CITY OF WALNUT CREEK
RESOLUTION NO. 11-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WALNUT CREEK
ADOPTING A MITIGATED NEGATIVE DECLARATION FOR THE CO-OP SITE RETAIL
DEVELOPMENT PROJECT (Y10-050), APPROVING A GENERAL PLAN AMENDMENT,
TREE REMOVALS, AND DRIPLINE ENCOORDANCE PERMITS

The City Council of the City of Walnut Creek hereby resolves as follows:

SECTION 1. FINDINGS.

1. On April 19, 2011, the Walnut Creek City Council held a public hearing to consider General
Plan Amendment and Tree Removal Permit Application No. Y10-050 – Co-op Site Retail
Development, an all-retail development at 1510 Geary Road (APNs: 170-280-025, 019). The
applicant, Hall Equities Group, proposes to amend the General Plan by changing the current
land use designation from Mixed Use – Residential Emphasis (MU-R) to General Retail (GR).

2. The applicant proposes to demolish the vacant 30,307 square foot former Co-op building and
construct a new retail development consisting of a new 25,409 square foot grocery store at the
northwest corner of the site and two smaller pad buildings (approximately 5,000 square feet
each) located at the front of the site along Geary Road. The total project floor area is 34,939
square feet. Two new driveways would be constructed essentially in the same locations as the
two existing driveways, providing access to a shared, 146-stall parking lot.

3. The Built Environment, Chapter 4 (including the Land Use Element) of the General Plan
designates the subject site as MU-R, which allows either: 1) an entirely residential project, or 2)
a project with both residential and commercial uses, but residential must be the “primary use.”

4. The applicant is seeking an amendment to change the land use designation from MU-R to GR
in order to accommodate this all-commercial project. The project will comply with all other
General Plan requirements, including the Floor Area Ratio (FAR), which is limited to a
maximum of 0.30 – the project proposes 0.29.

5. The applicant is concurrently seeking a Planned Development Rezoning (P-D RZ) to change
the current Community Commercial (C-C) zoning to allow for flexibility in certain
development regulations including setbacks, parking and the building height definition.

6. The applicant has also requested Tree Removal permits for two trees and Dripline
Encroachment permits for work proposed within the driplines of several off-site, overhanging
trees. The City’s Tree Preservation Ordinance prohibits the removal of any tree or work within
the canopy of any tree unless the highest approving body over the project (here, the City
Council) first makes certain findings in connection with the issuance of Tree Removal and
Dripline Encroachment Permits.

7. On May 18, 2010, the City Council held a preliminary review hearing to consider the
applicant’s request for the General Plan Amendment. The Council members indicated they
were willing to consider the proposed amendment to a General Retail land use designation.
8. On December 1, 2010 the Design Review Commission (DRC) held a preliminary review hearing to consider the project proposal. Commissioners commented on the site plan, vehicle and delivery truck circulation, traffic control, architecture, building height, landscaping, exterior lighting, and public art. Overall, the Commission supported the proposal. However, several modifications were recommended including loosening up the site plan by reducing the width of (or eliminating altogether) the central walkway through the site, clarifying truck and vehicle circulation movements, making architectural modifications on all three buildings, and encouraging traffic control such as a signal at the Pioneer intersection. The DRC supported the proposed General Plan Amendment, P-D Rezoning, tree removals and dripline encroachment permits.


10. The City Council has considered comments submitted to and expressed in person to the Planning Commission, and Design Review Commission hearings on this project.

11. In accordance with the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., and the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations, the City has prepared an Initial Study and Mitigated Negative Declaration (IS/MND) for this project. The purpose of the IS/MND was to ascertain whether the proposed project would have a significant effect on the environment and identify and impose appropriate project changes and mitigation measures to avoid any such impacts or reduce any such impacts to a less than significant level.

12. The IS/MND was prepared in accordance with all legal requirements, including all public notice and comment period requirements, and examined all of the environmental issues associated with the project.

13. The City Council has reviewed and considered the IS/MND and all comments received within the public comment period, as well as written and oral comments received after the public comment period and prior to the date of this Resolution, and finds that the IS/MND:
   a. Reflects the Council's independent judgment and analysis;
   b. Was prepared in accordance with all legal requirements, including all public notice and comment period requirements; and
   c. Examined all of the environmental issues associated with the project and is a complete and adequate environmental document under the requirements of CEQA.
14. There is no substantial evidence in the record that the project, as mitigated, will have a significant effect on the environment. The IS/MND identified potentially significant impacts to Air Quality, Biological Resources, Geology and Soils, and Hazards and Hazardous Materials. As discussed in the IS/MND, mitigation measures have been incorporated into the project to avoid or reduce each of these impacts to less than significant levels.

15. The project site is within the boundaries of the Geary Road/North Main Street Area Plan and the project proposal is consistent with the Plan’s stated goals of: 1) Encouraging neighborhood-serving retail and also eating and drinking establishment uses on the western side of North Main Street convenient to the adjacent residential neighborhoods, 2) Providing incentives to encourage development of the former Co-op site and adjacent gas station site and 3) Encouraging the redevelopment, renovation or completion of partially constructed or unoccupied buildings.

16. The 30,307 square foot Co-op site building has been unoccupied since the late 1970s, surrounded by the remnants of the original asphalt parking lot and two trees. In 2006, General Plan 2025 identified this site as Land Use Change Area No. 12 – one of several sites that the City felt had potential for change. Because it is located within a half mile of the Pleasant Hill BART station, development of higher density housing in conjunction with a commercial component was viewed as ideal for this site.

17. Development of the site, however, has been hampered due to the current height restriction of 20 feet imposed by Measure A, the Building Height Freeze Initiative approved by voters in 1985.

18. The Co-op site is listed as an Opportunity Site in the City’s Housing Element that, at a density of about 20 dwelling units per acre, could generate 57 units toward the City’s Regional Housing Needs Assessment (RHNA). The Housing Element identifies several sites City-wide that could accommodate an estimated combined total of 1,195 residential units, which exceeds the City’s remaining RHNA goal of 724 affordable units, the balance remaining after the pipeline of approved units and units under construction are completed. If the Co-op site is commercially developed as proposed, the City will still have sufficient opportunity sites to accommodate its RHNA requirement. Therefore, the site is not critical to the City’s RHNA goals.

19. Although BART-proximate housing in this location would be highly desirable, the current economic and development constraints make that extremely unlikely to occur in the near future. Given the site’s historical constraints with the height limitation, this commercial proposal represents an important opportunity to have this site redeveloped after over 30 years of a blighted condition.

20. Two on-site trees are proposed for removal which are subject to the Tree Preservation Ordinance, neither of which is classified as “Highly Protected.” Retention of the two trees would preclude reasonable development of the site.
21. Grading activity and the installation of a masonry wall along the west and north property lines will occur within the driplines of several neighboring trees whose canopies overhang the project site. The applicant’s arborist has made several construction-related recommendations to minimize any potential effects to those trees. Those recommendations are listed in the arborist report under Tree Preservation Guidelines, pgs. 5-6 and have been incorporated as conditions of the P-D Ordinance.

22. The health, safety, welfare, and general prosperity of the residents of the City of Walnut Creek will be served by the proposed amendment to the General Plan’s Land Use Element changing the site’s designation from MU-R to GR because it will allow this blighted site to be redeveloped with a retail project that will serve the existing residents and neighborhoods without negatively impacting the City’s ability to meet its housing goals.

SECTION 2. DECISION.

Based on the findings set forth above, the City Council hereby:

1. Adopts the Mitigated Negative Declaration and the mitigation monitoring program identified therein, which are hereby incorporated by reference as conditions of this approval and attached as “Exhibit A” of this Resolution.

2. Directs the Community Development Director to make the change to the General Plan Land Use Map, at 1510 Geary Road (APNs: 170-280-025, 019) from MU-R to GR as shown on “Exhibit B” of this Resolution, attached hereto and incorporated herein.

3. Approves the two tree removals as shown on the Tree Survey map and attached hereto as “Exhibit C,” and approves the dripline encroachment permit subject to the implementation of all Tree Preservation Guidelines listed in the arborist report (dated February 14, 2011) and attached hereto as “Exhibit D”.

SECTION 3. EFFECTIVE DATE.
This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Walnut Creek at a regular meeting thereof held on the 19th day of April 2011, by the following called vote:

AYES: Councilmembers: Lawson, Rajan, Simmons, Skrel, Mayor Silva

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Cindy Silva
Mayor of the City of Walnut Creek
I HEREBY CERTIFY the foregoing to be a true and correct copy of Resolution No.11-21, duly passed and adopted by the City Council of Walnut Creek, County of Contra Costa, State of California, at a regular meeting of said Council held on the 19th day of April 2011.

Patrice M. Olds
City Clerk of the City of Walnut Creek
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CITY OF WALNUT CREEK
MITIGATED NEGATIVE DECLARATION

Project Name: Co-op Site Retail Development (Work Order Y10-050)
Project Address: 1510 Geary Road
Date Notice of Intent to Adopt a Mitigated Negative Declaration was posted: March 18, 2011

1. **PROJECT LOCATION:** 1510 Geary Road

2. **PROJECT DESCRIPTION:** A proposal to construct a new retail development on the former Co-op site. The vacant building will be razed and three new retail buildings totaling 34,939 square feet will be constructed including a 25,409 square foot grocery store (Henry’s Farmers Market). The project will require a General Plan Amendment (GPA) to change the land use category from Mixed Use – Residential Emphasis (MU-R) to General Retail (GR).

   The applicant is also seeking a Planned Development Rezoning (P-D RZ) that would allow for some flexibility from the strict development regulations established in the current Community Commercial (C-C) zoning district including setbacks, definition of height and parking requirements. The project will also require design review, tentative map/ use permit, tree removals and dripline encroachment permits.

3. **THE COMMUNITY DEVELOPMENT DIRECTOR FINDS THAT ALTHOUGH THIS PROJECT, COULD HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT, THERE WILL NOT BE A SIGNIFICANT EFFECT IN THIS CASE BECAUSE MITIGATIONS HAVE BEEN INCORPORATED INTO THIS PROJECT.**

4. **STATEMENT OF REASONS TO SUPPORT FINDINGS:**

   **Air Quality:** Based on the number of anticipated vehicular trips generated, the proposed project will not conflict with or obstruct implementation of any applicable air quality plan or violate any air quality standard or contribute substantially to an existing or projected air quality violation. The Bay Area Air Quality Management District’s (BAAQMD) Air Quality Guidelines (June 2010) sets threshold project sizes according to land use type. According to Table 3-1 (pg. 3-2) a Strip Mall or Regional Shopping Center both have a threshold of 99,000 square feet of net new square feet for an Operational Criteria Pollutant Screening Size. The Co-op Site Retail project will have a net new floor area addition of 4,632 square feet (34,939 new minus 30,307 existing) which falls considerably below this BAAQMD threshold. Therefore, any impacts are considered far less than significant.
The proposed project may result in temporary air quality impacts during project demolition and construction. However, the BAAQMD Table 3-1 has also set a construction-related screening threshold for criteria pollutants (e.g. dust) at 277,000 square feet of project floor area for a strip mall or regional shopping center and the proposed project is well below this threshold. Therefore, potential impacts are less than significant. Construction-related dust control will be addressed through the following standard conditions of approval for construction-related activity of a development project: The plans submitted for any Building or Site Development permit will include the following notations:

- Any activity that creates dust during project demolition or construction shall be stopped immediately if dust affects adjacent properties. Sufficient watering to control dust is required at all times in all active construction areas;
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard;
- Pave, apply water as necessary, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and construction staging areas;
- Sweep daily (or as required by the Engineering Inspector) with water sweepers all paved access roads, public streets, parking areas, and staging areas at construction sites;
- Replant vegetation in disturbed areas as quickly as possible;
- All commercial vehicles using the loading drive aisle shall be prohibited from idling during loading/unloading activities;
- All concrete slabs and asphalt paved surfaces will remain as is feasible until debris is removed from the area;
- All trucks hauling demolition debris from the site shall be covered;
- Appropriate measures shall be taken during project demolition and construction to minimize dust and particle migration; and,
- Renovation, demolition activities, removal or disturbance of any material that contain asbestos, lead paint or other hazardous pollutants will be conducted in accordance BAAQMD rules and regulations.

The Engineering Inspector will review and enforce compliance with these criteria by all contractors.

Operations-related toxic air contaminants may result from idling diesel delivery trucks which may affect proximate sensitive receptors (adjacent residents).

Mitigation Measures: Diesel delivery trucks associated with project operations (not construction-related) shall be prohibited from idling for more than ten minutes in order to reduce potential impacts to a level of insignificance.

Mitigation Monitoring: The Planning Division will monitor and ensure compliance with this provision through the Planned Development Rezoning process and field inspections as warranted.

Biological Resources: This urban site is not a habitat for any sensitive or special status wildlife species (flora or fauna) as the site is completely paved with no vegetation (save for two trees) and has been developed as an urban use and surrounded by urban uses since the 1950’s. The site contains no other natural features such as creek remnants or wetlands. The project is subject to the City’s Tree Preservation Ordinance, which regulates the removal of
trees with trunk diameters of 9" or more. Two trees are proposed for removal, all as a result of site grading and development associated with this project. An arborist report has been submitted which identifies and evaluates these trees (Canary island pine and Mexican fan palm) – neither of which are identified as “Highly Protected” trees by the City’s Tree Preservation Ordinance and the trees are not considered a significant biological resource. A significant tree replacement program is proposed which will offset the loss of the two on-site trees. The report also evaluates potential impacts to various trees on adjacent properties due to construction-related activities. Several construction-related mitigations are recommended in order to reduce any potential impacts to those trees. The report has been reviewed by the City Arborist who supports the tree removals and those mitigation measures recommended in order to help protect those off-site trees identified.

Mitigation Measures: To reduce any potential construction-related impacts to off-site trees, all mitigation recommendations listed under Tree Preservation Guidelines (pgs. 5-6) in the arborist report dated February 14, 2011 shall be followed and implemented.

Mitigation Monitoring: Planning and Engineering staff will ensure site plans incorporate all mitigation measures listed in the arborist report and Engineering Inspectors will monitor compliance with such measures and the approved plans.

Geology and Soils: The applicant’s submitted Geotechnical/Soils report dated 12/22/10 identified the potential for encountering certain soil types that may present potentially significant impacts on site development in the absence of implementing certain grading and construction recommendations.

Mitigation Measures: All recommendations listed in the Geotechnical/Soils report (pgs. 6-13) shall be implemented and adhered to.

Mitigation Monitoring: The City’s Building Division will ensure compliance with all State Uniform Building Code structural requirements. The City’s Building and Engineering Division will ensure all Geotechnical-related recommendations from the Geotechnical report are identified and addressed on the Building Permit submittal and Site Development permit drawings and the Building and Engineering Inspectors will ensure their implementation.

Hazards and Hazardous Materials: The site has been fully remediated and site closure has been issued for on-site clean up (through underground tank removals and soils remediation). Extensive over-excavation and soil removal was conducted between April and November of 2001. On May 2, 2002, the Hazardous Materials Programs Division of the Contra Costa Health Services issued its opinion that no additional investigation or excavation of soil is required. Site investigation and remedial action was confirmed by the State Regional Water Quality Control Board on June 27, 2002 which found that no further action is required. During demolition of the existing building, there is the potential to encounter hazardous materials including asbestos, lead paint or other hazardous building materials.

During building demolition, asbestos containing materials (ACM) and lead containing paint (LCP) could be present in various building components throughout the existing structure. Handling and disposal of these materials are subject to Bay Area Air Quality Management District (BAAQMD), Cal OSHA and Cal EPA - Department of Toxic
Substance Control regulations. Demolition of the existing structure is subject to permit procedures through the BAAQMD. The purpose of the BAAQMD permit is to ensure that appropriate measures are undertaken to identify and prevent inappropriate handling and disposal of hazardous materials and to ensure that the project would not create any measurable increase in air pollutants. Prior to any demolition work, the demolition contractor shall obtain any necessary permits and comply with all requirements pursuant to BAAQMD, Cal OSHA and Cal EPA, Department of Toxic Substance Control regulations. All applicable local, state and federal regulations regarding the handling, disposal and recycling of all hazardous building materials encountered during demolition will be followed. Compliance with existing regulations will result in a less than significant impact due potential hazards from building demolition. The Building Division will ensure compliance with all regulations regarding proper handling, disposal and recycling of all hazardous building materials in accordance with all applicable regulations. The Building Division will ensure that the demolition contractor has secured all required permits prior to issuance of a demolition permit from the City.

Mitigation Measures: The likelihood of encountering soils contamination on-site is very low given soils remediation and studies conducted and the no further action letters from Contra Costa County Health Services and Regional Water Quality Control Board. However, in order to address the possibility of encountering unknown soils contamination on the site, prior to the issuance of the first permit for ground disturbance activities for the project, a Soils Management Plan shall be prepared by the project applicant prior to the issuance of any permits. The Soils Management Plan shall require investigation, remediation, and/or disposal of any contaminated soils that may be discovered during construction activities in accordance with applicable legal requirements.

Mitigation Monitoring: Planning and Engineering Divisions will verify that the Soils Management Plan is followed in the event soils contamination is encountered.

5. IMPACTS FOUND NOT TO BE SIGNIFICANT. The following impacts were analyzed and found to be less than significant: Aesthetics, Agriculture Resources, Cultural Resources, Greenhouse Gas Emissions, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation/Traffic, Utilities/Service Systems, and Mandatory Findings of Significance.

6. INITIAL STUDY. A more detailed description of the proposed project and a preliminary analysis of the environmental effects of this proposal may be obtained from Kenneth Nodder, Senior Planner of the Planning Division of the Community Development Department, City Hall, 1666 North Main Street, Walnut Creek, CA 94596, (925) 943-5899 x2234, or through e-mail: nodder@walnut-creek.org.

7. PUBLIC COMMENT. Anyone who wishes to comment on the findings stated in the Mitigated Negative Declaration must submit those comments in writing to the Community Development Director, City of Walnut Creek, 1666 North Main Street, Walnut Creek, 94596, between **Friday, March 18, 2011 and Friday, April 8, 2011.**

8. CONSIDERATION OF COMMENTS RECEIVED DURING REVIEW PERIOD. The Community Development Director shall consider all comments received during the comment
period for a Negative Declaration or Mitigated Negative Declaration. If she determines in light of the comments that an EIR should be prepared, she shall proceed as set forth in the City of Walnut Creek CEQA Guidelines, Section VI.F. Preparation of Environmental Impact Reports. If she determines that the decision to prepare a Negative Declaration or Mitigated Negative Declaration was correct, that document and the comments received on it will be considered by the highest approving authority.

9. PROJECT REVIEW. THIS MITIGATED NEGATIVE DECLARATION DOES NOT SIGNIFY APPROVAL OR DISAPPROVAL OF THIS PROJECT BY CITY DECISION MAKING BODIES. THE FINAL DECISION MAKING BODY WILL CONSIDER THE PROPOSED MITIGATED NEGATIVE DECLARATION TOGETHER WITH ANY COMMENTS RECEIVED DURING THE PUBLIC REVIEW PROCESS TO DETERMINE WHETHER THE PROJECT WILL HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT.

SANDRA MEYER
Community Development Director
Tree #1 - on-site Canary Island pine

Tree #2 - off-site valley oak

Tree #3 - a row of 9 off-site redwoods

Prepared for:
Hall Equities
Walnut Creek, CA

May 2010
No Scale

Notes
Base map provided by:
Kier & Wright Civil Engineers
Pleasanton, CA
Tree locations are approximate.
Tree Preservation Guidelines
The following recommendations will help reduce impacts to trees from development and maintain and improve their health and vitality through the clearing, grading and construction phases.

Design recommendations
1. Evaluate the possibility of maintaining the existing retaining walls along the northern and eastern property lines adjacent to trees #2 and 4-8. If the existing retaining walls cannot be maintained, evaluate the possibility of using a pier based foundation for replacement retaining walls within the dripline of trees #2 and 4-8. This would help limit the root loss associated with a traditional footing.

2. The Consulting Arborist shall review all project plans with regard to tree impact and necessary protection measures.

3. A TREE PROTECTION ZONE shall be established around each tree to be preserved. The TREE PROTECTION ZONE shall be located 8' southwest of tree #2, with the exception of the storm drain tie-in work, and 8' east of the redwood trees (tree #3). When work is required within the TPZ, fences shall be temporarily moved to allow the work to proceed and then shall be returned to prevent unnecessary impacts. No grading, excavation, construction or storage of materials shall occur within that zone.

Pre-construction treatments and recommendations
1. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.

2. Trees #2, 3 and 4-8 may require pruning to provide construction clearance on the development site. Any pruning of off-site trees must be done with the property owner’s permission. All pruning shall be completed by a Certified Arborist or Tree Worker and adhere to the latest edition of the ANSI Z133 and A300 standards as well as the Best Management Practices – Tree Pruning published by the International Society of Arboriculture.

3. Structures and underground features to be removed within the dripline of trees to be preserved shall use the smallest equipment, and operate from outside the dripline (if possible). The consultant shall be on-site during all operations within the dripline to monitor demolition activity.

Recommendations for tree protection during construction
1. Prior to beginning work, the contractors working in the vicinity of trees to be preserved are required to meet with the Consulting Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.

2. All excavation for the infiltration planter and storm drain tie-in within the dripline of tree #2 shall be performed by hand or using compressed air or water and shall be done under the supervision of the Consulting Arborist. Roots 2" and larger shall be preserved where possible. Where not possible, roots 2" and larger in diameter shall be exposed and pruned with a saw, vibrating knife, or other approved root pruning equipment. The Consulting Arborist will identify where root pruning is required and monitor all root pruning activities.
3. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Consulting Arborist.

4. Any additional tree pruning needed for clearance during construction must be performed by a qualified arborist and not by construction personnel.

5. Do not lime within 50' of tree to be preserved. Lime is toxic to tree roots.

6. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use. Any pesticides used on-site must be tree-safe and not easily transported by water.

End of specifications