



# Memorandum

**TO:** RULES AND OPEN GOVERNMENT COMMITTEE  
**FROM:** Councilmember Donald Rocha  
**SUBJECT:** PUBLIC REVIEW FOR NEW RETAIL REUSE  
**DATE:** September 29, 2011

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Approved Don Rocha Date 9/29/11

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## RECOMMENDATION

Direct staff to add the following to the list of pending workload items:

Develop an ordinance that would allow the City to exercise discretionary review for new retail uses seeking to move into an existing retail space that has been vacated by a previous tenant. Uses covered by the discretionary review should include retail outlets of over 70,000 square feet in floor area that might pose a greater intensity of use than the use that previously occupied the site.

## ANALYSIS

This recommendation comes out of conversations I have had with neighborhoods surrounding the Blossom Hill/Almaden retail corridor. As I've engaged with community members on proposed development in the area, I've come to understand that how people view this retail hub is largely determined by where they sit. People sitting inside City Hall view it as a major sales tax generator that helps us fund important services across the City. People sitting out in the neighborhoods view it as a retail amenity, but also as a corridor with significant traffic problems that is unpleasant to navigate, hostile to pedestrians and cyclists, and generally a challenge to the quality of life in the surrounding community (as a measure of how strongly this neighborhood feels, I have received 313 mailed comment cards—please see figure 1). Both the neighborhood perspective and the City Hall perspective are right in their own way; both are based in legitimate public interests. The intent of my recommendation is to ensure that as we continue to pursue economic development in areas with concentrations of auto-oriented large format retail, we take both perspectives into account.

There are currently three land use issues that are generating neighborhood concern along Almaden Expressway: a proposal for a new shopping center with approximately 400,000 square feet of retail, a proposal for a 60 ft. tall LED freeway sign, and a new tenant (Walmart) moving into the vacant Home Expo site behind Best Buy. The first two proposals are subject to discretionary review with full public process that allows residents to be heard. In contrast, the third issue—the new tenant—does not require discretionary review and is not subject to public input. This lack of input is problematic because the Planned Development Zoning that allows the new tenant to move in was approved based on traffic generation rates for Home Expo—a fairly low-volume home improvement store show room—not a high volume discount store. The original approval assumed 37.84 trips per thousand square feet, whereas the recent Almaden Ranch EIR assumes Walmart will generate 53.13 trips per thousand. In light of this significant discrepancy between the intensity of the uses, surrounding neighbors have serious concerns about the compatibility of the new use, especially in relation to increased traffic. Given the potential increase in customers, vehicle trips and product deliveries on a site with a very tight interface between the retail building and adjacent residences, the new use might pose significant impacts not projected in the original land use approval. As an example of how sensitive the interface is, consider that the loading dock is about sixty feet away from a residential property line (please see *figure 2*).

I believe that when we see intensification of use on this scale at a large format retail site the public has an interest in some level of discretionary review, especially if the original approval was based on deficient traffic analysis. Such review would give the City an opportunity to put in place additional permit conditions needed to ensure neighborhood compatibility. I don't wish to be prescriptive as to what exactly the mechanism for the review should be, but I do think we should establish some way of determining whether the use is being intensified beyond what was originally contemplated, whether that means higher trip generation rates, additional parking, or some other indicator. I don't envision that we would begin reviewing new tenants every time a retail building is reused—in many cases a streamlined process is appropriate—but in the relatively few instances of a significant intensification of a large retail use, discretionary review is appropriate.

My intent is not to require discretionary review of Walmart before they move into this particular site; they're following the rules we have in place now and it wouldn't be fair to change the rules on them in the middle of their application. The best we can expect in this case is for the new tenant to live up to the existing permit conditions. Looking forward, however, we should use this situation as an example of the challenges we will face in neighborhoods across the City as we intensify retail uses and begin to prepare accordingly. Sales tax is an extremely important revenue source for the City, but as we pursue it we should make every effort to make our retail hubs assets to the surrounding community, not burdens. As I mentioned above, the Almaden/Blossom Hill area is seeing an influx of auto-centric retail on top of an already dense concentration of large format retail. Our residents rightfully expect that as we intensify our retail, we do it in a way that is high-quality, well-planned and sensitive to our neighborhoods' quality of life.

## Figure 1: Sample Resident Comment Card

**Councilman Don Rocha** — 500,000 new square feet of new retail development at Hwy 85 and Almaden Expressway will cause massive new traffic problems on many surrounding roads, create unbearable noise and pollution, and change the quality and character of our neighborhoods. The Almaden Ranch EIR must be revised to include the impact of the proposed Walmart store at 5095 Almaden Expressway, and both projects should be heard by the City Council at a public hearing. City staff should not have the power to approve either project on their own — that is the duty of the elected leaders chosen to represent the people of San Jose.

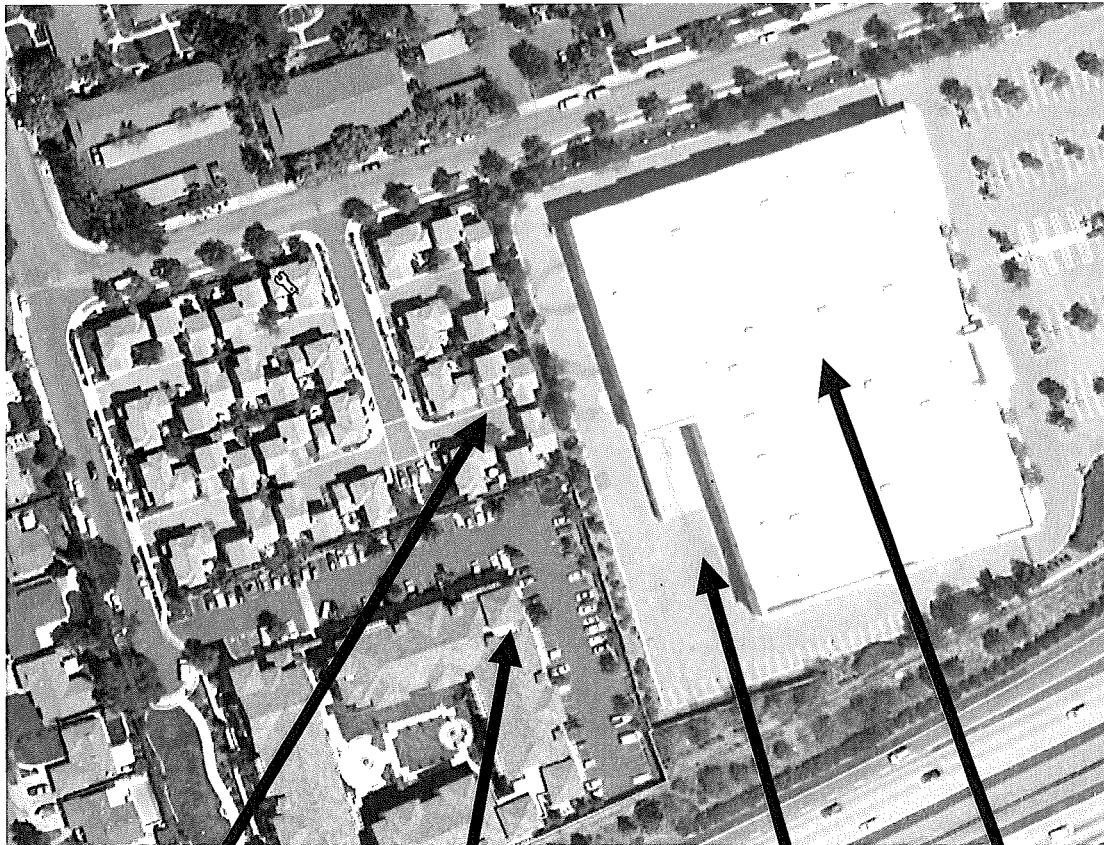
PRINT NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ Zip: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ Email: \_\_\_\_\_

Almaden-Cherry Neighborhood Coalition • PO Box 54280 • San Jose, CA 95154

### Figure 2: the new Walmart Supercenter and adjacent residential



Residences

Senior  
Housing

Loading  
Dock

Walmart