on-site.
2. All grading on the project shall be suspended when sustained winds exceed 20 miles per hour or when winds carry dust beyond the property line despite implementation of all feasible dust control measures.
3. In the event historical, archeological or paleontological resources are accidentally discovered during construction, all grading activity in the immediate area shall cease and materials and their surroundings shall not be altered or collected. A qualified archeologist shall be consulted immediately to make an evaluation. Avoidance measures or appropriate mitigation shall be completed according to CEQA Guidelines. The State Office of Historic Preservation has issued recommendations for the preparation of Archeological Resource Management Reports which shall be used as guidelines. If any bone is discovered which appears to be human, California law mandates that the Sutter County Coroner and the Native American Heritage Commission be contacted.
4. Cross easements over all the property not occupied by buildings shall be reserved in deed with the rest of Gateway Center for all underground utilities, access, parking, drainage, landscaping and maintenance thereof to the benefit of all parcels.
5. Prior to the issuance of a building permit or recordation of the final map, a master grading plan for the entire area shown on Tentative Map #03-04, of which the subject property is a part of, designed for ten year storm with on site detention requirement of 1,335 cubic feet per acre, and it shall be submitted for approval by the City Engineer.
6. The developer shall prepare and implement a water quality control plan for the construction and operational phases of the proposed project. This plan shall be reviewed and approved by the Public Works Department. Such a plan shall include Best Management Practices to control the input of pollutants to urban storm water runoff released to receiving waters off-site as deemed appropriate by the Public Works Director prior into entering into the Subdivision Agreement with the City. All disturbed surfaces shall have erosion control measures applied that are to the satisfaction of the Public Works Director.

4. PUBLIC HEARING: DEVELOPMENT PLAN #05-02 TO CONSTRUCT THE 121,840 SQUARE FEET GEWEKE CROSSING COMMERCIAL RETAIL AND A 40-FOOT MONUMENT SIGN, COMBINED WITH A TENTATIVE PARCEL MAP #05-07 TO SUBDIVIDE 10.25 ACRES INTO 3 PARCELS AND TENTATIVE PARCEL MAP #05-08 TO SUBDIVIDE 2 PARCELS CONSISTING OF 4.77 ACRES INTO 4 PARCELS; WEST SIDE OF STATE ROUTE 99 ON THE NORTH AND SOUTH SIDES OF SUNSWEET BLVD.; APPLICANTS, CAPITOL AVENUE DEVELOPMENT/ PROPERTY OWNERS, GEWEKE-YUBA PROPERTIES AND MEAGHER & TOMLINSON

Project Description:

A development plan (DP #05-02) for the construction of a 121,840 square-foot of commercial project that will consist of 3 commercial retail buildings and 2 commercial pads. Pad A will accommodate a 6,500 square-foot Chili's sit-down restaurant and Pad B will accommodate a 3,265 square foot In & Out Burger and will include a drive-thru lane along its south frontage. Retail Anchor "A" will house a 68,695 square foot Kohl's department store, Anchor "B" will provide a 27,250 square foot retail space and Shops 1 will provide 16,130 square feet for retail shops. The northern portion of the site with the Chili's and In & Out Burger will provide 146 customer parking spaces where 98 are required. The southern portion of the project with the retail stores will provide 532 customer parking spaces where 448 are required. With the provision of extra parking the entire parking area is planted in "orchard" style parking for added shading coverage. In addition, bicycle parking spaces will be spread throughout the site in separate locations. The site will access from Walton Avenue and State Route 99 via Sunsweet Blvd. There are 2 primary entrances off Sunsweet Blvd. with secondary ingress/egress points along Annette Way and an easement from a private easement the runs from Onstott Frontage Road between Evan's Furniture and the Harley Davidson dealership to the center just south of Shops 1. A public plaza area has been included adjacent to Shops 1. The amenities will include enhanced paving in the courtyard with a low seat wall and lawn area and area for café style outdoor seating. A landscaped pedestrian connection is provided between Kohl's and Shops 1. Earthen berms and an evergreen hedge will be utilized along with landscaping and street trees along Sunsweet Blvd. to provide a partial visual barrier between parked cars the drive-thru lane for In & Out Burger and the street.

The applicant has also proposed the use of multi-tenant monument signage for the entire project and the Hampton Inn Suites that exceeds the maximums allowed in the Zoning Regulations. At the northwest corner of the intersection of Sunsweet Blvd./State Route 99 the applicant proposes a 40-foot tall project sign which has 213 square feet of sign area. This request is usually reviewed the same as the drive-thru lane for In-& Out Burger with a Use Permit but in this instance a Development Plan review is being considered and therefore both of these requests have been combined with that review process. There are also two other monument signs being proposed however both of them are within the sign area and height standards of the Zoning Regulations.

To facilitate the development of the project there are two tentative parcel maps that combined will subdivide 13.25 acres into 7 parcels. The tentative map (TM #05-07) on the south side of Sunsweet Blvd. will create 3 parcels with Parcel 1 being 5.86 acres and containing the Kohl's store, Parcel 2 being 1.97 acres will contain Shops 1 and the private easement providing an access for the Swinney and Guidera properties and Parcel 3 being 2.76 acres and containing Anchor "B". The tentative map on the north side of Sunsweet Blvd. will create 4 parcels with Parcel 1 being 2.20 acres and will be developed with the previously approved Hampton Inn, Parcel 2 being .61 acres with no development plans at this time, Parcel 3 being 1.54 acres for the Chili's restaurant and Parcel 4 being 1.12 acres for the In & Out Burger restaurant.

Property Description:

The vacant 13.25 acre project site is located on the both sides of Sunsweet Blvd., which is currently under construction along with the new intersection at State Route 99. It consists of three parcels identified by Assessor Parcel Numbers 58-060-006 (1.57-acres), 58-060-023 (3.20-acres) and 58-060-024 (10.25).

Surrounding Land Uses:

	Land-Uses	Zoning Districts	General Plan
North	Nu Generations Plaza developed with the Nu Generations Lanes, the Sizzler's restaurant and several retail shops.	General Commercial (C-3) District	Regional Commercial
South	Warehouse building for Guidera's Harley Davidson, Evan's Furniture, Guidera's Harley Davidson dealership, Raley's Shopping Center, Les Schwab Tires, Taco Bell.	General Commercial (C-3) District	Regional Commercial
East	Evan's Furniture, Warehouse building for Guidera's Harley Davidson, Guidera's Harley Davidson dealership, West Onstott Frontage Road, State Route 99.	General Commercial (C-3) District	Regional Commercial
West	Sunsweet plant, vacant land belonging to Sunsweet, North Walton Avenue	Light Industrial (M-1) District	Manufacturing, Processing & Warehousing

General Plan:

Regional Commercial (RC)

The General Plan describes the Regional Commercial land-use designation as “shopping centers typically anchored by retail outlets with a regional draw, including big-box retail establishments, department stores, and regional shopping malls.”

Zoning:

General Commercial (C-3) District

The General Commercial (C-3) District is intended to provide for the entire range of commercial uses. This zoning district is consistent with the Community Commercial and Regional Commercial General Plan designations.

Previous Commission Action and/or Policies:

DP #02-06 for the 83-unit Hampton Inn, which is to be located on Parcel 1 of TM #05-08, was approved by the Planning Commission on August 27, 2003.

Environmental:

An initial study was conducted in accordance with Article 5, Section 15063 of the CEQA Guidelines to determine if the project may have a significant effect on the environment. The initial study identified potential environmental impacts relating to air quality and cultural resources. To reduce impacts to levels that are less-than-significant, mitigation measures are required to be incorporated into the project. As such, a proposed mitigated negative declaration was prepared on the project and is attached for the Commission’s review and approval. The following paragraphs provide a brief description of those impacts and how they have each been mitigated:

Air Quality

In accordance with the California Environmental Quality Act, staff solicited comments from the Feather River Air Quality Management District to determine if the subject project would impact the environment by exceeding regional air quality standards. Their review of the project required preparation of an Urban Emissions Model Analysis (URBEMIS). The URBEMIS model that was prepared on the project determined the construction and operational phases of the project would exceed the air district’s thresholds of significance in several areas. In order to reduce these levels below the air district’s thresholds and reduce the air quality impacts to a level that is considered less than significant, the applicant agreed to and submitted a signed Fugitive Dust Control Plan acknowledging the State of California’s and the Feather River Air Quality Management District’s fugitive dust control laws, and the requirements and available mitigation techniques. The implementation and monitoring of the Dust Control Plan will be overseen by the Feather River Air Quality Management District during the construction phases of the project.

Cultural Resources

The California Environmental Quality Act (CEQA) Guidelines §15064.5(f) and Public Resources Code §5020-5029 and 21083.2, protect archeological and historical resources. To protect historic resources, the State has formed the State Historic Resources Committee that conducts the State Historic Resource Inventory and maintains the California Register of Historic Resources, which identifies historic landmarks and points of interest. The Committee also provides recommendations for the National Register of Historic Resources.

As new development occurs within Yuba City, there is potential to uncover archeological sites. CEQA requires assessment of the impacts on unique archeological resources or Native American culturally significant sites. If a development project is found to cause damage to the resource, reasonable efforts may be required to preserve the resource or leave them in an undisturbed state, or undertake additional mitigation measures if avoidance is not possible. General Plan Guiding Policy 8.3-G-1 requires the identification and preservation of archeological, paleontological, and historical resources that are found within the Yuba City Planning Area. In the case of this project there are no historical, archeological, or paleontological sites that are known or identifiable on the surface. As such, a mitigation measure has been included in the conditions of approval effectively requiring that during the course of development, any uncovering of historically relevant items, and archeological or paleontological remains shall immediately cause alarm, and construction activity shall cease until such time as the identification of items can be determined and proper action in accordance with CEQA has occurred.

Staff Comments:

City staff supports the applicant's proposal to develop the properties with 121,840 square feet of retail commercial, which will include 679 parking spaces and to subdivide the subject site into 7 parcels. The project as proposed is consistent with the General Plan; the site layout complies with the City's zoning regulations; the building designs meet the intent of the commercial design guidelines, and the proposed commercial uses are compatible with existing commercial uses surrounding the site.

Pedestrian activity areas and alternative modes of transportation are supported through the inclusion of on-site bicycle parking spaces, pathway links between uses, the public sidewalk along Sunsweet Blvd. and development of a public area located adjacent to the Shops 1 building.

The use of several types of building materials, paint colors, recesses, score lines and varying roof heights help articulate proposed building facades and provide a sense a depth and variation to the project. The architectural and landscape features included help to accent storefronts and define main entrances. In comparison to the somewhat subdued color palette for the Kohl's, Anchor "B" and Shops 1 buildings the Chili's and In & out Burger buildings are bright and vibrant. The development of this project will transform an area that has long been a barren wasteland into a destination point for local shoppers and diners.

The preliminary landscape plan proposes a 20-foot landscape buffering along the south side of the project between the parking lot and Sunsweet Blvd. with the inclusion of a 36" to 48"

evergreen hedge to act as a visual screen. This screen is increased where the street is adjacent to Shops 1, the Kohl's store and the loading dock on the west side of the store. On the north side of Sunsweet and along the south side of Annette Way a 10-foot wide planter is provide. The street planter next to the In & Out Burger drive-thru lane will be bermed up to the top of a 3-foot high masonry wall and planted with an evergreen hedge and street trees. At the two main entrances, lawn with flowering accent shrubs and trees planted behind will line each side of the entrance. A combination of 6-foot high masonry walls, screening shrubs and vines will be planted to provide the site with a clean appearance around each trash enclosure. The only modifications that staff would suggest is the inclusion of an additional set of tree planters along the pedestrian walk between Kohl's and Shops 1 and the planting a large shade trees rather than the Crepe Myrtle trees shown to afford maximum shade for walkers and to encourage the use of the walkway. The additional planter should be placed adjacent to the handicap parking spaces so that they are shaded equal to the remainder of the parking area. The loading dock for Anchor "B" is adjacent to an apartment complex as such the planter strip along that common property line needs to be increased to a minimum 15 feet in width and an 8-foot high masonry wall needs to be constructed along the property line.

The Zoning Regulations provide for monument signage that exceeds the normal standards in the C-2 and C-3 Districts when the project includes 5 or more businesses and a finding can be made that the businesses have limited visibility from the adjacent public roadway. For a project of 100,001- 150,000 square feet the Regulations permits a monument sign up to 17.5 feet high with 112 square feet of sign area. In this instance we have a project that exceeds 120,000 square feet in size and will consist of a minimum of 5 businesses that is located along a State highway with the majority of the project having limited visibility. Staff supports the applicant's request since the southern portion of the project is screened from view by Guidera's Harley Davidson dealership and the Evan's Furniture buildings and the Hampton Inn & Suites is also set back and screened by Nu Generation Plaza to the north and the future Chili's and In & Out Burger restaurants. The approval of this sign follows along with the oversized, multi-tenant monument sign that was approved for the Yuba-Sutter Mall at States Route 20 and 99. That sign approved by the Planning Commission in July of 2001 is 35 feet high with 216 square feet of sign area.

To date staff has not received any public comments or opposition to this project. We do however view the proposal as an essential aesthetic improvement to the State Route 99 frontage. Not only will this project fill a need for additional regional commercial, but it will also serve to clean up a stretch of State Route 99, which for a long period of time as been a under utilized and could arguably be considered a blighted area.

Recommended Actions:

- A. Adopt the following recommended findings:
 - 1. Following review and consideration of the attached mitigated negative declaration along with the recommended mitigating measure and any comments received, find that there is no substantial evidence that the project will have a significant impact on the environment, and

2. The approval of the development plan and parcel maps are consistent with the Regional Commercial land-use designation of the Yuba City General Plan, and
3. The approval of the parcel map complies with minimum lot size standards as required by the Yuba City Zoning Code in that the Community Commercial (C-3) District requires minimum lot sizes of 5,000 square feet and the smallest lot proposed is .61 acres, and
4. The 10.25-acre project site is adequate in size and shape to accommodate the proposed Geweke Crossing project, and
5. The projects site design, elevations, parking configuration and landscape are designed to meet the Yuba City Zoning Regulations and Commercial Design Guidelines, and
6. The street system under construction as part of the Sunsweet Blvd./State Route 99 intersection project that will serve the site is adequately designed to carry the additional vehicle trips that will be generated by the proposed uses, and
7. The increased sign area and height, in excess of the maximums normally allowed, is required due to the need to advertise the businesses in the Geweke Crossing that have limited visibility from State Route 99 because of the existing development, and
8. The site design, design of the buildings and the scale of the project will compliment the neighboring areas, and

B. Adopt the mitigated negative declaration.

C. Recommend that the City Council approve Development Plan #05-02 subject to the following conditions of approval:

1. In the event historical, archeological or paleontological resources are accidentally discovered during construction, all grading activity in the immediate area shall cease and materials and their surroundings shall not be altered or collected. A qualified archeologist shall be consulted immediately to make an evaluation. Avoidance measures or appropriate mitigation shall be completed according to CEQA Guidelines. The State Office of Historic Preservation has issued recommendations for the preparation of Archeological Resource Management Reports which shall be used as guidelines. If any bone is discovered which appears to be human, California law mandates that the Sutter County Coroner and the Native American Heritage Commission be contacted.
2. The area of unimproved Caltrans right of way along State Route 99 between the unpaved shoulder and the westerly edge of the ultimate highway right-of-way line shall be planted and maintained with living landscape material. A

landscape plan showing the plant materials, means of providing irrigation and a maintenance schedule shall be submitted for review and approval by Caltrans and the Development Services Department prior to issuance of any building permits on-site.

3. Prior to issuance of a building permit or recordation of the final parcel map, a master grading plan which has been designed for a ten year storm with an on-site detention requirement of 1,335 cubic feet per acre shall be submitted to Development Services Department for review and approval. All on-site storm drainage shall pass through an oil/grit separation device as approved by the City.
4. Temporary silt fencing shall be erected during construction so that the transport of construction debris can be retained on-site.
5. The improvement plans for the development of the subject property shall include all measures required to ensure that no storm drainage runoff resulting from the development of the property flow onto adjacent properties or impede the drainage from those properties. If retaining walls are required they shall be constructed of concrete or masonry block.
6. The developer shall prepare and implement a water quality control plan for the construction and operational phases of the proposed project. This plan shall be reviewed and approved by the Development Services Department. Such a plan shall include Best Management Practices to control the input of pollutants to urban storm water runoff released to receiving waters off-site as deemed appropriate by the City Engineer.
7. The In & Out Burger drive-thru lane shall be screened utilizing a combination of low masonry retaining walls, earthen berms, living ground cover, shrubs, and/or hedge type plant materials to visually screen waiting vehicles from the public view. Detail of the proposed method of screening shall be submitted to the Development Services Department for review and approval prior to issuance of a building permit.
8. On-site street landscape planters along the north side of Sunsweet Blvd., Annette Way and the State highway frontages shall be a minimum of 10 feet in width and planters the south side of the Sunsweet Blvd. frontage shall be a minimum of 20 feet wide and planted with landscape material as required by the Yuba City Zoning Regulations.
9. All existing well(s) and septic tank(s) shall be destroyed in accordance with the requirements of the Sutter County Health Department and Yuba City Building Divisions.
10. A cross access easement shall be reserved in deeds for storm drainage, sanitary sewer, water, ingress and egress, landscaping and parking and the maintenance

thereof on the subject property to the benefit of all properties.

11. The property shall petition for formation of a Zone of Benefit of the Yuba City Landscaping and Lighting District for the purpose of maintaining City streetlights.
12. Should the applicant propose a different type of fence, other than the existing metal chain link fence, along the Caltrans right-of-way a plan shall be submitted for approval by Caltrans and the Development Service Department prior to the issuance of a building permit.
13. Proposed food service establishments shall comply with all requirements of Sutter County Environmental Health prior to the issuance of a certificate of occupancy.
14. Provisions shall be made for the interior storage of shopping carts for each of the retail stores. There shall be no outside storage of shopping carts except within the designated outdoor cart corrals.
15. The masonry loading dock and trash compactor walls located behind the Kohl's store and Anchor "B" shall be decorative and include a cap that matches the design and color of the respective buildings. The design of the wall shall be submitted as part of the building permit submittal for the respective buildings.
16. The final landscape plans shall incorporate screen landscaping along the masonry loading dock and trash compactor screen walls located behind the Kohl's store and Anchor "B". The planting scheme shall be submitted as part of the building permit submittal for the respective buildings.
17. An additional set of tree planters shall be installed along the pedestrian walk between Kohl's and Shops 1 with the planting a large shade trees rather than the Crepe Myrtle trees shown. The additional planter shall be placed adjacent to the handicap parking spaces so that they are shaded equal to the remainder of the parking area.

D. Approve Tentative Parcel Maps #05-07 and #05-08 subject to the following conditions of approval:

1. The Final Parcel Map shall reflect the current changes being made in the right-of-way and public utility easements for the Onstott Frontage Road and Sunsweet Blvd.
2. A cross access easement shall be reserved in deeds for storm drainage, sanitary sewer, water, ingress and egress, landscaping and parking and the maintenance thereof on the subject property to the benefit of all properties.

3. Prior to the recordation of the parcel map the assessments for the State Route 99/Sunsweet Blvd. Assessment District shall be reapportioned or paid in addition the 05-06 assessment amounts shall be paid with the in-lieu fees unless the first payment is not due until 06-07.
4. The property shall petition for formation of a Zone of Benefit of the Yuba City Landscaping and Lighting District for the purpose of maintaining City streetlights.

YUBA CITY PLANNING COMMISSION
MINUTES

Regular Meeting
August 10, 2005
City Hall Council Chambers

The meeting was called to order by Chairman Starkey at 7 p.m. Members present and absent were as follows:

PRESENT

Commissioner Melia Campbell
Commissioner Maynard Dunn
Commissioner Tej Maan

Commissioner Jeffrey Spencer
Commissioner Satwant Takhar
Chairman Craig Starkey

Also present were Senior Planner Brian Trudgeon, Assistant Planner Vicrim Chima, Paulla Hyatt-McIntire representing the City Attorneys Office, Acting Admin. Assistant Nancy Chaussee and Administrative Clerk Cassie Dunbar.

ABSENT

Commissioner Mike Cartoscelli

It was reported that Commissioner Cartoscelli had an excused absence.

The Pledge of Allegiance was led by Commissioner Campbell.

Meritorious Awards were presented to Rick Davis for Outstanding Renovation of Paradiso Restaurant and to John Tuscano for Outstanding Renovation of Salute Italian Ristorante.

Resolution No. 05-02 was presented to Denis Cook in recognition of his contribution to the Planning Commission.

APPEARANCE OF INTERESTED CITIZENS: None.

- 1. CONTINUED PUBLIC HEARING: TENTATIVE PARCEL MAP #04-09 TO DIVIDE A 31.7 ACRE PARCEL INTO TWO PARCELS OF 18.71 ACRES AND 12.99 ACRES; 900 SOUTH WALTON AVENUE AND 935 THARP ROAD - PROPERTY OWNER/APPLICANT, WAL-MART STORES, INC**

Senior Planner Trudgeon briefly reviewed the project as being the division of 31 acres which is currently developed with the Sam's Club and Wal-Mart Stores in order to facilitate the sale and redevelopment of the existing Wal-Mart Store. He explained that at the last meeting the Commission had requested clarification as to why Condition No. 4 which required the additional third lane along Rte. 20 between Stabler Lane and Tharp Road was being removed by staff. He

then indicated that Paulla Hyatt-McIntire from McDonough Holland & Allen, the City Attorney's Office, was present to answer any questions or address any concerns the Commission may have relative to Condition No. 4.

In answer to Commissioner Campbell's question regarding what prompted the removal of Condition No. 4, Mr. Trudgeon explained that in further review of the project, staff found that even though the General Plan, in some instances, requires that ultimately the highway would be built to three lanes on each side, the simple subdivision of the land with no change in intensity of use from the uses which have been there since 1992, staff felt that there was not a proper nexus to require the application of Condition No. 4.

Commissioner Maan asked if the City Attorney's office had reviewed the issue and made a determination that the Commission could not place Condition No. 4 on the proposed division. Ms. Hyatt-McIntire reported that the City Attorney's Office had reviewed the project and determined that if the Commission did apply the condition and it was challenged, the Commission would probably not prevail as they did not believe that there was adequate nexus. She explained that there were two parts to the nexus test, one being whether the condition imposed is relatively proportional to the impacts caused by the project. Even if it could be argued that splitting the parcel increased the traffic impacts and justified an additional lane, there is a connection, but just dividing the parcel is probably not proportional to the cost of adding the third lane. She commented that the City Attorneys Office staff did not feel that it was even a close call and that it was very clear that the City would not prevail.

In answer to a question from Commissioner Mann about a determination from the City Attorney's Office regarding whether the Commission could apply Condition No. 4 with or without a nexus for it, Ms. Hyatt-McIntire indicated that the Commission could place the condition on the division, but if it was challenged in court, it was the City Attorney's Office's opinion that the City would probably not prevail.

In answer to Commissioner Campbell's question regarding the point at which the third lane would be required inasmuch as the General Plan calls for it and inasmuch as staff feels there is no nexus for requiring it at this time, Mr. Trudgeon indicated that when a project comes in which would change the intensity of the existing use, then the third lane would be requested. Commissioner Campbell noted that when the property was developed in 1992, Colusa Avenue was a rural arterial. She felt it is no longer a rural arterial and the whole area is growing into a more urban arterial. Mr. Trudgeon explained that all of the improvements along Route 20 would be covered by future impact fees. They will be made part of the total traffic mitigation, just as the City has done for the intersection of Pease Road at Route 99, and for improvements such as that which are over and above what Caltrans can do, the only way it will be accomplished is if the City includes it in its fee impact structure. Commissioner Campbell then commented that in talking with staff, comment was made that just applying for a building permit or a use permit would not allow the City to require the improvements, and that it would be more appropriately accomplished with the subdivision of the land. Mr. Trudgeon explained that usually when improvements do not exist when a subdivision is done, that is the time that you apply conditions requiring that the improvements be made. Commissioner Campbell questioned if this was not the nexus in this case, and Mr. Trudgeon indicated that he didn't feel there was adequate support to apply the condition at this time.

Mrs. Hyatt-McIntire spoke again at this time addressing some variations in the case law. She indicated that if the parcel was developed with only a Sam's Club at this time and they wanted to split it with future development contemplated on the second parcel, then there would clearly be adequate nexus in proportionality to require the turn lane. If someone demolishes the building and redevelops the property with increased square footage so there would likely be additional traffic, the City could then apply additional conditions reflecting the impact from the additional square footage, but not for the entire parcel since there is already some development there. She reported that the courts have routinely struck down attempts to make up for infrastructure deficiencies just because someone is applying for a permit for new development. It has to be proportionate to the impacts from the new development, not the existing or previous development.

Commissioner Dunn indicated his concern with Ms. Hyatt-McIntire's statement that if someone proposed a project which increased the traffic impact, at that time you could make them responsible for the lane widening proportionately, and indicated that this will probably not be the case with any future development since Wal-Mart is the highest traffic impact operation in the World. Discussion then ensued with Mrs. Hyatt-McIntire indicating that the third lane probably would not come from any one development. Commissioner Starkey indicated that he felt that impact fees would solve the problem. He didn't feel that the third lane was an issue to be attached to this lot split, but would come later with redevelopment of the Wal-Mart lot with a project with more square footage which would increase the traffic impact. It was his understanding that if the property was redeveloped with a similar sized use, then as other subdivision occur, it would be those impact fees will help pay for the third lane.

In answer to Commissioner Spencer's question about the status of the Hwy. 20 widening at that location, the Senior Planner replied that it was not yet in their program. The public hearing was reopened at this time.

John Wright, a resident of Yuba City and formerly the City's Public Works Director, indicated that Commissioner Dunn had requested him to come to this meeting and share the background of Condition No. 4 with the Commission. He explained that he had been out of town several months and upon his return he saw the article in the newspaper just prior to the Commission's July meeting regarding this project. He then called Commissioner Dunn about the issue, but since was unable to attend the meeting, he asked that his name not be used until he could be present. Mr. Wright explained that when this division was first submitted in early 2004, staff looked at the road condition, looked at the project based on existing traffic studies and the Master Plan for Route 20, and looked at some proposed developments along the north side of Rte. 20 which would add lanes there. The condition came from that analysis, not necessarily from the issue of whether there would be 10 or 15 more cars using what is developed on the Wal-Mart site in the future. He explained that staff had recommended that Condition No. 4 be applied to the proposed division, but the public hearing was continued to a date uncertain at the request of the applicant. In March of this year a new engineer was assigned to the project by Wal-Mart and indicated that they were ready to proceed with the division. He reported that he had met with and had several phone calls with representatives of Wal-Mart, and they indicated that they did not feel that it was appropriate that they be required to provide the third lane as they did not see the traffic issues coming from the project. What he told them was that the condition was required due to General Plan issues, and explained to the Wal-Mart representatives that the

General Plan indicates that the third lane is required, and since Wal-Mart was asking for a land division, the City was asking for the improvements in conjunction with the land division.

Mr. Wright then reported that he had several phone discussions regarding the matter with City Attorney Tim Hayes, however did not sit down with him and review the map like Mrs. Hyatt-McIntire has done. He reported that they discussed nexus, traffic and the General Plan; and that it was the City Attorney's opinion that it was appropriate to ask for the improvements as being consistent with the General Plan. He reported that in several places the General Plan indicates that this section of roadway should be a 6-lane urban arterial street. Mr. Wright then pointed out that the City has required developers to do similar improvements in the past and noted that along Blevin Road there are four or five new subdivisions that have recently been mapped and were required to acquire property behind them and put up money to build a new road, not for traffic from those subdivisions, but because the community had identified that area for a boulevard and a place to move major traffic. He felt that the Wal-Mart project was a similar case and staff was trying to be consistent.

In terms of doing it now or later, Mr. Wright explained that the City always tried accomplish its infrastructure conditions on land division issues rather than issues of building permits since there is no guarantee who the next user will be, or what or how the property will be redeveloped. The City has always tried to be consistent and get the infrastructure improvements with land division issues. Mr. Wright then stated that at no time in discussing with the engineer and with Wal-Mart or its representatives did he indicate that the condition came from anything other than a General Plan consistency issue. The General Plan requires it and this is why it was applied to the proposed division.

Mr. Wright then noted that the issue of using impact fees was brought up earlier tonight, and indicated that he would be very surprised if it would be applicable to use impact fees in this case. He explained that impact fees cannot be used to cure existing problems, but are aimed at those caused by growth. He further explained that if the City knew that it had 1,000 new units being proposed, it would know that it would need a signal due to traffic impact and impact fees would be used. If there is an existing problem that was there before any growth came, which is similar to what exists on Hwy 20, it would be tough to use impact fees and there would be a nexus issue. He then indicated that another reason for the condition was that there is a subdivision proposed on the property to the north directly across from the subject property and that subdivision has been required to add a third lane on Hwy. 20. He indicated that it made common sense to him as an engineer to do it all at one time. He stated that this is the background for Condition No. 4. He then indicated that he had not discussed the issue with Mrs. Hyatt-McIntire, however she is an attorney.

In response to a question from Commissioner Starkey about the existing problem in the area and the additional impact due to anticipated growth further to the west which will exacerbate the situation and provide the nexus for the use of impact fees, Mr. Wright indicated that growth would probably pay for a portion of the improvement costs. In response to a question from Commissioner Spencer regarding Wal-Mart's agreement to Condition No. 4, Mr. Wright stated the condition was applied by City staff and that Wal-Mart had never agreed to the condition. Commissioner Spencer then asked if Wal-Mart would be fronting the money which would be reimbursable, and Mr. Wright indicated that his intent was that Wal-Mart put up a deposit for the improvements so that they could be accomplished the same time as the improvements along the

north side of Colusa Hwy. or do a deferred improvement agreement. Discussion then ensued about the timing of the improvements inasmuch as they will occur within the Caltrans right of way. Mr. Wright indicated that it could take about six months to get the encroachment permit and explained that they could use the deferred improvement agreement process. In answer to further questions from Commissioner Spencer, Mr. Wright reported that the City prefers to have the developer do the improvements with the City's help in going through the process, but the City doesn't award the contracts.

In answer to Commissioner Dunn's question about the division of the land being the proper time to apply conditions, Mr. Wright explained that a parcel split is a subdivision. The Subdivision Map Act governs divisions of land whether they are parcel maps of 4 lots or subdivisions of 50 lots, and this is the only time you can condition something based on a land split. Sometimes conditions can be applied to building permits, but normally they are applied with the subdivision conditions. Commission Dunn then noted that the City Attorney didn't feel that there was a nexus in this case, but he felt that it could be construed that there is a nexus due to the fact that they wanted to develop adjacent to Hwy. 20 with the idea that this was the best area applicable to their type of operation, and they hold some responsibility to the activity on Hwy. 20 regardless of whether that parcel is contiguous to Hwy. 20, there is still a relationship there. In accordance with Bill Fulton's book on land study, determining nexus is not a narrow decision, and if Wal-Mart didn't have some relationship to that corridor, then they wouldn't have gone there in the first place. Being good neighbors as a public company, he further felt that they should respect that.

At this time Mr. Wright reported that the City had been working with Caltrans on improvement plans from Hwy. 99 to Township Road and that Caltrans has indicated in no uncertain terms that all the improvements will be accomplished with local developer dollars and will not be a part of District 3 or STIP, other than maintenance. Caltrans has stated that local projects within the City have to be funded by the local developers rather than using RSTP's or other funds.

Tim Cremin of Steefel, Levitt & Weiss of San Francisco addressed the Commission indicating that he was representing Wal-Mart Stores. He stated that his clients agreed with staff's recommendations in the staff report and with the analysis of the City Attorney's office about the proportionality test in it's application to this requested subdivision. He explained that unlike other situations where subdivisions are of undeveloped land and it is the appropriate time to impose conditions based on what could be developed on the undeveloped parcel, in this case the parcels are developed and they are just asking to create a lot which already is encompassed with an existing store and parking lot. Like the City Attorney has indicated, in this situation the impacts from the subdivision already exist, the store is operating and the traffic that is contemplated from the development exists, so the map is not adding any additional impacts. In light of the fact that there are no additional impacts caused by the subdivision, there is no nexus to impose that type of condition on an impact. In other words that is the connection -- what is the impact/what is the condition. This is what is missing in this situation. He reiterated that his clients were in agreement with staff on this issue. He commented that legal issues don't always answer the question, but in this instance, this should weigh heavily on the Commission's decision.

Mr. Cremin then reported that his clients were trying to do what the City, the Planning Commission and City Council have asked them to do which is to re-tenant the store which will

be vacated when the Supercenter opens. He explained that this is the sole reason they applied for the lot split. He indicated that Condition No. 4 was impeding the goal of everyone presently in the room representing the City and Wal-Mart tonight. He stated that the deal will not be accomplished and the store will not be re-tenanted with a condition that requires the improvement of a third lane at a cost of about a half million dollars and yet to be determined Caltrans approval; all things that are unknown at this time. He felt that the Commission should think carefully about Wal-Mart's goal and its relationship to Condition No. 4.

Mr. Cremin continued by stating that Wal-Mart had never agreed to Condition No. 4 from the beginning. He explained that the engineers submitted the map request, and when the condition was recommended, they were concerned and came to his office for a legal opinion. Similarly to the City Attorney's opinion, his office did not see a nexus. There has never been any agreement to Condition No. 4.

Regarding the issue that some of the Commissioners had raised about being a good citizen or public versus private burdens, Mr. Cremin indicated that this was a legitimate policy issue to raise in some context, but in this context there really isn't a question of whether Wal-Mart is a good citizen or not. In developing its Supercenter Store on the north side of Highway 20, Wal-Mart worked in good faith with the City to work out a whole series of conditions that the City felt were appropriate and important to the City, and at the end of the negotiations Wal-Mart accepted improvements which were slightly beyond the call of duty in some instances. In the subject division, Wal-Mart is merely following through on a project and it is not a question of whether or not Wal-Mart is a good citizen and wants to help the City. The question is whether Wal-Mart can do what it wants to do with Condition No. 4 applied to the project and the answer is no.

Mr. Cremin then commented that Wal-Mart has been operating in its present location since 1991 while the City has been growing tremendously, and that area of the City in particular has seen traffic growth which is not solely attributable to the presence of a Wal-Mart Store. He reiterated that over the last decade there had been tremendous growth and he didn't feel that the problems on Highway 20 were solely attributed to Wal-Mart, and because of the fact that the roadway congestion is due to growth and that the growth is not due to Wal-Mart, then it does become a more public issue and that is why the City has a fee program that has been adopted to try to find ways to find money to pay for the needed improvements. Mr. Cremin then respectfully requested that the Commission make its decision tonight and that its decision be what has been recommended by staff.

Commissioner Campbell then asked that in the event that the project is not approved in the manner that Wal-Mart wants, what will Wal-Mart do if it feels that it cannot possibly sell the parcel it purchased in 1992 and have it be something that will make money for Wal-Mart. Mr. Cremin replied that if the Commission approves the map with a condition for a third lane on Hwy. 20, the first step would be to appeal the decision to the City Council. Commissioner Campbell then indicated her concern that it could be a veiled suggestion that if the Commission doesn't approve the project as requested by Wal-Mart, they will let the building set vacant. Mr. Cremin answered that this was not Wal-Mart's goal. He explained that if the condition is imposed on the project, Wal-Mart won't be able to accomplishing its goal. This was not a threat, just a statement that Wal-Mart may be unable to accomplish what the City wants it to

accomplish, and is what it does in other communities, but essentially the Commission's action will impede that result. The public hearing was closed at this time.

Commissioner Dunn noted that John Wright wanted to tie the project in with the Yuba City General Plan Update, and commented that he felt that the General Plan is what Commission is to abide by. He indicated that Commissioner Campbell had distributed to the Commissioners copies of pages from the General Plan which show what the City wants in the way of arterial roads.

Commissioner Dunn then reported that he had discussed the issue with City staff, had discussed it with the City Attorney before the last meeting, and had also discussed it with John Wright and Commissioner Campbell. He noted that the Yuba City General Plan defined a urban arterial as being six lanes or greater, and indicated that this was what Public Works wanted Wal-Mart to commit to since it was asking for a parcel split. That was the reason he had asked if this was the time to set conditions because there is no guarantee for the public benefit that some private organization which redevelops the property is going to provide the improvements. He felt that if the City does not take the position that it wants the road widened and make Wal-Mart responsible, then the public will have to pay the price. Regarding consistency, even though it is not under the Transportation Element but under Community Design on Page 4.9 of the Yuba City General Plan shown as Figure 4-3, the arterials in the General Plan are absolutely shown as three lanes on each side of SR 20 from Hwy. 99 to Township Road. It appeared to him to be very specific that this is what should happen. His concern is that even though Wal-Mart is moving to another location and expanding, it's original intent in 1992, at which time he spoke in opposition to Wal-Mart then based on big business/small business, when he asked Wal-Mart if it intended to stay at its location and grow there and they said there was no doubt that they would stay at this location and expand there. Things have changed for good business reasons, but in doing it, Wal-Mart has impacted an entire area and he felt that because of this Wal-Mart should step up to the plate, show it's happy face and say it wants to be a good business in relation to the City. He indicated that a lot of people have contacted him and told him to stick to his guns because they would be unhappy with Wal-Mart if the citizens of Yuba City were going to have to pay for the road improvements.

Commissioner Maan indicated that he agreed with Commissioner Dunn. He felt that the City needed a third lane at this location. He noted that Caltrans was not going to pay for it and asked who should pay for the improvements, Wal-Mart who has created most of the need or the taxpayers. He commented that the taxpayers were already paying for the Pease Road interchange, Bridge Street improvements, etc. and all the other congested roadways in the City. He indicated that the project is for a division of land and that the Subdivision Map Act has provisions for getting road improvements at this time. He stated that he was willing to go the distance and be challenged legally before he passed this half million dollar responsibility on to the citizens of Yuba City. He couldn't see where a company like Wal-Mart could not pencil in the improvements when the local little builders developing the property across Colusa Highway to the north have to live with the same condition, widening the same length of the highway to provide the same type of roadway, when the world's biggest giant retailer is saying it cannot afford it. Even though the Commission has been given a legal opinion that there is no nexus, he could not vote to remove Condition No. 4.

Commissioner Campbell supplied staff with plastic overlays of page 5-8 and Figures 4-3 & 5-1 from the Yuba City General Plan regarding streets so that the audience could see what the

Commission was talking about. She reported that she was a businesswoman who owns two businesses of her own, votes republican and is pro business like no one would believe. She indicated that she had previously thought this project was a non controversial matter until she started to look into it more and listen to things that were said. She noted that she had spent a great deal of time reviewing the General Plan and reviewed the overlays that were being projected. She pointed out that Tharp Road crosses Colusa Highway at a point where Figure 5-1 shows Colusa Hwy. as a 4-lane highway which staff has advised was the minimum acceptable to Caltrans, however Table 5-4 entitled Major Planned Street Improvements indicated that Colusa Hwy. was to be widened to 6 lanes and upgraded to urban arterial standard from Stabler Lane to Township Road. She reviewed the traffic volumes on several of the other streets shown as 4-lane arterials and commented that there was a whole lot more traffic on State Route 20. She felt that the City should not even think about leaving this as a 4-lane arterial across the frontages of Sam's Club and the existing Wal-Mart Center, the new Super Wal-Mart Center and Home Depot. She then reviewed Figure 4-3 of the Yuba City General Plan which indicated three lanes on Colusa Highway in each direction.

Commissioner Campbell then commented that at the last meeting the word nexus was being thrown around a lot, so she went home and looked it up and found that nexus is a means of connection, a link or a tie. She felt that in this case the nexus for the requirement for the third lane was the General Plan. That was the link and the tie. The complaint by Wal-Mart is that Condition No. 4 is not fair because the property is already developed, however, Wal-Mart is asking to subdivide the land. She felt that it didn't matter if something was already there when subdivided because they could raze everything and start over. She commented that there were cases where developers have to tear down old houses in order to develop their project. That doesn't mean that they don't have to improve around it, and indicated that there was a case where someone just wanted to put one house on the edge of their lot and they still had to do all the street frontage improvements along with curb, gutter and sidewalk, yet nothing was changing. There was not going to be any more traffic based on one more house in the subdivision. She felt that this was not an unusual request of developers. The City has asked developers to not only create improvements to street frontages, but again as Mr. Wright mentioned, the City has asked developers to give their land for the improvement of Tuly Road which doesn't. As an interesting fact, she then indicated that the way the houses are developed between Blevin and Elmer Roads, Tuly Road cannot go straight through. There is one person whose land is far more effected than others which is not fair, but that is the way it is. After talking with staff and reviewing the General Plan, she didn't feel that the Commission could legitimately allow Wal-Mart to subdivide the property without requesting the improvement of the third lane at this time as the City has asked other developers to do the same thing, with the nexus being the General Plan. The nexus is not contiguousness or traffic, it is strictly the General Plan. This is what was developed by the community and approved by the City, and this is what the Commission has to abide by in its decisions.

Commissioner Spencer indicated that the issue had taxed most of his knowledge as a planner and a transportation planner as he could see both sides of the issue. He could see a lot about community, and appreciated all the work Commissioners Campbell and Dunn had done on issue. On the other side there is a legal issue – the letter of the law. He indicated that at the beginning of the hearing he held a firm position that there was no nexus and the legal definition of nexus was not being met. After listening to the testimony during the public hearing and knowing that the Commission is the curator and has the task of implementing the General Plan, that in itself

had convinced him to soften his position. He indicated that during the last meeting he felt that Wal-Mart did not create the impact, it was caused more by growth, and commented that even though Wal-Mart has been a good citizen to the City, it has reaped many benefits from being here and will not be losing anything since it purchased the property in 1992 and will reap the benefit of the current market in a free market society. He stated that because of the requirements of the General Plan, he was now more inclined to leave Condition No. 4 on the parcel map.

Commissioner Takhar commented that most of the members of the Commission supported Wal-Mart when it came to the City in 1992 and continue to support it. He noted that the Commission had supported Wal-Mart in its endeavor for the Supercenter and was not anti Wal-Mart; however he agreed with comments about the General Plan from John Wright and Commissioner Dunn. He felt that the Planning Commission was trying to be consistent in that it had placed this condition on local builders developing the north side of Colusa Hwy. and he did not see why Condition No. 4 should not be placed on Wal-Mart's parcel map. He felt the issued should be put to a vote tonight.

Commissioner Starkey indicated that he tended to agree with staff. He did not see the nexus and thought Wal-Mart had done a good job by assisting with the development of the third lane on the north side of Colusa Hwy. He did not feel that any additional traffic would be created by the new user of the existing Wal-Mart site, and explained that if there was a different use which generated more traffic, then the issued would be dealt with at that time. He agreed that the general traffic problems were not caused by Wal-Mart, but from growth on the west side of the City which would be an impact fee issue, and didn't feel that Condition No. 4 was warranted.

Commissioner Dunn moved to adopt the following findings:

- a) The approval of the parcel map is consistent with the Guiding and Implementing Policies and the General Commercial designation of the Yuba City General Plan,
- b) The approval of the parcel map is consistent with and meets the minimum parcel size standards for the C-3 District, and
- c) Upon compliance with Condition No. 4, the project will then be in compliance with the Yuba City General Plan which was adopted in 2004, specifically Figure 4-3, Portion A which shows three lanes eastbound and three lanes westbound at the subject section of Colusa Hwy., Figure 5-1 which shows this section of the highway as 6-lanes, and Table 5-4 which calls for the highway widening and upgrading of SR 20 from Stabler Lane to Township Road to an urban arterial standard.

and approve Tentative Map No. 04-09 subject to the following conditions:

1. Cross easements over all property not occupied by buildings shall be reserved in deeds for all underground utilities, ingress and egress, parking, drainage and landscaping and the maintenance thereof to the benefit of all parcels including Parcels 1, 2 and 3 which are shown as not a part of this map but were required by Condition No. 14 of TM # 92-02. The deeded easements shall be approved by the Public Works Director prior to the recordation of the Parcel Map.

2. The area of unimproved Caltrans right-of-way along State Route 20 between Walton Avenue and Tharp Road and between the unpaved shoulder and the southerly edge of the highway right-of-way shall be planted and maintained with living landscape material. A landscape plan showing the plant materials, means of providing irrigation and maintenance schedule shall be submitted for review and approval by Caltrans and the Community Development Director prior to the recordation of the Parcel Map.
3. Landscape deficiencies, based on the original landscape plan, in the parking lot and perimeter landscape areas within the boundary of the tentative map shall be corrected prior to the recordation of the Parcel Map. A plan shall be prepared showing all areas that need to have plant materials added and includes plant type, size and location shall be submitted to the Community Development Director for review and approval prior to the commencement of said work.
4. Prior to the recordation of the Parcel Map provisions shall be made to the satisfaction of Caltrans for the construction of a third eastbound lane on State Route 20 between Walton Avenue and Tharp Road.

The motion was seconded by Commissioner Campbell and carried by a roll call vote of 5 to 1 with Commissioner Starkey voting negatively and Commissioner Cartoscelli being absent.

2. **PUBLIC HEARING: TENTATIVE PARCEL MAP #05-10 TO SUBDIVIDE A 1.18 ACRE PARCEL INTO 3 LOTS; WEST SIDE OF RAILROAD AVE, NORTH OF THE INTERSECTION OF RAILROAD AVENUE AND BOUGE ROAD – SUBDIVIDER, JOGINDER BAINS**

Assistant Planner Chima briefly reviewed the staff report and Condition No. 8 as given to the Commission on the revised list of conditions. He then answered questions from the Commission regarding the new units being limited to single story construction, drainage issues, rear yard setbacks and underground utilities. The public hearing was opened.

Clint Rehermann addressed the Commission indicating that he was representing the surveyor Mr. Bains had hired to process the tentative map. He asked if the limitation on two-story residences was typical since there were mixed single & two-story residences in the neighborhood. Chairman Starkey explained that it was a standard condition.

Darrel Larson of 1820 Pacifica Drive asked about condition No. 9 and Chairman Starkey reviewed the language in Condition No. 9. The public hearing was closed with no other testimony offered.

Commissioner Takhar moved to adopt the two recommended findings and approve the tentative map subject to the nine conditions as revised by staff. The motion was seconded by Commissioner Mann and carried by a unanimous roll call vote of those members present.

3. PUBLIC HEARING: TENTATIVE PARCEL MAP #05-09 TO SUBDIVIDE A 1.41 ACRE PARCEL INTO 2 LOTS; NORTHEAST CORNER OF LASSEN BOULEVARD AND KLAMATH LANE – SUBDIVIDER, SOUTHERN CROSS, LLC/ PROPERTY OWNER, JAMES R. SCOTT

Assistant Planner Chima briefly reviewed the staff report. The public hearing was opened and closed with no testimony offered.

Upon motion by Commissioner Spencer, second by Commissioner Takhar and a unanimous roll call vote of those members present, the Commission adopted the three findings, adopted the mitigated negative declaration and approved the tentative map subject to the six conditions as outlined in the staff report.

At this time Chairman Starkey recused himself from participation on the next agenda item in that part of the property owners were clients of his business, and left the Council Chambers. A 5-minute break was taken at this time.

Acting Chairman Dunn reconvened the meeting at 8:15 p.m.

4. PUBLIC HEARING: DEVELOPMENT PLAN #05-02 TO CONSTRUCT THE 121,840 SQUARE FEET GEWEKE CROSSING COMMERCIAL RETAIL AND A 40-FOOT MONUMENT SIGN, COMBINED WITH A TENTATIVE PARCEL MAP #05-07 TO SUBDIVIDE 10.25 ACRES INTO 3 PARCELS AND TENTATIVE PARCEL MAP #05-08 TO SUBDIVIDE 2 PARCELS CONSISTING OF 4.77 ACRES INTO 4 PARCELS; WEST SIDE OF STATE ROUTE 99 ON THE NORTH AND SOUTH SIDES OF SUNSWEET BLVD.; APPLICANTS, CAPITOL AVENUE DEVELOPMENT/ PROPERTY OWNERS, GEWEKE-YUBA PROPERTIES AND MEAGHER & TOMLINSON

Senior Planner Trudgeon briefly reviewed the staff report. He then answered questions of the Commission regarding access and sign maintenance. Commissioner Spencer suggested that in order to mitigate noise and air quality that a condition be added to prohibit diesel delivery trucks from idling at the delivery docks, and indicated his concern with the traffic flow in the area of Onstott Frontage Road and Bridge Street. The public hearing was opened at this time.

Brad Hays of Capital Avenue Development, 640 Commons Drive in Sacramento thanked staff for all it's help with this project. He indicated he was present as the applicant, along with representatives of Kohl's, In N Out, Chili's and Meagher & Tomlinson. He then asked staff to articulate exactly with the requirement was Condition No. 15.

Jeff Adam, Site Development Manager for Kohl's Department Store based out of Wisconsin asked for clarification of Condition No. 15 which states that the masonry loading dock and trash compactor walls located behind the Kohl's store shall be decorative and include a cap that matches the design and color of the respective buildings. Senior Planner Trudgeon explained that staff just wanted something that would blend with the building, something that would go

along with the cornice on top of the building and carry that feature down with the building materials shown on the building carrying through on the walls. The public hearing was closed with no other testimony offered.

Commissioner Spencer indicated that he appreciated the fact that the developers had stepped up to the plate with a very nice project to make the City a little more attractive and much more economically balanced. This project will bring a number of new jobs and attractions to the community.

Commissioner Spencer then moved to adopt the eight recommended findings as outlined in the staff report, adopted the mitigated Negative Declaration, recommended that the City Council approve Development Plan #DP 05-02 subject to the 17 conditions of approval as outlined in the staff report and Condition No. 18 which shall state that no diesel idling shall occur while the trucks are in the loading dock, approve Tentative Map Nos. TM 05-07 & TM 05-08 subject to the four conditions as also outlined in the staff report. The motion was seconded by Commissioner Mann and carried by a unanimous voice vote of those members present, with Chairman Starkey and Commissioner Cartoscelli being absent.

5. OTHER BUSINESS: Commissioner Dunn reported on the joint City Council/Planning Commission field trip to Hercules, the American Parkway out of Vallejo and Mare Island; and encouraged the other Commissioners to visit these communities and see what had done with high density/cluster housing and the use of alleyways.

6. REPORT ON ACTIONS OF THE CITY COUNCIL: None.

7. ADJOURNMENT: The meeting adjourned at 9 p.m.

Respectfully submitted,

BRIAN TRUDGEON, Secretary Pro Tem
YUBA CITY PLANNING COMMISSION