



## PLANNING COMMISSION MEETING MINUTES

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**City Council Chamber**  
200 Old Bernal Avenue, Pleasanton, CA 94566

**APPROVED**

**Wednesday, March 13, 2013**

*(Staff has reviewed the proposed changes against the recorded proceedings and confirms that these Minutes are accurate.)*

### **CALL TO ORDER**

The Planning Commission Meeting of March 13, 2013, was called to order at 7:00 p.m. by Chair Phil Blank.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Commissioner Olson.

### **1. ROLL CALL**

Staff Members Present: Brian Dolan, Director of Community Development; Julie Harryman, Assistant City Attorney; Steve Otto, Senior Planner; Marion Pavan, Associate Planner; Natalie Amos, Associate Planner; and Maria L. Hoey, Recording Secretary

Commissioners Present: Commissioners Phil Blank, Kathy Narum, Greg O'Connor, Arne Olson, Mark Posson, and Jennifer Pearce

Commissioners Absent: None

### **2. APPROVAL OF MINUTES**

#### **a. February 27, 2013**

Commissioner O'Connor noted that he recused himself for Item 6.b., P12-1821, Eric DeBlasi, Coconuts Beach Bar and Seafood Grill, and requested that his vote be changed from "AYES" to "RECUSED" on page 17.

**Commissioner Narum moved to approve the Minutes of February 27, 2012 as amended.**

Commissioner Pearce seconded the motion.

**ROLL CALL VOTE:**

**AYES:** Commissioners Narum, O'Connor, Olson, Pearce, and Posson.  
**NOES:** None.  
**ABSTAIN:** Commissioner Blank.  
**RECUSED:** Commissioner O'Connor on Item 6.b.  
**ABSENT:** None.

The Minutes of the February 27, 2013 meeting were approved as amended.

**3. MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION ON ANY ITEM WHICH IS NOT ALREADY ON THE AGENDA**

There were no members of the audience wishing to address the Planning Commission.

**4. REVISIONS AND OMISSIONS TO THE AGENDA**

Steve Otto announced that the appellant for Item 6.d., P12-1791, Rajitha Sumanasekera, Little Flowers Montessori, has withdrawn the appeal and will be removing the sign.

**5. CONSENT CALENDAR**

**a. Tract 7975, Mike Carey**

**Application for Vesting Tentative Map approval to subdivide an approximately 13,161-square-foot lot located at 4238 First Street into five single-family home lots (approved under PUD-64). Zoning for the property is PUD-HDR (Planned Unit Development High Density Residential) District.**

**Commissioner Narum moved to make the finding that the physical environment has not significantly changed since the time that the Final EIR for the Downtown Specific Plan was approved and that no new information or changed circumstances require additional CEQA review; make the finding that Vesting Tentative Subdivision Map 7975 is consistent with the Pleasanton General Plan; make the subdivision map findings as stated in the staff report; and approve Vesting Tentative Subdivision Map 7975, subject to the conditions of approval stated in Exhibit A of the staff report.**

**Commissioner Pearce seconded the motion.**

**ROLL CALL VOTE:**

**AYES:** Commissioners Blank, Narum, O'Connor, Olson, and Pearce.  
**NOES:** None.  
**ABSTAIN:** None.  
**RECUSED:** None.  
**ABSENT:** None.

Resolution No. PC-2013-12 approving Vesting Tentative Map7975 was entered and adopted as motioned.

- b. P12-1820, Stoneridge Properties, LLC (Simon Property Group)  
Application to amend the Development Agreement and Sewer Agreement for an additional five years regarding an approximately 362,790 square foot expansion to the Stoneridge Shopping Center located at 1-1700 Stoneridge Mall Road. Zoning for the property is the CR(M) – (Regional Commercial – Mall) - District.**

This item was continued to the April 10, 2013 Planning Commission meeting.

**6. PUBLIC HEARINGS AND OTHER MATTERS**

- a. P12-1796, City of Pleasanton  
Application to amend Title 18 of the Pleasanton Municipal Code by adding a new Chapter 18.70, Ridgeline and Hillside Protection and Preservation, with development standards and review procedures for commercial and residential developments in the hillside areas of the City.**

Commissioner O'Connor recused himself and left the dais.

Brian Dolan presented the staff report, stating that the last time it was on the agenda, the Commission actually provided some direction to staff to explore different issues related to this ordinance. He then presented a list of the summary of that direction:

1. Consider defining the ridgeline setback as a horizontal plane instead of a ground line. This means looking at not allowing any buildings to extend above the 100-foot line drawn below a ridgeline as opposed to the base of the building.
2. Eliminate the exemption process for manufactured slopes, streets, and roads on slopes greater than a 25-percent grade, and for streets or roads to landlocked properties.
3. Design and environmental review processes referenced in the proposed chapter for roads and streets is normally done and does not need to be repeated in the draft code chapter.
4. Staff should explore providing an inventory of City ridgelines on vacant properties affected by the proposed chapter.

5. Delete the exemption to streets and roads that are part of a Specific Plan approved to November 2008.

Mr. Dolan stated that he will go through each of these issues and summarize the results of staff's internal discussions.

1. *Consider defining the ridgeline setback as a horizontal plane instead of a ground line.*

Mr. Dolan stated that staff discussed this at some length and staff's recommendation is not to do this for two basic reasons: the first, which is probably the most important, is that it seems to be more restrictive than the actual words of Measure PP; and second, it does create a very significant processing and reviewing problem. He indicated that it is much easier to define where the base of a building is rather than the height of any particular architectural component. He noted that it could be done, but it just makes it somewhat more complicated. He added that if the Commission does not agree with staff and would like to pass on a recommendation to the Council that this particular rule be adopted in the ordinance, staff is suggesting that the Commission provide for particular architectural elements like chimneys and other similar architectural components to be exempted from the restriction.

Chair Blank noted Mr. Dolan's statement that it was difficult to measure the heights of the buildings as one of the reasons for not doing this. He pointed out that over the years, the Commission has spent a lot of time making sure that it knows exactly how high a building can be. He indicated that he is not quite sure he understands why it would be difficult in this situation.

Mr. Dolan replied that the height of a building at a particular site would have to be compared to a line that is drawn 100 feet down from the ridgeline. He stated that because the ridgeline has a different elevation at any given point and is constantly changing, it sets up a whole complicated set of measurements and additional questions to answer, such as how frequently it should be measured against the setback line. He noted that it does not occur at just one elevation point, and it would be easy if it did; but that line moves because the ridgeline elevation moves, and so it would be quite an exercise.

Chair Blank stated that Mr. Dolan indicated that there was language in Measure PP that supported staff's position and asked Mr. Dolan to point that out to the Commission.

Mr. Dolan replied that he is not saying that there is language in Measure PP that supports staff's position; he is saying that there is no language in Measure PP that supports the change.

2. *Eliminate the exemption process for manufactured slopes, streets, and roads on slopes greater than a 25-percent grade, and for streets or roads to landlocked properties.*

Mr. Dolan stated that the exemption process was kind of a theme, and it just did not feel right to the Commission to have various exceptions granted to the ordinance. He noted that staff supports that direction and has removed the exemption processes that were in the initial draft related to landlocked properties and manufactured slopes. He added that staff thought that the direction provided by the Commission was very good: instead of going through an exception process, just build into the ordinance a way of measuring slopes that refers to what can be determined to be the previous natural slope and use whatever evidence is available to determine that. He added that as a matter of course, whenever there is that situation, this would be a part of the dialogue on the development review, and the Commission can confirm its conclusions in that regard.

*5. Delete the exemption to streets and roads that are part of a Specific Plan approved to November 2008.*

Mr. Dolan noted that the Commission had asked that staff delete this exemption. He indicated that staff had a different conclusion in the memo that the Commission never got to discuss at the last meeting; but at this point, staff believes that its previous recommendation may not be defensible, and it goes back again to the specific language in Measure PP that states that Measure PP overrides the existing General Plan, and Specific Plans are a component of the General Plan. He noted that it is difficult to justify that exemption, considering that very direct language in the Measure.

Mr. Dolan noted that this does have some implications in the real world to items that may be before the Commission and the Council. He indicated that primarily, it has implications relative to the Bypass Road which is called for in the Happy Valley Specific Plan, and to road connections to the proposed Lund Ranch II development and the connection called for in the North Sycamore Specific Plan to Sunset Creek Lane, primarily because both of these street connections would cross areas that have 25-percent slopes. He pointed out that in the case of the Bypass Road, it is a very extensive area of 25-percent slope, and it is more modest but still exists in terms of the Lund Ranch connection to Sunset Creek Lane.

Chair Blank asked Mr. Dolan to quantify “extensive” versus “modest.”

Mr. Dolan stated that he will demonstrate that in a few slides he will display shortly. He then continued that because of these implications, staff is really proposing a different approach, and it revolves around the definition of structure as referenced in Measure PP because that is what is prohibited in the areas where development is prohibited: in the 25-percent slope area and within the 100-foot setback line from the ridgeline.

Mr. Dolan stated that the Pleasanton Municipal Code does have a definition of “structure”: *“Structure’ means anything constructed or erected which requires a location on the ground, including a building or a swimming pool, but not including a*

*fence or a wall used as a fence if the height does not exceed six feet, or access drives or walks.”*

Mr. Dolan stated that the Commission could make that connection and go to this definition in the Municipal Code. He indicated, however, that what staff is proposing is that Measure PP does not necessarily directly reference roads as things that are prohibited in those two areas. He noted some would read the language in this particular definition and say that it applies to roads. He stated that staff believes it is unclear exactly whether or not it applies to roads, mostly because the language also refers to access drives. He added that if the Commission decides to recommend to the Council that structures not be prohibited by the regulations of Measure PP, the best way to justify that position is that there is no way to know what the voters were thinking when they cast their ballot; whether they even referenced this definition or some other definition, and whether they were considering roads as structures or not.

Mr. Dolan stated that because of those real life implications that he referenced earlier, staff is actually recommending that the Commission recommend to the Council that roads not be considered structures for the purposes of implementing Measure PP. He explained that what that would do in the real world then is not necessarily guarantee that the Bypass Road could be built or guarantee that a connection from Lund Ranch II would be made to Sycamore Creek Lane, but it allows the Planning Commission and the Council to consider those as options when those two projects come forward, and staff believes that there is enough ambiguity in the language of Measure PP to choose that route. He added that he can completely understand those who would argue against it. He indicated that he is not saying their position is ridiculous, but this position is also valid.

Mr. Dolan continued that if the Commission takes that recommendation, there is a logical concern that would come to mind on whether that means roads can run any which way up on ridgelines and on steep slopes. He indicated that there are other protections, one of which is Policy 21 of the Land Use Element which states: “*Preserve scenic hillside and ridge views of the Pleasanton, Main, and Southeast Hills ridges.*” He noted that this can be used to dictate the location of roads when a project comes forward or when a road is proposed. He added that there are also the tools available with the CEQA review. He clarified that a visual concern would be addressed by Policy 21, and an environmental concern by CEQA; additionally, the City has a lot of authority to put roads where it wants them to be.

Mr. Dolan then gave a little bit of a preview in terms of the Lund Ranch property. He noted that there are several possibilities to get to Lund Ranch, the main one being Lund Ranch Road which goes straight into the valley and has been the historic access to the property. He added that, as was mentioned earlier, the North Sycamore Specific Plan indicates that access to the property will be provided through Sunset Creek Lane or Sycamore Creek Way. He noted, however, that if a road is called a structure, and roads cannot be put on a 25-percent slope, then the connection to either Sunset Creek Lane or Sycamore Creek Way cannot be made.

Mr. Dolan continued that, in terms of this discussion, there is a possible secondary access through Middleton Place, which will definitely be a topic of discussion when that project is reviewed. He added, however, that for the purposes of this discussion, Lund Ranch Road, Sunset Creek Lane, and Sycamore Creek Way are the most important. He emphasized that regardless of which way the Commission decides, staff feels it is very important that the Commission understand these real world implications of what its decision implies.

Mr. Dolan then displayed a slide showing the topography off of the end of Sunset Creek Lane, which he calls minor areas of 25-percent slope. He indicated that the way access was planned to be achieved would be at the end of Sunset Creek Lane, where an easement was reserved for the sole purpose of providing access to the Lunch Ranch property. He added that the CC&R's for that subdivision indicate that that connection will be made in the future when the Lund Ranch property is developed. He noted, however, that taking that road and getting it down to the flat part of the Lund Ranch property would entail traversing an area that is a fairly crude measurement of the 25-percent slope. He added that the width of that roadway would be probably similar to that of Sunset Creek Lane, but because of the steepness, it would have fairly substantial grading on each side of the cut above and the fill below. He further added that at about the 450-foot elevation below, there is also a creek to cross, which is a challenge but is something that could be done.

Chair Blank asked Mr. Dolan to elaborate on what he meant by "a challenge but could be done."

Mr. Dolan explained that environmentally, there is an expense to crossing a creek because it needs to be done in a certain way to avoid habitat. He noted, however, that this was anticipated to be done, at least in the North Sycamore Specific Plan.

Mr. Dolan continued that the other issue is the Happy Valley Bypass Road. He displayed a picture of the Spotorno Property with Westbridge Lane going across the bottom and the alignment of the proposed Bypass Road. He noted that the Bypass Road goes around the toe of the steeper slopes at the bottom, but as it moves towards the top and up Sycamore Creek Way, there are substantial areas of 25-percent slope that would have to be traversed.

Mr. Dolan indicated that he would consider this issue to be the most difficult and one that will have the most discussion about.

3. *Design and environmental review processes referenced in the proposed chapter for roads and streets is normally done and does not need to be repeated in the draft code chapter.*

Mr. Dolan stated that this is one of the easier issues. He indicated that at first, staff really thought they should be included in the ordinance, but upon further consideration, staff noted that these processes still exist and will be implemented, and there is no need to reference them in the ordinance implementing Measure PP.

4. *Staff should explore providing an inventory of City ridgelines on vacant properties affected by the proposed chapter.*

Mr. Dolan stated that the Commission asked staff to look into pre-defining the ridges on vacant properties that would be subject to Measure PP. He indicated that staff had some substantial discussion on this item, and staff really believes that could be a very contentious process. He stated that staff prefers to do this on a case-by-case basis with the individual development applications. He added that staff believes that this ordinance could be hung up for months figuring out what the ridges would be, particularly on the Oak Grove property.

Mr. Dolan pointed out to the Commission that staff reviewed the definitions that were included in the first draft of the ordinance and made some very minor word changes to its definition of a ridge. He added that it does not necessarily have any substantive change.

Commissioner Posson inquired how the definition of "Ridge and Ridgelines" on page 5 of the staff memo differs from any definition of "ridge" and "ridgelines" that were in place in 2008.

Mr. Dolan replied that the definitions are very close; a few words were taken out relative to major and minor ridges as the distinction did not seem important in this context.

Chair Blank stated that he has been contacted by a lot of members of the public asking when rights are vested. He noted that he thinks everyone understands that Measure PP would override Specific Plans because Specific Plans are a subset of General Plans. He inquired, from a constructionist's viewpoint, what the impact of this implementation would be on existing PUDs that are not yet developed or are in various stages of going through the process.

Mr. Dolan replied that there are really only a few ways to truly have a vested right: one is through a Development Agreement, which basically freezes the approvals that were in place at the time the Agreement was adopted; and a second way is through an approved Vesting Tentative Map, such as that which was just approved tonight. He explained that it is just like a Tentative Map, but it has the added value to the applicant that it does the same thing as a Development Agreement in terms of freezing the regulations that were in place at that time and they have those rights. He continued that



a PUD without a Vesting Tentative Map can be changed by ordinance at any time as there really is no vesting; it can go through the entire process again, have hearings at the Planning Commission and the City Council, and change it. He indicated that the only other way to have a vested right is either if a building permit has been issued or if there is active building in progress.

Chair Blank inquired if he understands correctly that someone going through the process of the PUD approvals but has not signed a Development Agreement or has not pulled building permits has no vested rights.

Mr. Dolan replied that was correct.

Chair Blank further clarified his understanding that Measure PP would undo any rights to development that might be in existence for those PUDs.

Mr. Dolan said that was correct. He added that staff is not aware of any rights to development and is more concerned about the implications to Specific Plan language, public dialogue, and intent of the City in past discussions. He stated that the Bypass Road was a critical part of the discussion on the golf course and was then memorialized in the Specific Plan; Measure PP would undo that. He continued that the connection to Lund Ranch from Sycamore Creek Way as one of possible connections to Lund Ranch, which is very clearly spelled out in that particular Specific Plan will also be undone. He pointed out, however, that this is not an issue of a vested right but more an issue of kind of a promise in the Plan that was made to the community.

Chair Blank inquired what would happen, hypothetically, if Measure PP were approved in a constructionist's view, but then later down the road, the City, through its normal processes, chose to change the definition of "structure" in its Municipal Code to exclude roads.

Mr. Dolan replied that he could not think of a particular impact of that. He added that he was sure that the definition of "structure" would have to be changed to implement Measure PP without considering road a structure, because the language of Measure PP does not reference that section of the Municipal Code.

Chair Blank stated that he was just trying to draw the logic link that if "structure" refers to the definition of "structure" in the Municipal Code, which would appear to be anything built on the ground, and if that linkage is not there and the definition is changed, therefore, it takes away the controversy. He added that there may be other controversies, and maybe that is not the right way to approach it, but he was just wondering why that was not considered.

Mr. Dolan replied that could be done. He stated that staff talked about that as a possibility but that staff did not feel it was necessary to consider that at this point.

**THE PUBLIC HEARING WAS OPENED.**

Jay Hertogs stated that he is a blue-collar worker and read a prepared statement into the record as follows:

*"My name is Jay Hertogs. I'm here with my wife, Michelle, and many of our neighbors from the Mission Park area. My wife and I have lived in Mission Park for the last 24 years. We're here tonight to show our support for the City's staff report that a street is not a structure. I know my wife and I voted for PP and QQ to help protect our beautiful ridge which we both use all the time. I read the proposition and believe that PP and QQ were meant to stop residential and commercial properties, not roads that had been in the City plan for many years. Thank you."*

Allen Roberts stated that the last time he was before the Commission was on February 27<sup>th</sup>, and he could not recall what he had on that date which made him speak early, and it reminded him later that that, ironically enough, he was going out to the appeal of the Oak Grove property with the California Appellate Court.

Mr. Roberts handed the Commissioners a picture of a ridge. He stated that in this process, he has argued with the Commission members and staff that since this ordinance is about ridgeline protection, it seems appropriate to have a good definition of a ridge. He reminded the Commission for the third time that if the definition staff has proposed was applied, the Pleasanton Ridge would not be a ridge and would not be protected. He stated that he knows the Pleasanton Ridge is not a subject of this ordinance because it is already protected by a park; but if the most important ridge in town does not fall into the definition of a ridge proposed by staff, then he submits that the definition is broken.

Referring to Commissioner Posson's earlier question on how staff's proposed definition of "ridge and ridgelines" differs from what was in place in 2008, and staff's response that they were very close, Mr. Roberts stated that there is a huge change, and the huge change is this concept that once a ridge starts going down it stops being a ridge; and that is what makes the Pleasanton Ridge not be a ridge by this definition.

Mr. Roberts stated that when he first gave the same picture to the Commission, there was a suggestion of preparing an inventory of what ridges would be subject to Measure PP. He indicated that he has inventoried it, and it is the picture that he just distributed to the Commissioners. He continued that it is a pretty simple process: he went to Google Maps; he pulled out a terrain map, and the ridges really pop out. He noted that the staff report includes a copy of the picture he just gave to the Commission, except that this is on a high contrast printer, and the ridges just completely jump out. He submitted that based on this picture, it is pretty easy to do an inventory.

Mr. Roberts stated that his proposal is that the fight as to what is a ridge and what is not be done now, as opposed to staff's proposal to postpone this inventory and have a fight on every application. He argued that this would not be in anybody's best interest. He indicated that if he were a developer, he would want to know where he can develop and

not have it fought out in front of the Planning Commission after he has already put a lot of work into developing a proposal. He added that if he were a citizen and cared about ridgeline protection, he would not want to have to come and fight every application. He stated that the fight should be done now, once, so everybody knows where they stand; then applications can go forward because developers would know what a ridge is, and citizens will not have to come and battle every application.

Justin Brown, representing a number of Mission Hills residents, stated that he just wanted to speak in favor of the proposal from the City to exclude roads as structures and not take the ultra-conservative approach. He indicated that the General Plan, which governs the Planning Commission, refers to roads as part of the transportation infrastructure, and "infrastructure" means below the structure. He deferred to legal counsel for the definition of "structure" and noted that the basic dictionary definition of "structure" implies that a structure is a building for accommodation; it does not make reference to roads. He agreed that infrastructure certainly includes roads, beneath the structure and interconnecting the components that make up the community.

Mr. Brown stated that he does not believe it was the intention of the voters, in voting for Measures PP and QQ, that roads would be considered a structure. He added that if Measure PP meant for roads to be a structure, it would have specified and spelled it out in the Measure before the general public.

Cindy McGovern, former City Councilmember, stated that, first of all, the reason why Measure PP was actually put on the ballot in the beginning was because of Oak Grove at one point, plus saving the scenic hillsides. She noted that the road was one mile long and actually cut 40 feet off the ridgeline in some places, and this was deemed inappropriate by the people putting the Measure together as it was going through sensitive areas and against the idea of clustering homes the way the General Plan talks about.

Ms. McGovern stated that she has true concerns about possible unintended consequences if roads are deemed non-structures. She indicated that, first of all, she thinks the loss of the protection of Measure PP, if the Urban Growth Boundary (UGB) is overturned, is a really major thing that needs to be considered. She noted that the City lost its housing cap with State law changes, and the same thing can happen with the UGB. She added that this is not just these two pieces of property being talking about but multiple pieces of properties with ridgelines and scenic hills. She indicated that she thinks the use of the roads to grade 25-percent or greater slopes to get to flatter areas for property development through sensitive areas is something everyone needs to consider, what that really means and what that could really do to the hillsides and the elongation of roads. She added that the use of roads to go over ridgelines and into valleys to build and flatten areas with the protections that are mentioned by staff are really not safeguards, and that is because they are not a vote of the people. She stated that these can be changed by three members of the Council, and developments can be approved by three members of the Council; but the true protection comes in

Measure PP because it cannot be amended unless it is the vote of the people, and it is there to really override things in the General Plan with that protection.

Ms. McGovern stated that building roads on slopes allows long roads to be built to reduce the idea of clustering of homes and to actually reduce and maintain open space and scenic areas. She noted that roads are the main structures needed to build any development; their infrastructure is constructed on the ground, under the ground, and into hillsides. She added that when one talks about slopes and steep ridges, one will see retaining walls in the hillsides.

Ms. McGovern stated that no development can be built without a road, and Measure PP states that no grading of 25-percent or greater slopes shall occur to construct residential or commercial structures. She questioned, then, how a roads could be constructed on steep slopes, even if they are deemed non-structures. She added that she thinks deeming roads to be non-structures undermines the intent of Measure PP to assure the community where development may occur on hillsides and ridgelines, which intent was to protect the scenic hills from development that destroys the character of the town, direct development away from lands with environmentally sensitive features, lands with primary open space values, and lands difficult to serve by existing jurisdictions.

Ms. McGovern stated that the City should stay with what the Planning Commission and the City Council have both unanimously already voted: that a road is a structure.

Greg O'Connor handed the Commissioners a prepared statement and stated that Ms. McGovern had already said a lot about what he was going to say. He indicated that he was going to read the letter into the record so it would actually be in the Minutes, but it would be close to five minutes, and there were some things that were brought up tonight that he wanted to speak about.

Chair Blank assured Mr. O'Connor that his letter would be attached to the staff report.

Mr. O'Connor read from Measure PP: "*Housing units and structures shall not be placed on slopes of 25 percent or greater or within 100 feet of a ridgeline.*" and "*No grading to construct residential or commercial structures shall occur on slopes 25 percent or greater or within 100 vertical feet.*" He stated that he thinks this is critical and was also brought up by Ms. McGovern. He indicated that it clearly states "*no grading*" in order to construct those other developments, and that is what is key. He pointed out that in the various definitions he cited, and the Pleasanton Municipal Code states that "*Structure means anything constructed or erected which requires a location on the ground, including a building or a swimming pool.*" He indicated that someone earlier mentioned that roads are infrastructure, and swimming pools are also underground, but they are structures. He continued: "*but not including a fence or a wall or access drives or walks.*" He then read about access roads in the Pleasanton Municipal Code: "*Off-street parking facilities in the site or in a portion of the site devoted to off-street parking of motor vehicles including the parking spaces, aisles, access drives, and landscaped*

areas.” He pointed out that access drives are actually entryways into those parking lots and such.

Mr. O’Connor stated that California Statute 65927 also defines “structure,” and it actually uses the word “road” in its definition: *“As used in this section, structure includes but is not limited to any building, road, height, flume, etc.”* He continued that Webster’s Dictionary also says: *“Structure is the action of building, construction, or something that is constructed.”* He indicated that he thinks it is clear from those definitions that roads are indeed structures. He added that public and private roads require engineering and construction, and they certainly require a location on the ground.

Mr. O’Connor stated that Measure PP absolutely did intend to include roads in its grading restrictions, roads such as those through Oak Grove and up Santos Ranch. He noted that the Commission received a letter from Ms. Anne Fox, one of the authors of Measure PP who actually wrote this section, and which says that roads were definitely planned to be covered by Measure PP. He then referred back to the General Plan going back many years where it cautions not to build roads on slopes greater than 15 percent. He added that in the November 29, 2005 Land Use Joint Workshop, then Planning Director Jerry Iserson clarified the City policy on road construction and said that public streets are not allowed to be built in Pleasanton on anything greater than a 15-percent slope; yet, tonight, there is talk about the possibility of building on slopes that are greater than 25 percent, slopes that are approaching almost twice what was supposed to be the limit where Pleasanton could build a road. He noted that the Planning Commission and the Council previously voted unanimously and determined that streets and roads are structures; and additionally, Pleasanton voters have successfully referended more than once, Council decisions that they felt were unacceptable, such as Oak Grove. He stated that Measure PP was actually perceived to be the fix to that problem so that the City will not have to go back and have more lawsuits and referendums.

Mr. O’Connor stated that he thinks it is time that Measure PP and what voters have put in place be supported. He added that the Commission should direct staff to put back the deleted wording in paragraph C: *“Grading to construct the above referenced residential or commercial structures is prohibited and grading to construct public and private streets for these developments is also prohibited on slopes of 25 percent or greater or within 100 vertical feet of a ridgeline.”* He concluded that once this language is restored, then the Commission should recommend approval of the Draft Chapter 18.70 to the Council.

Phyllis Lee displayed a text from Chapter 18.88.040 of the Pleasanton Municipal Code and stated that she represented the Bridle Creek and Sycamore Heights neighborhoods. She reiterated what Ms. McGovern and Mr. O’Connor stated that roads are indeed structures. She pointed out that there is a clear distinction between streets and access drives, which are listed separately in bullet point H of Section 18.88.040 of the Pleasanton Municipal Code: *“The parking spaces, aisles, and access drives shall be paved as to provide a durable dustless surface and shall be so graded and drain as*

*to dispose of surface water without damage to private or public properties, streets, or alleys.*” She stated that streets, therefore, are considered structures as well and not access drives. She urged the Commission to follow the intent of Measure PP.

George Dort stated that he is and has been a member of the Ventana Hills Steering Committee since its inception in 1991 and a resident of Pleasanton for over 25 years. He added that he was on the original Ridge Committee to save the Main and Pleasanton Ridge, and is very proud of that.

Mr. Dort stated that there are many neighbors present in the audience from Ventana Hills and Mission Park to support staff’s recommendation to adopt P12-1796, Exhibit A, the Draft Municipal Code Amendment, Chapter 18.70; the Ridgeline and Hillside Protection and Preservation, dated March 13, 2013 into the City Code. He indicated that they believe it adheres to Measures PP and QQ to protect the ridgelines, contrary to other opinions stated tonight, and also allows for previous agreements and understandings by previous Councils, staff, and Planning Commissions dating back to 1991 with regard to traffic flow for new construction in the southeastern Pleasanton to be upheld.

Shareef Mahdavi stated that he wanted to thank Councilmember McGovern for bringing some context and history as to what Measures PP and QQ were all about. He indicated that he is just an ordinary person who voted for Measure PP and that he would be willing to bet that most of the people in the audience also voted for Measure PP. He noted that he is also a good friend of people over in Ventana Hills and Mission Hills and empathize with their position.

Mr. Mahdavi stated that he thinks one needs to look at the intention and rally cry behind Measure PP, which was “*save our hills.*” He pointed out that it was very simple and very easy to understand, and he is actually stunned and confused that some four to five years later, staff is talking about extreme minutia and interpretation, reminiscent of when a President was being impeached around the meaning of the word “*is.*” He indicated that it seems to him that staff is getting away from the original intention of the amendment of Measure PP which was just to not build in the hills, something that all these neighborhoods would agree upon. He pointed out that it is the will of the people, with nearly 60 percent of the votes, and Measure QQ, which was known anecdotally as the developer’s proposition, failed.

Mr. Mahdavi reiterated that he empathizes with the people in Mission Hills and Ventana Hills, who got an agreement in 1991 that no roads are going to go through their community for one simple reason—they did not want it. He noted that their motivation for being here tonight is a kind of challenge in just trying to convince the Commission that the staff recommendation is the right one, to say that it is a little thing that can be tweaked here so the Lund Ranch development road and the traffic would not go through their neighborhood. He indicated that he understood that, but he thinks it is the wrong solution. He stated that people need to look at the bigger picture and what the people

said in 2008: do not build in the hills. He added that it is very simple and people are trying to make it complex.

Kay Ayala thanked the Planning Commission and the staff for taking this extra time with this issue because of its importance in the community. She stated that she is sure the Council will read the staff report and the Minutes to see how diligent all the Commissioners have been in analyzing all of the data because it is complicated. She indicated that she agrees with staff's recommendations with one exception: she does not understand staff's resistance to an inventory of the City ridgelines. She encouraged the Commission to send a recommendation to the Council that includes ridgelines inventory.

Ms. Ayala stated that there were three signers on Measure PP Initiative, and Anne Fox was not a signer on the Initiative. She noted that this whole thing has been about trust, and Ms. Cindy McGovern does not trust that in the future, Policy 21 of the General Plan would be adhered to: "*Preserve scenic hillside and ridge views of Pleasanton Main and Southeast Hill Ridges.*" She stated that the reason Ms. McGovern does not trust that it would be adhered to is because Policy 21 existed when Oak Grove was first approved; the General Plan had a policy that would protect the ridgelines, and in addition to that, it said that an ordinance is to be done to protect the ridgelines before developing in the hills, and none of that was done. She indicated that she then understands why Ms. McGovern does not trust Policy 21. She added that the residents of Ventana Hills and surrounding areas do not trust either, and with good reason, since they were promised since the early 1990's when the Council approved Bridle Creek and Sycamore Heights that the road connection for additional development up in the hills would be through the North Sycamore Specific Plan area. She noted that she was on the Council at that time, and she trusted the information staff was giving them then that those road connections could be made, because she empathized with the Ventana Hills people at that time. She reiterated that they were promised since the early 1990's and these promises made by multiple Council since the early 1990's have to be kept.

With respect to the "road" issue, Ms. Ayala stated that, as a signer of the Initiative, she and some others were in the City Manager's office years and years ago, and the City Manager had asked what the intent of Measure PP was regarding roads, to which she had answered that the intent was to protect the ridges from housing and commercial structures. She stated that if they we wanted roads in there, they would have put the word "*road*" in there. She addressed the Commission that its task is not to figure out what the Municipal Code says but to look at the intent of Measure PP, and its intent is not to put a road across a ridgeline like Oak Grove had, which road would not even have been considered if Policy 21 were adhered to. She noted that the connection to Lund Ranch II is not a road across a ridgeline, but a connection to an existing ranch road there that was promised to the people of Ventana Hills by at least four Councils previous to the present one.

Ms. Ayala stated that when they were collecting signatures for months, not one person asked her if this Initiative was for roads. She noted that if people collecting signatures

with special interests would have told her at the time they were collecting signatures to deny the road would go through to Lund Ranch II, she would have said they are off base; but no one ever asked her that. She indicated that it is important to her that the past decisions by numerous Councils, General Plans, Specific Plans, and PUDs be honored, and that if the true intent of Measure PP is honored, roads would not be considered structures.

Chair Blank stated that the Commission is in receipt of an email from someone claiming to be the author of those sentences. He asked Ms. Ayala if she was suggesting that she did write this section of Measure PP.

Ms. Ayala replied that it was written by many people.

Chair Blank indicated that he was curious about Ms. Ayala's involvement and asked Ms. Ayala if she wrote this section of PP which talks about the ridgelines and hillsides being protected.

Ms. Ayala replied that she was involved from the start of writing Measure PP, and she assured Chair Blank that roads were never discussed. She added that if roads were in their interests, they would have put "roads" in there.

William Lincoln stated that he believes most of the talking points have already been made. He indicated that he lives in Sycamore Heights and have agrees pretty much with Ms. McGovern's and Mr. O'Connor's comments as well as those of some others. He indicated that one of the things that confuses him the most is that at the November 27, 2012 City Council meeting, City staff actually supported the concept that a road was a structure, and now three months later, staff made a 180-degree turn. He stated that he is sorry to say that it appears to him that staff is appeasing special interests of some sort. He noted that the bottom line is that they are being pitted against other neighborhoods for access to Lund Ranch, and they hope the Commission you will make the right decision. He added that all those among them who believed in beautiful hills and quiet and safe neighborhoods voted for Measure PP, and they hope the Commission does the right thing and try and make everyone happy.

Laurie Saxton stated that she is a typical voter of Pleasanton, and when her husband and she voted for Measure PP, their understanding was that they specifically were voting to not have any type of construction up on the ridges, to try to limit the number of houses up on the ridge because nobody wants to have the ridge discovered. She added that had she known that this would mean renegeing on a promise that was made to Ventana Hills in 1991 that they would not be burdened with any more additional traffic, she would not have voted for it. She indicated that they have already allowed a neighborhood that is not part of their neighborhood to temporarily use their roads, and she has had to call the police so many times to try to get them to try and make these people slow down. She noted that these drivers have absolutely no respect for their neighborhood, and she has followed some of these people up the hill, and they turn around and tell her that they do not care anything about their neighborhood, that it



means nothing to them. She stated that these people have no problem going 60 miles per hour on Independence Drive, and her neighborhood was never intended to have this type of traffic. She added that she is sure the Commission has heard many times that people cut through on Junipero Street all the time going 60-70 miles per hour, whipping around the park that has blind sides to it. She noted that if Independence Drive is opened up, which would be Lund Ranch Road, the City will not only be breaking promises that were made to their neighborhood, but also the neighborhood cannot possibly handle this traffic. She further noted that it is already dangerous, they already have the police patrolling the neighborhoods, and she and many others have had to make calls because people just love to go racing up and down Independence Road, and they were promised no more traffic.

Ms. Saxton stated that she finds it very convenient for people of Bridle Creek and Sycamore Road to push the idea of Measure PP to include roads. She indicated that nobody wants additional traffic; however, the difference is, before they bought their houses, they were told they were getting these roads; they knew perfectly well they were getting this development that would be coming through their neighborhoods. She noted that in contrast, she and her neighborhood were told they would never have to have this additional traffic because that was a promise made to them over and over again since 1991. She asked the Commissioners to consider again that when they make promises to certain neighborhoods, and they break those promises, no one is ever going to trust them again.

Carol Spain stated that she came before the Commission in January as a member of the Ventana Hills Steering Committee from its inception and wanted to go on record that she too supported the fact that a road is not a structure. She indicated that she and her husband did vote for Measure PP, as did many people of Pleasanton and as many people that have been in here who have said they voted for that thinking that it included roads. She noted that she did not believe it included roads, and with that said, she thinks that without it being stipulated, people voted for it in different ways.

Ms. Spain stated that she believes a road is an infrastructure and not a structure. She added that whether or not traffic was going to be routed through Ventana Hills and onto Junipero Street through Mission Hills or not, the fact is that traffic flowing through Ventana Hills and Mission Hills is something that is extremely important for the Commission to consider when determining if a road is a structure or not, because she believes all of the options should be kept open to make sure all of that traffic does not route through Ventana Hills and Mission Hills. She stated that these roads are not designed to take additional traffic and, apologizing to the residents of Bridle Creek as she does not want to push traffic on anybody's neighborhood, added that Sunset Creek Way and the roads through Bridle Creek were designed to take additional traffic, with some setbacks and bike lanes. She indicated that this was the intent of the previous agreements with the City that they had spent a lot of hours discussing with the City to get these agreements. She added if these agreements are not honored, then this entire process is just a joke and it does not allow them as neighbors and members of the community to want to work with the Commission going forward. She asked the

Commission to take a look at all of the agreements, all of the time and energy that went into that from their predecessors, as well as all of the neighbors who are here, and adhere to those agreements.

Amy Lofland read from a prepared statement as follows:

*"I'm also a member of the Ventana Hills Steering Committee and have been since its inception. I'd like to remind the members of the Planning Commission that many Southeastern neighborhoods and community members of Pleasanton worked in conjunction with the City at City-run workshops in 1991 and 1992 to help shape the final outcome of the North Sycamore Specific Plan and the Happy Valley Specific Plan. Contrary to some comments tonight, this was done part in part to mitigate concerns that new development could overtax existing neighborhoods with traffic it was not designed to carry. The North Sycamore Specific Plan and the Happy Valley Specific Plan provide for roads built and designed to handle this additional development traffic. Previous members of the City staff, Planning Commissioners, City Councilmembers, and various people within the community worked diligently together to reach agreement and create these specific plans. The City Council supported roads as structures in the workshop on November 27<sup>th</sup> which I was present at, only with the understanding that PUDs and specific plans prior to 2008 would be grandfathered in. You heard from an author of Measure PP tonight that having roads considered a structure was not part of Measure PP. The people of Pleasanton voted to protect the ridgelines; not to overtax existing neighborhoods with traffic from new developments. There are specific plans in place to assure this will not happen and they need to be followed. To decide that roads are a structure and are therefore held to the limitations of Measures PP and QQ would be contrary to the ongoing process and would put undue and unplanned traffic stress on existing neighborhoods that already have high traffic for the way the neighborhood streets were designed. It has been planned since 1992 to go out the East/West Collector which is Sycamore Creek Way. The years of City-sponsored neighborhood and community collaboration and planning need to be upheld. Basically, I'm reading it so I can have it in there, but this has been going on, and I can tell you I've been at this for 22 years. I don't want to put undue stress on any neighborhood, and that is why we worked so hard to get this done. And, think about it, if you go back 22 years, that's a lot of Planning Commission and Council."*

Raj Rajagopalan stated that he is not here to offend anybody or say anything wrong. He indicated that he understands traffic problems, and people do not want traffic going through their street and want it to go to the next street. He stated that he does not want traffic going through any street, and that's the way he would like to look at it. He inquired if this is part of the Greenbriar property and where the problem is, because that has always been a problem in this City. He added that since he bought a house from Greenbriar, there have been nothing but problems because Greenbriar never disclosed anything and lied about everything. He noted that the City also went for it because he spoke at meetings in 2004 and 2005 and suggested that signs be installed indicating that this would be a thru-street, just as they do in towns like Alamo and Danville.

Mr. Rajagopalan then referred to a claim made earlier that Anne Fox was not a signer of the document. He stated that he has known people who have worked with Ms. Fox and contributed some money towards the campaign, and he knows she was a main author.

Mr. Rajagopalan stated that if Lund Ranch can get an access without violating any other existing Measures, it should go ahead and do so, even if it is a hassle for other neighborhoods such as Ventana Hills or Mission Hills. He questioned if City planners, who obviously went to great lengths to get some educated city planning, were taught in school that streets are structures. He concluded that he heard tonight about the many promises made by the Council and the City, and having been a Pleasanton resident for only 12 years, he does not know much of the City's history before then and would be very much interested to see these documents.

### **THE PUBLIC HEARING WAS CLOSED.**

Commissioner Narum stated that she does not have the Measure PP document in front of her and believes that it states that it supersedes anything in the General Plan. She inquired if that basically means that any documents that were in place up at that point would be superseded by Measure PP.

Ms. Harryman replied that was correct; more specifically, any General Plan that was in conflict with what Measure PP said would no longer be effective, including any Specific Plans.

Commissioner Olson referred to the first slide presented which talked about ridgeline setback and drew a distinction between ground line and horizontal line. He stated that he understood that ground line runs with the contour of the ridge and inquired how the horizontal line is measured.

Mr. Dolan confirmed that ground line runs with the contour of the ridge. He continued that the horizontal line would be measuring from the top of each structure and comparing that to the setback line on a topographic map; and depending on which direction it is compared to makes it complicated. He noted that staff's position is that it would be difficult to measure the horizontal line, and staff is not recommending that the Commission keep it simple and stick with the ground line because that is more consistent with the actual wording of Measure PP.

Commissioner Olson indicated that he does not understand it. He noted that the Commission already discussed whether it should be measured from the foundation or the top of the house, and it was in agreement that it should be the top of the house. He presented his view and questioned, if a house is supposed to be 100 feet below the top of the ridge, why it cannot be measured from the top of that house to the top of the ridgeline that it is directly below, and it has to be 100 feet from the top of the ridge at that point.

Mr. Dolan stated that the suggestion was not that it be below 100 feet from the top of the ridge but 100 feet from the ridgeline, which is going to have a slope, and so what the house would be measured against is constantly changing.

Commissioner Olson agreed and added that the location of each house is also changing.

Chair Blank agreed with Commissioner Olson and added that one could look at the width of the property line, then look up at the top of ridge and the highest point of the ridge, and look at the highest point of the house, and have a 100-foot difference.

Mr. Dolan stated that that would typically be such a great distance, and it would make the measurement almost useless because everything would be below the top of the ridge, which is a half-mile away.

Chair Blank replied that that is the reason there are topographical maps.

Commissioner Narum asked Mr. Dolan how he would define it the other way, noting that if the building pad is 100 feet below the top of the ridge, it is really talking about a 20- or 30-foot difference.

Mr. Dolan explained that there would be a building pad that would generally be at one elevation, but the top of the roof makes the measurement complicated.

Chair Blank noted that the highest point of the roof is all one elevation.

Mr. Dolan stated that the Commission is concentrating on what he considers to be the minor part of the argument. He pointed out that the primary part of the argument is that that is an interpretation that he believes is more restrictive than the words of Measure PP.

Chair Blank referred to the language: "*Housing units and structures shall not be placed on slopes or within 100 vertical feet of a ridgeline.*" He stated that if the base of a structure is 100 or 101 feet off of the vertical ridgeline, it could be very possible that the top part of the house will actually be closer to the ridgeline than 100 feet, and it would violate the intent of protecting the scenic hills with development.

Commissioner Olson agreed.

Mr. Dolan stated that the language says "*shall not be placed*" and placing something means placing something on the ground and, therefore, measuring at the ground.

Chair Blank stated that it also says "*or within 100 vertical feet of the ridgeline.*"

Commissioner Pearce noted that it is more restrictive than "*place*" and not more restrictive than "*within.*"

Chair Blank agreed. He stated that to him, it fits the “*within*” definition and not the “*place*” definition.

Commissioner Pearce noted that staff is focusing on the word “*place*” and not the word “*within*.”

Mr. Dolan replied that was correct.

Chair Blank inquired if Lund Ranch II has a vested development.

Mr. Dolan said no. He added that there is a development proposal that has not been approved yet.

Chair Blank inquired if, for example, Lund Ranch were to come forward with a ten-house development proposal or less, that proposal would not be subject to these restrictions.

Mr. Dolan replied that is correct.

Chair Blank commented that, theoretically, realizing that that development would generate some traffic, that would be the traffic of ten homes, much like the withdrawn development application that was made for Oak Grove. He then asked if there were any comments from staff on the inventory of hills.

Mr. Dolan replied that he had basically said that staff thinks it could be a very long and contentious process, and staff is not in the position to do that at this point. He added that staff is not going to initiate a six-month exercise, or however long it would take, at the Planning Commission level. He indicated that ultimately, the City Council could direct staff to do that and staff would do it.

Commissioner Narum inquired if “long” means six months, a year, or something else.

Mr. Dolan replied that he cannot really project who is going to make what arguments on that and predict the outcome but that he thinks it would be a long process.

Commissioner Narum inquired if that would hold up any pending development applications moving in that direction.

Mr. Dolan replied that it would hold up Lund Ranch, which is active right now, but that is not necessarily the reason. He stated that it is just a matter of trying to get this ordinance adopted, and taking that side trip is not something staff is interested in doing at this point.

Commissioner Pearce inquired what staff believes is involved with doing an inventory.

Mr. Dolan replied that it would involve applying our definition to the unique characteristics of each site that is eligible.

Commissioner Pearce asked how that is done: if staff walks it, looks at it, or do what Mr. Roberts did of taking a picture and highlighting it.

Mr. Dolan replied that staff would start with a topographic map, and all that will have to be field-checked. He added that it would be necessary to get sort of a consensus on some issues that might not be crystal clear.

Chair Blank indicated that there being no more questions of staff, the Commission will start its discussion.

Commissioner Narum suggested that the items be considered one by one.

4. *Staff should explore providing an inventory of City ridgelines on vacant properties affected by the proposed chapter.*

Chair Blank stated that he realizes staff may not be in favor of doing an inventory, but with today's technology, he does not understand why it would be that difficult to do that.

Commissioner Posson inquired what the practical purpose of having a ridgeline inventory would be.

Chair Blank explained that from his perspective, it would say once and for all that here are the ridges that are protected. He noted that it would tell a developer ahead of time that this is not a ridge and so it is not subject to Measures PP or QQ, but that over there is a ridge, and therefore anything done over there would have to be in compliance with Measure PP. He added that those Commissioners on the Historic Preservation Task Force hear over and over and over again that what developers want is certainty amongst all certainty. He indicated that what happens is, the developers come to the Commission, and depending on the composition of the Commission, whether it is very pro-development or a very slow-growth group, and get different directions. He indicated that the General Plan is a General Plan, and it can be overwritten by the Commissioner and by the City Council.

Chari Blank continued that from his knowledge of some of the geographical resources that he knows are available from work he does in other areas, some technology could be utilized to determine what the ridges for an inventory for as many ridges as there are, and then it is done. He referred back to Mr. Robert's statement that the fight should be done now, and once that is done, it is done. He added that he does not believe the Commission should allow an application to rush it into making that fight go on for the next ten years.

Commissioner Posson stated that he is fully in support of providing as much certainty as possible to developers; however, he questioned, on this particular issue, where is the

line drawn in terms of how much pre-work staff does for the developer versus letting the developer look at his site plan and say, looking at the topography of his site, these are probably ridge lines; sitting down with staff and going through that review; and at least getting a preliminary review from staff at that time. He added that he could carry this to say what about wetlands, and go ahead and map.

Chair Blank stated that developers sit down with staff and spend hundreds of thousands of dollars doing all these plans, and then they come before the Commission, and the Commission says that it's not sure that is the ridgeline, or that it is too dense for that area; then the developer will have to go back and redo the plans, then have to go to the City Council and, depending on the political composition of the Council at the time, they might get a completely different answer. He added that that is not certainty. He indicated that he does not believe that it will take six months to do a ridgeline inventory; it is not that complicated, and he does not buy it.

Commissioner Posson stated that he does not argue the technical feasibility of doing it, but he is just concerned about whether or not that is a good utilization of staff time, whether staff should be doing it or whether that's something the developers should do as part of their development plan.

Chair Blank stated that if the developers do it as part of their development plan, each one will be different, and each one will get a different decision.

Commissioner Pearce stated that referencing the Historic Preservation Task Force Chair Blank mentioned, the Task Force is talking about doing a survey of old buildings in town and providing every single resident, developer, and commercial property owner with certainty as to what properties are in and what are out, what are historical resources and what are not. She indicated that the reason she asked about how long this would take and what it would involve is because this issue is amorphous and has a lot of moving parts; it does not feel like something that has been nailed down. She added that she believes it will help provide certainty.

Commissioner Pearce stated that she would rather give the direction to the City Council and if staff comes back and says, for example, this is going to cost \$1 million or will take three years, the Council can consider it. She noted that given that the Commission prefers the certainty upfront and that it cannot seem to get that information ahead of time, she would prefer to take the conservative approach and propose to the City Council that it at least get the details before turning it down.

Commissioner Posson asked Commissioner Pearce if she is proposing a recommendation to the City Council to consider having an inventory of the ridgelines.

Commissioner Pearce said yes.

Commissioner Posson continued that it would not be included in the ordinance.

Commissioner Pearce replied that an inventory would not be in the ordinance.

Commissioner Narum stated that she would play the devil's advocate and say that that here is the inventory, it is not in the ordinance; then the composition of the Commission or the Council changes, and there is nothing to keep them from re-defining it potentially.

Chair Blank stated that the inventory would have to be made part of the ordinance once the inventory is completed.

Commissioner Narum stated that the ordinance can still be changed.

Chair Blank agreed, stating that it could be referended and come back saying that none of those things are ridges. He added that if the City Council came back and said none of these are ridges, he suspects there would be another vote of the people; but he does not think that would happen. He indicated that he thinks the implementation of this ordinance should include that these are ridges subject to Measure PP, or these are the ridges in Pleasanton that are affected by any ridgeline ordinance.

Commissioners Pearce, Olson, and Narum agreed.

**Chair Blank summarized the discussion, indicating that the unanimous consensus of the Planning Commission is that an inventory of the ridges should be done.**

- 1. Consider defining the ridgeline setback as a horizontal plane instead of a ground line. This means looking at not allowing any buildings to exceed above the 100-foot line drawn below a ridgeline as opposed to the base of the building.*

Commissioner Olson stated that while he did not support Measure PP, a majority of the people in town voted for it, and if he viewed Measure PP simply, it basically says not to put any houses or roads within that 100-vertical foot setback from the top of the ridge; the people want the ridges to be unspoiled. He indicated that his view is anyone building a home or a road up there cannot violate that 100-vertical foot setback from the top of the ridge. He recalled the Commission's discussion on whether it would be measured from the foundation of the house or from the top of the house, and reiterated that his view is that structures should not violate that 100- vertical foot space and should be measured from the top of the house to the top of the ridge from that house. He added that if it is half a mile away, then the viewscape should be considered as the viewscape is also being protected here.

Chair Blank agreed with Commissioner Olson. He gave an example of a house that had a 60-foot spiral on it would be only 40 feet from the top of the ridge. He indicated that he did not think that was the intent.

Mr. Dolan noted that the Commission has controls through the PUD and did not think any 60-foot spirals would be approved.



Chair Blank stated that was an exaggeration but added that a 30-foot tall house would go within 70 feet of the top of the ridgeline, and he did not think that was the intent of Measure PP.

Commissioner Pearce indicated that it boils down to two words: "*within*" and "*place*."

Chair Blank added that those are "*or*"s.

Commissioner Pearce stated that she would rather choose a placement that satisfies both of them and that she agrees with Commissioner Olson. She indicated that she would rather go more conservative with this, given that, she thinks at least on this issue, people are generally in agreement with regard to the intent.

Commissioner Posson asked for clarification that Commissioner Olson is saying that the top of the house has to be below 100 vertical feet of the ridgeline versus staff's recommendation that the foundation would be outside of that 100-vertical foot ridgeline.

Commissioner Olson replied that was correct.

Commissioner Posson stated that he agreed with Commissioner Olson's proposal.

Commissioner Narum inquired, if the Commission recommends that the house has to be 100 vertical feet or more below the top of the ridgeline, whether that would be more restrictive and eliminate potential housing sites in Lunch Ranch II.

Mr. Dolan replied that it would.

Commissioner Narum inquired what the percentage would be; if it would be by 10 percent or 25 percent.

Mr. Dolan replied that he could not tell the exact number but estimated that it would be between those two.

Commissioner Narum stated that she thinks one thing that is pretty clear about Measure PP is that the intent was to keep the ridges intact, and from that, it follows that the house should be set below the 100-foot ridgeline. She pointed out that this would open up other potential issues.

Chair Blank inquired if there was consensus that the measurement should be from the top of the house to the top of the ridge.

Commissioner Narum noted that the proposed language includes some exceptions.

Commissioner Pearce inquired why cupolas, chimneys, or similar appurtenances were excepted.

Mr. Dolan replied that this is a standard approach. He explained that the current definition for a house, if the house has a 35-foot limit, the chimney is allowed to stick up above that limit.

Chair Blank stated that the measurement would be from the highest point of the house to the highest point of the ridgeline behind the house, and that distance has to be at least 100 vertical feet and not within 100 vertical feet.

Commissioner Olson indicated that the Commission's discussion at the last meeting was counter to this and that the Commission agreed about not violating that 100-vertical-foot setback.

**Chair Blank stated that for the record, the Commission is unanimous about the exception of chimneys, cupolas, and similar appurtenances, and that the measurement would be from the highest point of the house to the highest point of the ridgeline behind the house, and that distance has to be at least 100 vertical feet and not within 100 vertical feet.**

Commissioner Narum noted that the Commission is good with the language.

Commissioner Olson stated that the Commission is not good with "*horizontal plane*."

Chair Blank noted that the language does not say "from the top of the house;" it says "horizontal plane." He indicated that he would like to make it very specific that the top of the roofline to the highest part of the ridge behind the house has to be at least 100 vertical feet, exempting chimneys and the standard things.

2. *Eliminate the exemption process for manufactured slopes, streets, and roads on slopes greater than a 25-percent grade, and for streets or roads to landlocked properties.*
3. *Design and environmental review processes referenced in the proposed chapter for roads and streets is normally done and does not need to be repeated in the draft code chapter.*

**Commissioner Pearce stated that she thinks the Commission is in agreement with these two. She noted that at its last discussion, the Commission eliminated manufactured slopes and landlocked properties.**

Commissioner Posson stated that he was not at that discussion and inquired what those two are.

Commissioner Pearce stated that the Commission eliminated the exemption for manufactured slopes.

Commissioner Posson asked if the Commission is saying that if there is a cut in the hillside, then to determine the ridgeline, the original contour should be considered.

Commissioners Pearce and Olson said yes.

Chair Blank stated that historical photographs would be referenced.

Commissioner Pearce continued that with reference to streets and roads to landlocked properties, it was ascertained that the only property affected was the Foley Ranch, which cannot hold more than ten units, and therefore, is not subject to Measure PP.

*5. Delete the exemption to streets and roads that are part of a Specific Plan approved prior to November 2008.*

Chair Blank stated that what struck him about this ordinance is the relevance of the Commission spending so much time discussing whether a road is a structure. He indicated that he is not sure it matters because the third sentence in the ordinance says, “*No grading to construct residential or commercial structures shall occur on hillside slopes 25 percent or greater or within 100 vertical feet of the ridgeline.*” He stated that he does not think anybody would build a road to nowhere; somebody would build a road to get to a commercial structure or residential structure.

Commissioner Pearce commented that the road could be on a 25-percent slope but the structures are not.

Chair Blank replied that it would have to be graded, and the Measure says “*No grading to construct residential or commercial structures shall occur...*”; it does not say there would be no grading for the construction of those residential structures.

Commissioner Pearce stated that she was thinking about the Bypass Road as an example of something that could apply.

Commissioner Narum agreed.

Chair Blank stated that he had not thought about the Bypass Road in this context, but it is correct. He noted that this is one of the challenges of direct democracy. He commented that when the Commission first sat up here for the multiple meetings on this issue, everyone was thinking about previous Specific Plans and previous PUDs which were all before the date in 2008 and thought they were all fine, and he was surprised to find out that they were not fine.

Commissioner Olson commented that it is interesting that Chair Blank would mention that because that was where he was going too. He indicated that his sense is that it does not matter whether a road is a structure or whether or not it is a structure or an infrastructure. He noted that the simple part of this is there will be no development at all within that 100 feet nor on a 25-percent slope, or some would argue that 15 percent is

the limit. He continued that it is kind of academic to talk about what a road is or is not, because the problem is traffic; and there are two neighborhoods at odds because of that traffic problem. He indicated that he does not know if there is a way to solve this by somehow fixing a traffic problem or not, but his view here is that there cannot be any development on that hillside within 100 feet of the top of the ridge; and this is the reason why he thinks the ridges ought to be defined now. He noted that there is already a big controversy over this.

Mr. Dolan noted that the controversy over whether a road is a structure or not relates to the 25-percent slope more than it does to the ridge issue.

Commissioner Olson agreed.

Chair Blank stated that it does say "or": "*no grading or residential or commercial structure shall occur on hillside slopes 25 percent or greater or within 100 vertical feet....*" He agreed with Commissioner Olson that "*25 percent or greater or within 100 vertical feet*" is the same issue.

Mr. Dolan added another thought to the discussion, stating that it is a reasonable reading of Measure PP that the word "*grading*" assumes grading that is done to place the structure. He indicated that he could see how it could be a long way to go to, all of a sudden, leap into roads getting to the development.

Chair Blank stated that he thinks the concern is that if roads are not a structure, then the only protection that roads on ridges have is what is in the General Plan; and someone in the audience mentioned that that same language was in the General Plan and did not protect against the potential development of the large Oak Grove project. He indicated that, therefore, when he thinks about whether roads should be included, he wished there were a way to get there without decimating Measure PP, to say that it would be fine if these existed before 2008, such as the Bypass Road or Lund Ranch II. He added that the downside of Lund Ranch II, though, is that it could be argued that it does not have development rights: it gets ten units, and that's it. He indicated that he did not know how to reconcile the two.

Commissioner Narum asked Chair Blank how he got to Lund Ranch II having only ten units.

Chair Blank replied that ten units would not be subject to the restrictions as Measure PP would not apply; therefore, Lund Ranch II could build those units and have the traffic come out anywhere.

Commissioner Narum noted that Lund Ranch II could do it however it wanted. She stated that Chair Blank just took some units away.

Chair Blank replied that he did not take anything from anybody because according to staff, Lund Ranch II does not have any vested development rights. He noted that those

are the legal rules. He added that had Lund Ranch II had an approved PUD with a filed Vesting Tentative Tract Map, then the City would really be in a bind.

Commissioner Narum commented that the Commission would not be having this discussion then.

Chair Blank agreed; however, since Lund Ranch II does not have a Vesting Tentative Map, one option is to do what Oak Grove did of having only ten units, and nobody would object to it. He indicated that he thinks it would be very difficult to oppose ten units being built in Lund Ranch II; yet it would add traffic to that one connector street, and he understands that. He added that the assumption is that the entirety of the Lund Ranch project would be dumped into those streets, and that is not necessarily the only option. He noted that he is not saying it is right or that it is easy. He reiterated that he does not know how to reconcile what this says with all the other things.

Commissioner Pearce stated that this is difficult because there are so many challenges. She noted that when the Commission ends up having to deal with neighborhood disputes, and this is a neighborhood dispute on a much more global scale, the Commission wants to make everybody happy and make this right for everybody, but it cannot do that.

Commissioner Pearce stated that her original thought was to go to the intent, which was everyone's original thought. She noted, however, half the people instrumental in Measure PP is saying a road is a structure, and the other half is saying it is not; half the people in the room who voted for Measure PP is saying it is a structure, and half of the people who also voted for it is saying it is not; saying that was not my intent, and saying that was my intent. She indicated that she cannot go by intent anymore, and she did not know how to do that; so she had to look at the text and at the Municipal Code. She noted that that is what she has, and it seems to her that, after having read everything, the definition of structure in the Municipal Code would have said it excludes roads like it excludes access drives and walks; it would have been excluded from the definition of a structure. She stated that she would be happy to have that conversation in the future about altering the definition of a structure in the Municipal Code, but that would be a different conversation.

Commissioner Pearce stated that she is really sorry and that she thinks it is unfortunate about the promises made and that there are unforeseen consequences, but there are consequences. She indicated that she cannot jerry-rig this to get around the consequences and that she is sorry that she cannot do it. She noted that Commissioner Olson was correct that this is a traffic conversation more than anything else; this is a Lund Ranch traffic conversation; this is a golf course traffic conversation.

Commissioner Pearce stated that she would like to address the traffic issues. She noted that she keeps hearing from people in Junipero Street and Independence Drive about the traffic, and she would rather have that conversation in the future. She indicated that she has been reading this over and over, and she cannot get to the point

where she cannot consider a road a structure. She stated, in her opinion, roads under Measure PP and the Municipal Code are structures.

Commissioner Posson thanked Mr. Dolan for spending time with him to bring him up to speed. He indicated that Mr. Dolan was being very objective in his description, giving both sides and representing the views the Commission heard tonight very objectively. He indicated that he went through a rather similar thought process as Commissioner Pearce, and coming into it relatively new, he tried to look at it from a very objective point of view. He added that he went back and looked at it, and then looked at the definition of "structure" in the Municipal Code when Measure PP was passed. He stated that regardless of whether or not this is the definition that the voters were relying on, this was what was in the Municipal Code at the time they were voting, and that is really all he has to rely on. He indicated that he came to the same conclusion that the other Commissioners did: that a road takes up ground and it would be considered a structure.

Commissioner Narum stated that she believes she is there too. She indicated that she empathizes with everybody and that these are always the toughest things and decisions to make. She noted that it is really difficult to read what the intent of Measure PP was and what people thought they were voting on, and like Commissioner Pearce said, it is conflicting; therefore, she had to go back to the text, back to the Municipal Code, and try to apply it. She stated that she believes she would have to make the recommendation that a road is a structure.

Chair Blank stated that he is with his colleagues with this.

**The Commission was unanimous that a road is a structure.**

Chair Blank stated that he thinks one of the things he would suggest to people, and he understands the frustration of the promises and is not trying to offend any of the developers of Lund Ranch II or any of the proposed plans, is that there is an alternative to avoiding this, and that is to develop ten homes back there. He questioned if that would have been an acceptable development opportunity for Oak Grove, and he stated that he does not think anybody would have batted an eyelash with ten homes up there. He noted that he could be wrong, but ten homes in Lund Ranch II should not tip the balance one way or the other. He agreed with Commissioner Pearce that if there are really those kinds of traffic issues back there, then they should be brought to the Planning Commission; the Commission will work with staff, look at ideas of traffic-calming mechanisms as things that can be done, and if they are not effective, the Commission and staff will do more things.

Commissioner Narum inquired if there is a Traffic-Calming Committee.

Chair Blank agreed that is an option.

Mr. Dolan stated that there have been some discussions in the past out in that area.

Chair Blank stated that the City had cut-through traffic by Raley's Supermarket where neighbors were tired of the cut-through traffic. He noted that the neighbors got themselves organized and now, to protect them from cut-through traffic, right turns are not allowed come out of Raley's during certain periods of times without violating the Municipal Code. He pointed out that there are things that can be done.

Commissioner Narum commented that she thinks one of the things on this that is really hard is about the neighborhood promises that were made. She stated that she is hearing from legal that the Commission's hands are kind of tied because of the language in Measure PP that states that it supersedes everything from the General Plan on down, and this is one of the unintended consequences of having a measure like this that everyone is somewhat concerned about. She asked Ms. Harryman to comment on this.

Ms. Harryman stated that she hears what Commissioner Narum is saying. She indicated that the language in Measure PP is clear that if there is a conflict between something that was in the General Plan before and what Measure PP says, then Measure PP overrides it. She continued that in this case, as it plays out, depending on how it is defined this evening, it can affect whether or not Sycamore Creek Way is an exit for Lund Ranch II or not, based on the slopes there.

Chair Blank stated that there could be other exits. He inquired how this would be if Lund Ranch II only had ten homes.

Ms. Harryman replied that Measure PP would not apply, and Lund Ranch II could go out numerous ways and have numerous options.

Chair Blank commented that Lund Ranch would still be subject to review, and it cannot just do whatever it wants.

Ms. Harryman stated that Measure PP specifically states that it does not apply to projects of ten homes or less, and, therefore, it would not apply to Lund Ranch if it builds only ten homes. She clarified that Lund Ranch would have more options, and only the rules on the books would apply.

**Commissioner Pearce moved to find that the proposed amendment to Title 18 is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15308, Actions by Regulatory Agencies for Protection of the Environment and to recommend approval to the City Council of the Draft Chapter 18.70, Ridgeline and Hillside Protection Preservation, Exhibit A, dated February 13, 2013 with the following modifications: (1) Structures, except copulas, chimneys, or other appurtenances, shall be measured from the top of the structure to the top of the ridge behind the structure; (2) References to exemptions for planned roads be removed from the proposed ordinance, and roads shall be considered structures for purposes of implementing Measure PP; and (3) Recommend to the City**

**Council that it consider creating an inventory of ridgelines on properties that would be subject to Measure PP, to be referenced in the ordinance.  
Chair Blank seconded the motion.**

Commissioner Olson stated that he wanted to get it in the record that the folks who came here tonight and argued that a street is not a structure also by-and-large voted for Measure PP, and they came here tonight because of a traffic problem. He emphasized that he wanted the City Council to understand that, and that if the Lund Ranch project goes forward to the City Council, the City Council must consider traffic.

Chair Blank agreed that the City Council must look at traffic and maybe take traffic-calming actions. He added that having this in the record is good.

**ROLL CALL VOTE:**

**AYES: Commissioners Blank, Narum, Olson, Pearce, and Posson  
NOES: None.  
ABSTAIN: None.  
RECUSED: Commissioner O'Connor.  
ABSENT: None.**

Resolution No. PC-2013-13 recommending approval of Case P12-1796 was entered and adopted as motioned.

Commissioner O'Connor returned to the dais.

- b. P12-1797, Rina Morningstar, Colliers International  
Application for Sign Design Review approval to amend the Master Sign Program for the Pleasanton Gateway shopping center to add three tenant signs to the west side of the Shops #8 building located at 6786 Bernal Avenue (northwest corner of Bernal Avenue and the northbound I-680 off-ramp). Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.**

This item was continued to the March 27, 2013 Planning Commission meeting.

- c. P12-1791, Rajitha Sumanasekera, Little Flowers Montessori, Appellant  
Appeal of the Zoning Administrator's denial of an application for Sign Design Review to retain a non-approved but already installed non-illuminated wall-mounted sign at 3550 Bernal Avenue, Suite 110. Zoning for the property is PUD-C-N (Planned Unit Development – Neighborhood-Commercial) District.**

The appellant withdrew the appeal.



**d. PUD-85-08-01D-04M , Mark English, Pleasant Partners, LLC. – California Center**

**Application for a PUD major modification and development plan to construct 305 apartment units, two retail buildings totaling approximately 7,520 square feet, new surface parking and a parking garage to serve the existing office uses, and related site improvements at the California Center property located at 4400-4460 Rosewood Drive. Zoning for the property is Planned Unit Development – High Density Residential (PUD-HDR) and Planned Unit Development – Industrial/Commercial-Office (PUD-I/C-O).**

This item was continued to the March 27, 2013 Planning Commission meeting.

**MATTERS INITIATED BY COMMISSION MEMBERS**

No discussion was held or action taken.

**8. MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION**

**a. Future Planning Calendar**

Mr. Dolan advised that at least two of the major apartment developments will be coming before the Commission: the first is California Center, formerly CarrAmerica, which is tentatively scheduled for the next meeting, with the second, St. Anton Partners, the developer of the Nearon site, following shortly thereafter. He added that staff is trying to schedule a Work Session for the Pleasanton Gateway Project.

**b. Actions of the City Council**

No discussion was held or action taken.

**c. Actions of the Zoning Administrator**

No discussion was held or action taken.

**d. Matters for Commission's Information**

No discussion was held or action taken.

**e. Recommendation of Planning Items for the 2013 City Council Priorities**

Commissioner Pearce stated that she is going back to the conversation the Commission had previously that the Commission should submit no more than three priorities. She indicated that she believes updating the Hacienda PUD should be one of the priorities. She added that if the Commission wishes to send other items forward, a continued

emphasis on the Historic Preservation Task Force as well as the East Pleasanton Specific Plan Task Force is appropriate.

Chair Blank indicated his support 100 percent.

Commissioners Olson and Narum agreed.

Commissioner O'Connor stated that he wanted to put in only one solid item and did not really think it necessary to have the other two take up slots; however, he is fine with Commissioner Pearce's proposal.

Commissioner Pearce stated that she thinks one priority accomplishes everything; however, she wants to re-emphasize that the two Task Forces need to keep going. She indicated that the Commission promised the community that it would not let the two Task Forces languish, not that they would languish, but she wanted to re-emphasize that.

**Commissioner Pearce moved to make updating the Hacienda PUD documents its main priority and to continue focus on the two Task Forces which were the Commission's prior priorities.  
Commissioner Olson seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Blank, Narum, O'Connor, Olson, and Pearce.  
NOES: None.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: None.**

Commissioner O'Connor stated that before the Commission moves off of this topic, one item he had brought up was traffic throughout the City. He noted that the Commission had received a report from Mike Tassano, City Traffic Engineer, and he was surprised and somewhat disappointed that it sounds like everything that can be done with the City's traffic systems and software has been done and that traffic signal lights are actually timed.

Mr. Dolan stated that the traffic signal timing is a constant and ongoing effort and that staff spends a lot of time on this. He noted that every time changes are made with the timing and somebody likes it, there is an equal and opposite reaction of somebody who does not like it.

Commissioner O'Connor continued that it appears staff has been doing this for about ten years, and it should not be expected to get a whole lot better because the City has what it has.

Chair Blank added that unless substantial capital improvements are done.

Commissioner O'Connor noted that there was talk about getting some new equipment for some areas such as Stoneridge Drive which is being put through. He agreed that when those changes are made, it will have a ripple effect someplace else; it might get better for some, but it is going to have an opposite effect someplace else.

#### Measure PP

Chair Blank stated that he assumes, when Measure PP comes back, the Commission will receive new staff reports.

Mr. Dolan replied that the item is not coming back before the Commission; it is going straight to the City Council.

Chair Blank inquired what happens if the Council directs the Commission to do more work.

Mr. Dolan replied that staff will write a new report.

### **9. ADJOURNMENT**

Chair Blank adjourned the Planning Commission meeting 9:15 p.m.

Respectfully,

JANICE STERN  
Secretary