

January 28, 2019

VIA E-MAIL AND U.S. MAIL

Eric Danly
City Attorney
City of Petaluma
11 English Court
Petaluma, CA 94952

Re: Safeway Fuel Center Project; Demand Letter to Cure or Correct Violations of Brown Act (Government Code Section 54960.1)

Dear Mr. Danly:

We write on behalf of our client, Safeway, Inc., regarding the proposed Safeway Fuel Center Project (the “Project”) at 335 S. Mc Dowell Boulevard in the City of Petaluma (the “City”). As you know, on December 3, 2018, the Petaluma City Council voted to adopt Resolution No. 2018-180 (the “Resolution”) purporting to uphold the appeal of the Project (“Appeal”) filed by JoAnn McEachin and others (“Appellants”). Because the City Council took action on the Resolution in violation of the Brown Act (Government Code § 54950 *et seq.*), we wrote on January 2, 2019 to demand that the City Council vacate its decision and conduct another hearing in order to cure and correct the multiple violations of the Brown Act.

On January 9, 2019 at 5:55 p.m., you telephoned to state that the City Council would re-notice and re-conduct a hearing on the Appeal on January 28, 2019. On January 17, 2019, the City published and mailed notice of the January 28, 2019 City Council hearing on the Appeal. We subsequently received your January 22, 2019 letter confirming that the City Council would conduct the January 28, 2019 hearing to cure or correct the “alleged violations” of the Brown Act even though the City believed that no Brown Act violations occurred for the reasons stated in your letter. As explained below, the City’s belief in this regard is not supported by the facts or the law.

1. The City Council violated Government Code section 54954.2 by taking action on an item that was not on its posted agenda.

In response to our notifying you that the City Council violated Government Code section 54954.2 by taking action on an item that was not on its published agenda, you claim that the agenda for the December 3, 2018 hearing indicated that the City Council “would consider resolutions for Council action on the appeal of the Safeway Project.” Yet nowhere does the agenda indicate that the City Council would take action to require an environmental impact report (“EIR”) nor that it would stay the Planning Commission’s Site Plan & Architectural Review (“SPAR”) approval. Your assertion that the agenda description “listed both components of the Planning Commission’s

Eric Danly
January 28, 2019
Page 2

approval of the Safeway Project that were on appeal: the MND and the SPAR for the project” is belied by the language of the Appeal actually filed, Staff’s characterization of it, and the City’s own notice for the Appeal hearing, all of which are attached hereto as Exhibit A.

You claim that the Brown Act does “not require that each possible action that the legislative body may take regarding an agenda item be listed.” Actually, that’s exactly what the law requires. (See Government Code § 54954.2 [agenda must contain a description of “each item of business to be transacted or discussed at the meeting” and “[n]o action or discussion shall be undertaken on any item not appearing on the posted agenda . . .”]; *San Joaquin Raptor Rescue Center v. County of Merced* (2013) 216 Cal.App.4th 1167, 1178 [court rules that agency violated Brown Act by failing to identify action on CEQA document in its posted agenda, reasoning that the Brown Act “mandates that *each* item of business be *described* on the agenda, not left to speculation or surmise.”]; *Hernandez v. Town of Apple Valley* (2017) 7 Cal.App.5th 194 [agenda invalid for failing to reference action on a proposed memorandum of understanding]; *San Diegans for Open Government v. City of Oceanside* (2016) 4 Cal.App.5th 637, 643 [agenda descriptions “must give the public a fair chance to participate in matters of particular or general concern by providing the public with more than mere clues from which they must then guess or surmise the essential nature of the business to be considered by a local agency.”]; and California Municipal Law Handbook § 2.20 [“agenda descriptions should give enough information to permit a person to make an informed decision about whether they want to attend or participate in a discussion on an issue.”].)

Your claim that the City could not possibly address all possible permutations associated with action on the Appeal reads like a manufactured excuse for ignoring the requirements of the Brown Act. Staff revised its recommendation to uphold the Appeal by requiring an EIR on the evening of the December 3, 2018 hearing (which had been continued twice from September 17, 2018) *after* the agenda had been posted and with no advance warning or notice to Safeway or the public. Once it did so, the City Council should have continued the hearing so as to allow for an agenda with the Staff-recommended action to be posted. There are no exceptions or excuses for failing to comply with the salutary, straight-forward, and relatively simple requirements of the State’s Open Meeting Law.

The only possible reason for not continuing the Appeal to properly notice the City Council action was because Staff did not want to give Safeway or the public a “heads up” that its recommendation had substantially changed. Indeed, as late as October 1, 2018, the proposed agenda reflected Staff’s recommendation that the Appeal be denied. At that hearing, Councilmember Healy requested that the agenda description be revised so as to be “more neutral.” Additionally, you failed to return several of my phone calls prior to the release of the November 27, 2018 agenda and staff report containing Staff’s-then “recommendation” to take action on the Appeal. You also refused to take any of my phone calls on the day of the December 3, 2018 hearing, instead handing me one copy of a heavily-redlined version of the Resolution (to

Eric Danly
January 28, 2019
Page 3

be shared amongst the entire Applicant team) reflecting the revised Staff recommendation to uphold the Appeal only after the City Council hearing was underway.

Your letter further states that Staff “barely had enough time” to read and prepare a summary of Illingworth and Rodkin’s December 3, 2018 response to Fox/Kapahi’s December 3, 2018 submittal provided at 11:14 a.m. Another manufactured excuse. Staff would have had plenty of time to review and consider the evidence had it not received another calculated late “data dump” from Fox and Kapahi or had the City Council continued the hearing. While it may have been merely unprofessional and in bad faith to keep Safeway in the dark, it was unlawful to keep the public in the dark.

2. The City violated Government Code section 54957.5 by failing to make certain documents available for public inspection.

Certain documents, *including the actual approval document*, were not made available for public inspection or review as required by Government Code section 54957.5. Instead, a single, heavily-redlined copy of the Resolution prepared by City Staff was only provided to me after the December 3rd City Council hearing had commenced. As your letter concedes, this document was not made available for public inspection as required by Government Code section 54957.5(b). Your claim that the Resolution would have been made available “if requested” is irrelevant and insulting. A member of the public should not have to ask for a document that the City is legally obligated to make available to them.

3. The City violated, and cannot cure or correct, its violation of the Brown Act’s closed session procedures.

Your assertion that the City’s closed session descriptions satisfied the Brown Act are also not supported by the facts or the law. As explained in our January 2, 2019 letter, the agenda fails to disclose the “existing facts and circumstances” giving rise to a “significant exposure to litigation” as required by Government Code sections 54954.5(c) and 54956.9.

In your letter, you claim that the closed session held on December 3, 2018 was due to a threat of litigation made by me at the June 26, 2018 Planning Commission meeting. A transcript of my remarks at the June 26, 2018 Planning Commission meeting is attached hereto as Exhibit B. At no point did I threaten litigation against the City. Even if I had, the Planning Commission acted to adopt the MND as I was urging them to do such that any such threat had long passed.

Moreover, in a July 24, 2018 email, Councilmember Healy said this about the actual genesis of the closed session:

Eric Danly
January 28, 2019
Page 4

I really wish Mark [Friedman of Fulcrum Property] had not submitted that very unfortunate guest op ed.¹ But it probably wasn't enough to flip my vote. I will be recommending that the city attorney have a closed session under the "threatened litigation" exception prior to Sep. 17 so that there can be a frank discussion of the legal issues.²

You also suggest that a threat of litigation was present based on my letters to the City Council dated December 1, 2018 and December 2, 2018. These letters were submitted as supplemental information in support of denying the Appeal, not as a threat of litigation against the City. Indeed, as noted above, Safeway was then unaware that the Staff recommendation was about to drastically change. More fundamentally, given that my December 1, 2018 and December 2, 2018 letters were submitted *after* the November 27, 2018 agenda was posted, they do not in any way, shape, or form justify a treat of anticipated litigation, and it is disingenuous to suggest otherwise. Further, these letters do not constitute a "statement" made in "an open and public meeting" so as to constitute a threat of litigation pursuant to Government Code section 54956.9(e)(4).³

4. The City is liable for its violations of the Brown Act, including an award of attorneys' fees.

Finally, as shown by the analysis above and in our January 2, 2019 letter, the City did not "substantially comply" with the requirements of the Brown Act. Moreover, the City cannot credibly contend that Safeway or the public had "actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken." (Government Code § 54960.1(d)(5).) It is plain that the "item of business" was evolving in real time seemingly to reflect behind-the-scenes Council input and was unknown to Safeway and members of the public until after the December 3, 2018 hearing was well underway. Finally, while your action to cure or correct the Brown Act violations may be inadmissible in an action to enforce said violations, the City still remains subject to liability for its violations of the Brown Act, including an award of attorneys' fees. (Government Code § 54960.5 [court may award court costs and attorneys' fees for violation of Brown Act; *San Joaquin Raptor, supra* [court refers to award of attorney's fees against agency for violations of Brown Act notwithstanding the fact that agency took action to cure or correct the violations].)

¹ (See "Affordable, local gas option," Argus Courier, July 12, 2018, attached hereto as Exhibit C.)

² As noted in our January 2, 2019 letter, if the closed session had been scheduled at the request of Councilmember Healy, instead of at the direction of the full City Council, this would separately violate Government Code section 54956.9(d)(2).

³ For similar reasons, my January 2, 2019 letter outlining the City's myriad Brown Act violations cannot possibly serve as a credible threat of anticipated litigation.

Eric Danly
January 28, 2019
Page 5

In closing, we appreciate the City's efforts to cure and correct the Brown Act violations described above. However, because the City violated the Brown Act, it is not immune from liability by taking such action.

Thank you for your consideration of Safeway's views on this matter. Please do not hesitate to contact me with any questions regarding this correspondence.

Very truly yours,

RUTAN & TUCKER, LLP



Matthew D. Francois

cc: Honorable Teresa Barrett, Mayor and City Council Members, City of Petaluma
Scott Brodhun, Interim City Manager, City of Petaluma
Claire Cooper, City Clerk, City of Petaluma
Heather Hines, Planning Manager, City of Petaluma
Natalie Mattei, Senior Real Estate Manager, Safeway, Inc.
Mark Friedman, President, Fulcrum Property

EXHIBIT A



GENERAL APPLICATION FORM

This form, together with corresponding application forms for specific permits, will become the permit document. There is no fee for this form.

Type of Application <input type="checkbox"/> Conditional Use Permit: Minor / Major <input type="checkbox"/> Fence <input type="checkbox"/> Home Occupation Permit <input type="checkbox"/> Preliminary Review by Staff <input type="checkbox"/> SPAR: Minor / Major <input type="checkbox"/> Tentative Map: $\leq 4 / \geq 5$ lots <input type="checkbox"/> Zoning Amendment: Minor Revision _____ <input checked="" type="checkbox"/> Other: <u>Appeal</u>	For City Use Only Permit No: <u>PLAP-18-0001</u> Project Name: <u>Safeway Appeal</u> Date Permit filed: <u>7/9/18</u> Date Permit issued: <u>7/9/18</u> Received by: <u>EE</u> Approved by (if applicable): _____
Property Information Address/Location: <u>335 So. McDowell Blvd</u> Assessor's Parcel No.: _____ Property Size: _____	Land Use Information (ask if unsure) Existing Use of Property: _____ General Plan Designation: _____ Zoning Designation: _____ Historic Designation: _____

Contact Information

Owner: _____	Agent: <u>JoAnn McEachin</u>
Firm (opt.): _____	Firm (opt.): _____
Phone: _____	Phone: <u>415-518-1950</u>
Email: _____	Email: <u>joannmceachin@gmail.com</u>
Address: _____	Address: <u>1512 Sierra Drive</u> <u>Petaluma, CA 94954</u>

Authorization of Agent, Declaration of Accuracy, and Agreement for Inspection

(not required for Home Occupation Permit applications)

see attached letter

I, _____, am the owner / agent of the property for which the development or change is proposed. The above information and attached documents are true and accurate to the best of my knowledge. I have read and agree with all of the above.

Signature of Property Owner or Agent

Date

I, the owner, hereby do / do not authorize the agent to act on my behalf for this project, be notified of all application proceedings, and agree to allow employees or authorized agents of the City of Petaluma to enter upon the subject property, as necessary, to inspect the premises and process this application.

Signature of Property Owner

Date

RECEIVED

JUL 09 2018

CITY CLERK

JoAnn McEachin on behalf of:

Friends of McDowell Elementary School, Little League children, and East Petaluma residents
1512 Sierra Drive
Petaluma, CA 94954

July 8, 2018

Petaluma City Council,

We, the undersigned, petition to appeal the decision by the Planning Commission to approve a building permit for a Safeway gas station on the corner of Maria Dr. and S. McDowell Blvd. Our objections are based on the following:

This project is only for the benefit of Safeway, not the community. Petaluma already has several gas stations - THREE in the area of this proposed site, including the Chevron where Safeway customers can get up to 20 cents off per gallon - and research has shown that, contrary to what Safeway would like us to believe, Safeway's reduced gas pricing has not brought down the pricing of other gas stations nearby.

The proximity of the proposed gas station is too close to the day care and school, as well as the Little League ball park. Just because the regulations differ for building a gas station near a school (allowed) as opposed to building a school near a gas station (not allowed), it doesn't make the proximity issue any less of a health and safety concern.

Traffic will increase. This is common sense. The intersection at S. McDowell and E. Washington is already congested, and more traffic from cars zipping off and on to Hwy. 101 for cheaper gas will only exacerbate the problem.

Cars waiting to turn off of McDowell and in line in the parking lot (potentially blocking the sidewalk) will be idling and spewing emissions causing health concerns for all in the community.

Add into the mix the city transit buses, retail delivery vehicles of all kinds, long gas trucks, and school buses; the physical area is just not safe for vehicles trying to make turns into and out of a gas station there.

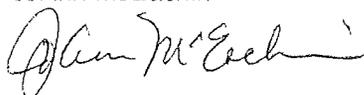
And, lastly, California is the nation's leader in the purchase of electric cars: "...in some months, buyers in California purchase more than half of all the electric cars sold in the U.S." (Eric C. Evarts, Green Car Reports) We emphasize this to reenforce that the community of Petaluma does not need another gas station now.

This Safeway gas station issue has been cleverly under-advertised to the public. Many residents don't even know this project is being put forth. It is a hotly contested issue and needs to be heard by the City Council with full public participation.

We ask you to reverse the Planning Commission's conditional approval, despite (or perhaps in defiance of) the threat of a lawsuit by Safeway. The decision should be decided in court, if necessary. Potential court costs should not deter you from protecting the health and safety of our community. That would be a bad precedent and would send the wrong message to every potential applicant for a project in Petaluma now and in the future.

Sincerely,

JoAnn McEachin



JoAnn McEachin
Horst Steinfels

JoAnn McEachin
Horst Steinfels
1512 Sierra Drive

Laura Steinfels
Oliver Steinfels

Laura Steinfels
Oliver Steinfels
510 Crinella Drive

Adriann Saslow
Alex Saslow

~~S. McDowell Blvd.~~
1328 McKenzie Ave.

Adriann Saslow
AM Saslow

Kim Pierce

Kim Pierce
Grouse Lane

Linda Hartwick
501 Cabrillo Court
Petaluma 94954

Chris Marsh
509 Park Lane
Petaluma 94954

Robert Doane
Colwood Dr
Petaluma 94954

Shirley N. Donoran
Shirley N. Donoran
1432 Quail Drive

Libby Pope
1420 Colwood Dr. Petaluma

Robert Conklin
1125 Gumwood Ln
Petaluma 94954

GLEN RODENSTEIN
472 PARK PLACE
PETALUMA CA 94954

Richard Sachse
1617 Madeira Circle
Petaluma, CA 94954

Maria Perez
811 Whitney Way
Petaluma, CA 94954

Bernard Album
Burrill Album
1666 Creekview Cir
Petaluma, CA 94954



Hines, Heather <HHINES@ci.petaluma.ca.us>; Natalie Mattei (Natalie.Mattei@albertsons.com)
 <Natalie.Mattei@albertsons.com>
 Cc: Adam Petersen <APetersen@m-group.us>; Ervin, Olivia <OERVIN@ci.petaluma.ca.us>
 Subject: RE: Safeway Fuel Center

Thanks, Heather. Can you please forward a copy of the appeal today.

Matthew D. Francois

Rutan & Tucker, LLP
 Five Palo Alto Square, 3000 El Camino Real, Ste. 200
 Palo Alto, CA 94306
 (650) 798-5669 (direct)
mfrancois@rutan.com
www.rutan.com

RUTAN

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From: Hines, Heather [<mailto:HHINES@ci.petaluma.ca.us>]
Sent: Monday, July 9, 2018 3:13 PM
To: Francois, Matthew <MFrancois@rutan.com>; Natalie Mattei (Natalie.Mattei@albertsons.com)
 <Natalie.Mattei@albertsons.com>
Cc: APetersen@m-group.us; Ervin, Olivia <OERVIN@ci.petaluma.ca.us>
Subject: Safeway Fuel Center

Matt,

The City has received an appeal of the Planning Commission's SPAR approval. The appeal was filed today with our City Clerk and is currently being processed by our administrative staff. As soon as I have a copy of the appeal letter I will forward to you for your review, but wanted to give you an immediate heads up.

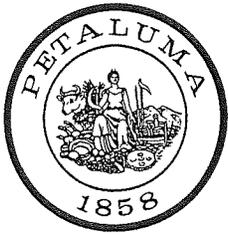
It is my understanding that the appeal was filed by a group of neighbors.

Heather

Heather Hines, Planning Manager
 M-Group Consulting Planner
 Serving the City of Petaluma
 11 English Street, Petaluma, CA 94952
 Phone: (707) 778-4316
 Hours: M-Th 8am-5pm, closed Fridays



TRY OPEN COUNTER FOR INFO
ZONING • PERMITS • COSTS



**PUBLIC HEARING FOR CONSIDERATION OF AN
APPEAL OF THE PLANNING COMMISSION'S APPROVAL
OF SITE PLAN AND ARCHITECTURAL REVIEW**

SAFeway FUEL CENTER PROJECT

PLAP-18-0001
335 SOUTH MCDOWELL BOULEVARD
APN 007-820-046

NOTICE IS HEREBY GIVEN, to all interested persons that the City Council will consider an appeal of the Planning Commission's approval of Site Plan and Architectural Review (SPAR) of the Safeway Fuel Center project as summarized below:

PROJECT DESCRIPTION: On June 26, 2018 the Planning Commission adopted Resolution No. 2018-21B approving Site Plan and Architectural Review for the Safeway Fuel Center project, including development of a new gas station on a 0.71 acre site located at 335 South McDowell Boulevard, within the Washington Square Shopping Center. Site improvements include the construction of a 5,932 square foot fueling canopy covering 16 fueling positions, a 697 square foot convenience store, two 20,000 gallon underground storage tanks, landscaping and parking. Site preparation will include the demolition of the existing 13,770 square foot commercial building and associated existing site improvements. Offsite improvements consist of modifications to the adjacent Transit Center to increase the width of the bus turnout area to allow for buses to queue outside of the Maria Drive travel lane. Additionally, the Transit Center amenities will be enhanced to include new shelters, seating, landscaping and ancillary improvements.

PROJECT LOCATION: The project is located at 335 S. McDowell Blvd, within the Washington Square Shopping Center.

ENVIRONMENTAL REVEIW: An Initial Study (IS) was prepared for the project and published for public review period that extended from April 5, 2018 to May 7, 2018. The Planning Commission adopted Resolution No. 2018-21A approving the Mitigated Negative Declaration on June 26, 2018.

CITY COUNCIL MEETING DATE/TIME: Monday, September 17, 2018, at or after 6:45 p.m.

MEETING LOCATION: City Council Chambers, City Hall of Petaluma, 11 English Street, Petaluma, CA.

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and approve, approve with modifications, or deny the appeal.

IF YOU CANNOT ATTEND: You can send a letter to the Planning Division, City of Petaluma, 11 English Street, Petaluma California, 94952. You can also hand deliver letters prior to the meeting or e-mail comments. All Planning Commission meetings are televised on the Petaluma Community Access Cable Channel 28.

FOR MORE INFORMATION: You may contact Olivia Ervin, at (707) 778-4556 or oervin@m-group.us and/or Heather Hines at (707) 778-4316 or hhines@m-group.us. You can also come to the Planning Division to review the project file. The office is open Monday through Thursdays from 8:00 a.m. to 5:00 p.m. City Hall is closed Fridays.

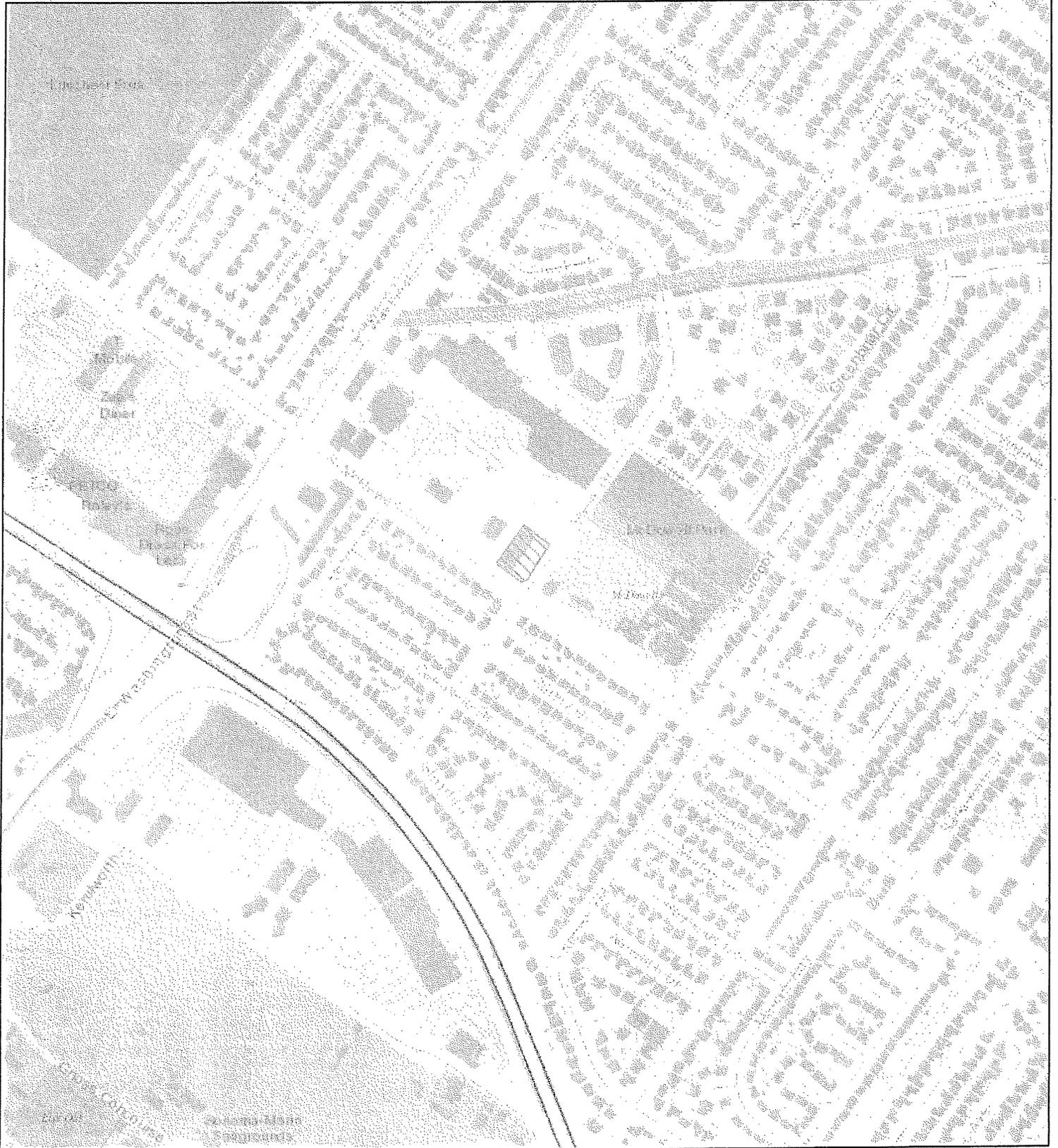
Efforts will be made to accommodate persons with disabilities. The City Manager's office must be notified at (707) 778-4345 within 5 days from date of publication of this notice if you need special accommodations.

For accessible meeting information:
Please call (707) 778-4360 or
TDD (707) 778-4480



In accordance with the Americans with Disabilities Act, if you require special assistance to participate in this meeting, please contact the City Clerk's Office at (707) 778-4360 (voice) or (707) 778-4480 (TDD). Translators, American Sign Language interpreters, and/or assistive listening devices for individuals with hearing disabilities will be available upon request. A minimum of 48 hours is needed to ensure the availability of translation services. In consideration of those with chemical sensitivities or other environmental illness, it is requested that you refrain from wearing scented products.

335 South McDowell Blvd.



0 0.05 0.1 0.2
mi

1 Inch = 750 feet Date: 4/2/2018



**PUBLIC HEARING FOR CONSIDERATION OF AN
AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL
OF SITE PLAN AND ARCHITECTURAL REVIEW**

SAFeway FUEL CENTER PROJECT
PLAP-18-0001
335 SOUTH MCDOWELL BOULEVARD
APN 007-820-046

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2819212 - Pub Sept 6, 2018

11i.

EXHIBIT B

Francois, Matthew
RE: PC 6/26/18 Meeting

Thank you Madam Chair. Safeway deeply appreciates the public comment, the continued public outreach it's been conducted tonight and obviously, I will address any of the issues that you want me to and our consultants are here as well. But 3 or 4 items that jumped out of me that I wanted to address for sure were trip generation, safety, the health risk assessment and then some comments in terms of the need for the project. In terms of trip generation, the consultant here went really above and beyond what's typically done in a traffic analysis. Normally, a traffic consultant would be well within their rights, to rely simply on the institute of transportation engineer's analysis of gas stations all over the country that comes up with the trip generation rate and rely on that to do the analysis. Here, the consultant compared that trip rate to the actual trip rates of 2 very comparable Safeway fuel centers – Pleasant Hill and Campbell. Those 2 had been approved most recently when the study was done and so we're felt to be more reflective of conditions at this site than the Novato fuel center. Those two sites are substantially similar in terms of the size, the hours of operation, the circulation and layout, the fact that they're adjacent to a grocery store in a local setting. So, the consultant here compared the rates of actual fuel centers to the ITE rate which he could've relied on and been perfectly well within his rights to rely on and apply that more conservative rate, not only in the PM peak hour but in the AM peak hour and then also in response to questions from staff study this Saturday midday peak. So we don't believe there's any shortcoming in the trip generation analysis or any flaw there and of course CEQA also is pretty clear that an applicant and an agency don't have to conduct every single study that's requested and that it's enough that the analysis that's relied on is supported by substantial evidence.

In terms of safety at the intersections, we presented a slide on this before – pedestrian counts were done 3 times in the intersection, collision data was reviewed which showed an average of 4 collisions per year over a 5 year period. And the consultant compared that to the state standard for Sonoma County and it's essentially half of the state standard so there's no real credible claim that this is an unsafe intersection, if it were, your staff would be telling you that and you would be implementing design changes to it – so that's not an accurate reflection of what's happening there. Now, one of the speakers, Brian and I'm sorry I forgot his last name, did come to the open house on Saturday and did mention the instance of living in the neighborhood and crossing with the green directional arrow for pedestrian and traffic travelling West bound making a left turn going South on McDowell basically not being stopped and being able to turn into a pedestrian crossing the street, that's a serious issue and so we here tonight to say something that we would urge the City to address because it's something that Safeway doesn't control but your Traffic Engineering Department could control through making that movement not possible through the signal light.

On the health risk assessment, one of the teachers mentioned the point about only looking at a nine year old child, actually, the health risk assessment looked at infant exposure, it looked at child exposure, and it looked at residents exposure and then in the supplemental response, it looked at all three together, so when it says nine year in terms of child, that's the exposure rate for a child not that it's a nine year old child, the actual range of a child that was looked at under that category is a five to a thirteen year old. There was a comment raised about - it's unheard of to have a gas station near a school, the Campbell fuel center is in close proximity to a school, not as close of a proximity as this one. It happens pretty much everywhere throughout this city and other cities, that gas stations are located in extreme close proximity to residential uses. You have a 150 unit project being constructed right now on the south side of town that's immediately adjacent to a Valero gas station. So those uses, one would argue are even more sensitive than schools

because you have infants there, so in light of that, we don't believe this is really any different than gas stations being located immediately adjacent to residential uses.

I did want to respond also to the timing aspect and respectfully disagree with the city attorney that the fact that the timelines are directory does not mean they're not enforceable and the Sunset Drive Corporation vs. City of Redlands case is directly on point for that statement and the application here – Ms. Hines was correct that Safeway did not sign off on the MND back in December of 2014 but it did resume the project in 2016, early 2017 – so that's far more than 180 days and we respectfully urge that it's time to act on the project now, we've done all that's been asked or Safeway has done all that's been asked of it, it's committed the outreach even though it wasn't required to do it, it was the right thing to do, it did it, it's done 13 studies, it's kind of like an episode of the Amazing Race – that it's satisfied every single condition and requirement that was imposed on it and there are no findings that would support denial, the only finding would support approval and we'd respectfully urge your action approving the project tonight. Thank you.

EXHIBIT C

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Affordable, local gas option

MARK FRIEDMAN

| July 12, 2018



It's another gorgeous summer in Northern California. The sun is out and it's a great time to visit the coast or wine country, or to just drive to a nearby park and barbecue. There aren't many places in the country that are better for a road trip than ours. And there are even fewer where it's more expensive to buy a tank of gas.

Now, we all know that California has some of the highest gas prices in the country and that costs in the Bay Area are even higher. But if you've ever filled up in Petaluma, you'll know gas prices here are off the charts. Petalumans pay more for gas than a whopping 99.6 percent of their fellow Americans. And within our region, Petalumans consistently pay at least 10 cents more per gallon — or \$2 to 3 million more per year — than their neighbors in the North Bay.

It's no surprise that more and more locals are leaving town to fill up. According to a recent survey of over 500 Petaluma residents, 67 percent of respondents are concerned about the increasing cost of gas and 52 percent say they often travel to other cities to buy gas because it's too expensive in Petaluma. As families and those on fixed incomes grapple with the rising cost of living, it's clear that trips to the local gas station aren't helping.

At Washington Square, we hear these concerns all the time from our customers. It's precisely why we've worked so hard for so long to bring a new affordable gas option to our shopping center. Safeway gas stations are widely popular across the country, providing an affordable gas option for all consumers, and even further savings to shoppers registered to earn Safeway's Gas Rewards. It's no surprise that since we first started exploring the addition of a Safeway gas station in 2013, over 2,000 residents have signed a petition

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Unfortunately, despite the proposal's popularity with the public, and its status as a permitted use under the City zoning code, the project has endured an unprecedented amount of red tape and delay. In 2014, a few politicians attempted an outright ban on all new gas stations citywide, a remarkable overreach that was quickly abandoned under public scrutiny. Later that year, they tried to levy a preposterous 14,000 percent increase in city fees on the project, before once again pulling back when legally questioned.

As time has passed, and the cost of living has continued to rise, awareness and support for the project has only grown. In that same recent survey of more than 500 Petaluma residents, 68 percent were familiar with the Safeway gas station project and respondents expressed support by a 55 percent to 35 percent margin.

Amid public debate about the project, both community members and policymakers raised fair and reasonable questions about the station's potential impact on the neighborhood and environment. Time and time again, Safeway and Washington Square have carefully listened and responded, commissioning 14 independent analyses that consistently affirm that the project meets all thresholds for air quality, traffic, and public health and safety. In turn, city staff duly reviewed all the data and recommended the project for approval.

We've also listened to the community. We've conducted surveys, held community open houses, met with the Pedestrian and Bicycle Advisory Committee, school leaders, families and neighbors. The result is over 60 specific enhancements and alterations to our original plans to ensure the project integrates safely and seamlessly into the shopping center and surrounding neighborhood.

The Safeway gas station will utilize state of the art technology to monitor and protect air and soil quality, and construction equipment with stricter emission standards known as Tier 3. We'll add additional street trees and drought-resistant landscaping, replace public sidewalks and make long-overdue ADA improvements to the intersection of South McDowell Boulevard and Maria Drive to enhance pedestrian safety.

We'll rebuild the Eastside Transit Center, creating a dedicated bus stop within the shopping

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We'll install an electric vehicle charging station and preserve flexibility to add even more in the future. And while several existing gas stations in Petaluma operate 24 hours per day and sell alcohol, Safeway has agreed to limit station hours and prohibit the sale of alcoholic beverages.

In short, this project has been thoroughly analyzed, debated and vetted. With city staff's recommendation in hand, the city's Planning Commission finally approved the project last month.

We thank the Commission for doing the right thing and approving the project. We are ready to move forward in a spirit of cooperation and partnership with our neighbors. We hope others in the community are ready to do the same.

(Mark Friedman is president of Fulcrum, a Sacramento development firm.)