

## EXHIBIT A-1

### Conditions of Approval PUD-93-02-10M 2001 Ruby Hill Boulevard

(Note: New and modified conditions are shown in *Italic with underscore.*)

#### PROJECT SPECIFIC CONDITIONS

##### Planning

1. All conditions of Case PUD-93-02 shall remain in full force and effect unless otherwise modified herein, except that PUD-93-02 is modified to allow the operation of the restaurant with alcohol service after 10 p.m. as covered by this approval as a conditionally permitted use.
2. *This PUD development plan modification approval will lapse and shall be void on August 16, 2013, unless a building permit is issued and construction has commenced and is diligently pursued toward completion or an extension has been approved by the City.*
3. The project developer shall pay any and all fees to which the property may be subject prior to issuance of building permits. Except for the sewage connection fees, the type and amount of the fees shall be those in effect at the time the building permit is issued. The sewage connection fees shall be paid to the City of Livermore. Evidence of the payment of these fees shall be provided to the Director of Building and Safety before issuance of the building permit. Because of the prior development agreement covering the property, the project developer is exempt from paying the current Citywide and area wide traffic mitigation fees. The project developer shall post address numerals on the building so as to be plainly visible from all adjoining streets or driveways during both daylight and night time hours.
4. Prior to issuance of a building permit, the project developer shall pay the applicable Zone 7 and City connection fees and water meter cost for any water meters, including irrigation meters.
5. The project developer shall effectively screen from view all ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or on the roof, with materials architecturally compatible with the main structure. The plans shall reflect the location of any above ground utilities to provide adequate review of screening. Roof mounted equipment, the equipment shall be designed, installed, and maintained so that the equipment does not project above a horizontal plane established by the buildings' perimeter roofs. All screening details shall be

shown on the plans submitted for issuance of building permits, the adequacy of which shall be determined by the Director of Community Development, and shall be provided prior to occupancy.

6. The location of any pad-mounted transformers shall be subject to approval by the Director of Community Development prior to issuance of permits by the Building and Safety Division. Such transformers shall be screened by landscaping or contained within an enclosure matching the building and with corrugated metal gates. All transformers shall be shown on the plans submitted for issuance of building permits.
7. The approved building materials and colors shall be stated on the plans submitted for issuance of building permits.
8. All backflow prevention devices, above ground irrigation controls, and above ground irrigation meters shall be located and screened so as to minimize visual impacts. The location of all backflow prevention devices, above ground irrigation controls, and above ground irrigation meters and the quantity and type of proposed landscape screening shall be subject to the review and approval of the Director of Community Development prior to installation.
9. The proposed outdoor lighting for the subject property shall be of low intensity and shielded in order to minimize its visibility from off-site. Outdoor lighting shall also not glare onto adjacent properties or streets. Exterior lighting shall use the lowest wattage and shall limit the number of fixtures to attain the lowest luminosity. Fixtures shall be no greater than 14 feet in height, including any pedestal assembly, and shall be "shoebox" shielded standards or equal. The design of all lighting shall be reviewed and approved by the Director of Community Development. The lighting shall utilize photocells and timers to shut off lighting when the facility is not in use. The parking, building, and general site security lighting shall be the minimum allowed by the Police Department. The applicant shall submit a photometric plan which shall include the following:
  - Photometric calculations detailing all exterior security lighting,
  - Foot-candle calculations,
  - Fixture schedule, and
  - Cut sheets for light fixtures identifying the specific luminary and lamp manufacturer.
10. Prior to issuance of building or demolition permits, the project applicant shall submit a waste management plan to the Building and Safety Division. The plan shall include the estimated composition and quantities of waste to be generated and how the project applicant intends to recycle at least seventy-five percent (75%) of the total job site construction and demolition waste measured by weight or volume. Proof of compliance shall be provided to the

Chief Building Official prior to the issuance of a final building permit. During demolition and construction, the project applicant shall mark all trash disposal bins "trash materials only" and all recycling bins "recycling materials only." The project applicant shall contact Pleasanton Garbage Service for the disposal of all waste from the site.

11. The project developer shall prepare and record a metes and bounds description delineating the building envelope areas, including the entire restaurant and parking lot area covered by this application and the envelope area for the proposed residence and three existing accessory buildings shown on the site plan. The metes and bounds description shall be prepared to the satisfaction of the City Engineer, shall be reviewed by representatives of the Tri-Valley Conservancy before its recordation, and shall then be recorded before occupancy of the buildings covered by this approval. In order to clearly demarcate these areas in the field, the project developer shall place brass property corners/hubs in conformance to the metes and bounds description before occupancy of the buildings covered by this approval.
12. The applicant shall submit a design review application of the future residence to staff. The design review process shall following the requirements specified in Chapter 18.20 of the Pleasanton Municipal Code.
13. The design guidelines shall include that the development standards for the future residence shall follow those specified for the R-1-20,000 District with a maximum habitable area not to exceed 6,600 square feet and a 700-square-foot garage exemption.
14. The future home shall achieve a "green home" rating as specified in Alameda County Waste Management Authority's "Single-Family Green Building Rating System," current edition at the time of building permit submittal. A list of the green building measures shall be submitted in conjunction with the plans submitted for issuance of building permits and shall be subject to the review and approval by the Planning Director prior to issuance of building permits for the project.
15. The applicant shall submit sign details to the Director of Community Development for review and approval before installation.
16. Back-up generators shall not be allowed except in emergencies where products may be at risk of spoiling.
17. The placement of any portable restroom facilities for harvesting shall be located in a visually screened area and shall be reviewed and approved by the Director of Community Development. After the initial determination by the Director of Community Development, all future placements shall correspond to the prescribed location, unless otherwise approved.

18. The restaurant building, its surroundings, and the parking area shall be maintained in a professional manner at all times. If the site is not maintained in a professional manner and becomes a nuisance, at the discretion of the Director of Community Development, the City will initiate code enforcement actions. If the property owner fails to conform, the City may take actions to clean the site, and/or to remove the building, including but not limited to, placing a lien against the property to cover the costs of cleaning/removal.
19. When the restaurant ceases operation and the building becomes vacant, the property or the building owner shall remove the building within one year from the date when the building becomes unoccupied. Failure to do so may result in the City taking enforcement action and placing a lien against the property.
20. Prior to the issuance of a building permit, the applicant shall implement mitigation measures as recommended in the Traffic Study, prepared by Dowling & Associates, dated "Received September 20, 2006" on file in the Planning Division, or as otherwise determined by the City Traffic Engineer.
21. Final inspection by the Planning Division is required prior to occupancy.
22. All trash and refuse shall be contained completely within enclosures architecturally compatible with the main structure. The materials and color of the enclosure walls shall match the building walls, and the gates shall be corrugated metal or solid wood. The design of the enclosures shall be shown on the plans submitted for issuance of building permits, subject to the approval of the Director of Community Development. Trash containers shall be stored within the enclosure at all times, except when being unloaded. Trash enclosures which are sized to contain dumpsters with an individual capacity of 1.5 cubic yards located within five feet of unprotected building openings, combustible walls, or combustible roof eaves shall be provided with an automatic fire sprinkler system.
23. The driveway and parking area shall be surfaced with a decomposed granite material. Surfacing shall be completed before occupancy of the restaurant and shall be maintained by the property owner/operator.

## **Landscaping**

24. The project shall comply with the State of California's Model Water Efficient Landscape Ordinance. A licensed landscape architect shall verify the project's compliance with the ordinance: 1) prior to the issuance of a building permit; and 2) prior to final inspection. The verification shall be provided to the Planning Division.

25. Trees shall be a minimum of 15 gallons in size. All shrubs shall be a minimum of five gallons, unless otherwise shown on the plans and approved by the Director of Community Development. Deviations from the approved plan shall be reviewed and approved prior to installation.
26. The project applicant shall provide root control barriers and 4-inch perforated pipes for trees near driveways and in other paved areas less than 10-feet in width, or as determined by the Director of Community Development.
27. No trees shall be removed other than those specifically designated for removal on the approved plans or tree report. The project developer shall post cash, letter of credit, or other security satisfactory to the Director of Community Development in the amount of five thousand dollars (\$5,000) for each tree required to be preserved, up to a maximum of twenty-five thousand dollars (\$25,000). This cash bond or security shall be retained for two year following completion of construction and shall be forfeited if the trees are removed, destroyed, or disfigured. For trees that are removed, destroyed, or disfigured during construction, the applicant shall pay a fine in the amount equal to the appraised value of the subject tree. If the fine based on the appraised value of the tree(s) exceeds the bond amount, the applicant shall pay the difference between the bond and the appraised value of the subject tree(s).
28. The applicant shall pay for the loss of the existing trees on site. The amount shall be determined by the Director of Community Development based on the appraised value of these trees as stated in the arborist report prepared by HortScience, Inc., dated "Received April 27, 2007" on file in the Planning Division prior to the issuance of a building permit.
29. The project developer shall enter into an agreement with the City, approved by the City Attorney, which guarantees that all landscaping and open space areas included in this project will be maintained at all times in a manner consistent with the approved landscape plan for this development. Said agreement shall run with the land for the duration of the existence of the structures located on the subject property.
30. Prior to occupancy, the landscape architect shall certify in writing to the Director of Community Development that the landscaping has been installed in accordance with the approved landscape and irrigation plans with respect to size, number, and species of plants and overall design concept.
31. The project developer shall adjust the sprinkler heads to redirect the water away from the monument sign if proposed, while ensuring complete irrigation coverage of the landscaping around the sign. All landscaping around the sign shall be restored after installation of the sign and prior to final of the sign permit.

32. The applicant shall follow the tree protection measures as stated in the tree report, on file as Exhibit A in the Planning Division. All tree protection measures shall be stated in the construction drawings prior to issuance of a building permit.
33. The final landscape plan shall include planting at the existing sales office location after the building is relocated so that adequate planting would be provided until such time that the home is constructed. Said plan is subject to the review and approval by the Director of Community Development, and the planting shall be complete prior to the occupancy of the restaurant.

### **Engineering**

34. The applicant shall submit a detailed sewer design for the review and approval by the City Engineer prior to issuance of a building permit.
35. The property owner shall dedicate to the City adequate land that is necessary for the Route 84 improvement project.
36. The design of the water supply systems shall be subject to the review and approval of the City Engineer.
37. Storm drainage swales shall be privately maintained by the property owner.

### **Building**

38. The project developer shall obtain a building permit from the Building and Safety Division and any other applicable City permits for the project prior to the commencement of any construction.
39. The State of California's Green Building Standard Code, "CALGreen", shall apply, if applicable. The construction plans submitted for building permit shall include the mandatory green building measures and is subject to the review and approval by the Chief Building Official.
40. A sanitary sewer-sampling manhole shall be provided on each of the sanitary sewer lateral from each building, unless otherwise waived by the Chief Building Official.
41. The project developer shall submit two copies of the site soils report to the Chief Building Official at the time plans are submitted for the first building plan check review. When deemed necessary by the Chief Building Official, a third party peer review of the soil report shall be completed. The City will select all third party peer reviewers. All third party peer reviews shall be paid for by the project developer at the time specified by the Chief Building Official.

42. The soils engineer shall certify the pad compactions of all lots containing fill to the satisfaction of the Chief Building Official prior to the issuance of building permits.

## **Fire**

43. The building covered by this approval shall be equipped with an automatic fire sprinkler system. Plans and specifications for the automatic fire sprinkler system shall be submitted to the Pleasanton Building and Safety Division for review and approval prior to installation. The fire alarm system, including water flow and valve tamper, shall have plans and specifications submitted to Fire Prevention for review and approval prior to installation. All required inspections and witnessing of tests shall be completed prior to final inspection and occupancy of the building.

44. The applicant shall provide a fire hydrant for the proposed development. The details of the fire hydrant shall be submitted to the Fire Marshal for review and approval prior to occupancy.

45. The applicant shall submit the design of the EVA gate to the Fire Marshall for review and approval prior to the issuance of a building permit.

46. The applicant shall show turning radius details on the parking lot circulation plan for the review and approval by the Fire Marshal. The driveway shall be designed to hold the load of loaded fire truck, and is subject to the review and approval by the Fire Marshal prior to the issuance of a building permit.

## **STANDARD CONDITIONS OF APPROVAL**

### **Community Development Department**

47. The project applicant shall submit a refundable cash bond for hazard and erosion control. The amount of this bond will be determined by the Director of Community Development. The cash bond will be retained by the City until all the permanent landscaping is installed for the development, including individual lots, unless otherwise approved by the department.

48. The project applicant shall pay any and all fees to which the property may be subject prior to issuance of permits. The type and amount of the fees shall be those in effect at the time the permit is issued.

49. If any prehistoric or historic artifacts, or other indication of cultural resources are found once the project construction is underway, all work must stop within 20 meters (66 feet) of the find. A qualified archaeologist shall be consulted for an immediate evaluation of the find prior to resuming groundbreaking

construction activities within 20 meters of the find. If the find is determined to be an important archaeological resource, the resource shall be either avoided, if feasible, or recovered consistent with the requirements of Appendix K of the State CEQA Guidelines. In the event of discovery or recognition of any human remains in any on-site location, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the County coroner has determined, in accordance with any law concerning investigation of the circumstances, the manner and cause of death and has made recommendations concerning treatment and dispositions of the human remains to the person responsible for the excavation, or to his/her authorized representative. A similar note shall appear on the improvement plans.

## **Planning**

50. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the project applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.
51. Prior to issuance of a building permit, the developer shall pay the required commercial development school impact fee as prescribed by state law and as adopted by the Pleasanton Unified School District.
52. The proposed restaurant shall be relocated, operated and maintained in substantial conformance to the development plans and supportive materials, Exhibit A, dated "Received April 20, 2007" on file with the Planning Division. except as modified by the conditions of approval. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development.
53. Only gas fireplaces, pellet fueled wood heaters or EPA certified wood-burning appliances may be installed.
54. All conditions of approval shall be attached to all permit plan sets submitted for review and approval, whether stapled to the plans or located on a separate plan sheet.



55. Planning Division approval is required before any changes are implemented in site design, grading, building design, building colors or materials, green building measures, landscape material, etc.
56. Prior to occupancy, the landscape architect or landscape designer shall certify in writing to the Director of Community Development that the landscaping has been installed in accordance with the approved landscape and irrigation plans with respect to size, number, and species of plants and overall design concept.
57. The developer and future restaurant operator are encouraged to use reclaimed gray water, rain water, etc., for landscape irrigation. If used, the details shall be shown on the permit plan set to the satisfaction of the Director of Community Development before issuance of a building permit.
58. The developer and future establishment operator are encouraged to use best management practices for the use of pesticides and herbicides.
59. All demolition and construction activities, inspections, plan checking, material delivery, staff assignment or coordination, etc., shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. No construction shall be allowed on State or Federal Holidays or Sundays. The Director of Community Development may allow earlier "start times" or later "stop times" for specific construction activities, e.g., concrete pouring. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices. Prior to construction, the hours of construction shall be posted on site.
60. Campers, trailers, motor homes, or any other similar vehicle are not allowed on the construction site except when needed as sleeping quarters for a security guard.
61. A construction trailer shall be allowed to be placed on the project site for daily administration/coordination purposes during the construction period.
62. Portable toilets used during construction shall be kept as far as possible from existing residences and shall be emptied on a regular basis as necessary to prevent odor.
63. The project developer shall submit a pad elevation certification prepared by a licensed land surveyor or registered civil engineer to the Chief Building Official and Director of Community Development, certifying that the pad elevation and building location (setbacks) are pursuant to the approved plans, prior to receiving a foundation inspection for the structure

## Landscaping

64. The following statements shall be printed on to the site, grading, and landscape plans where applicable to the satisfaction of the Director of Community Development prior to issuance of a building permit:
- a. No existing tree may be trimmed or pruned without prior approval by the Director of Community Development.
  - b. No equipment may be stored within or beneath the driplines of the existing trees.
  - c. No oil, gasoline, chemicals, or other harmful materials shall be deposited or disposed within the dripline of the trees or in drainage channels, swales, or areas that may lead to the dripline.
  - d. No stockpiling/storage of fill, etc., shall take place underneath or within five feet of the dripline of the existing trees.
65. Prior to issuance of a grading or building permit, the project developer shall install a temporary six foot tall chain-link fence (or other fence type acceptable to the Director of Community Development) outside of the existing tree drip lines, as shown on the plans. The fencing shall remain in place until final landscape inspection by the Community Development Department. Removal of such fencing prior to that time may result in a "stop work order."

## Engineering

66. The haul route for all materials to and from this development shall be approved by the City Engineer prior to the issuance of a permit.
67. All dry utilities (electric power distribution, gas distribution, communication service, Cable television, street lights and any required alarm systems) required to serve the house shall be installed underground in conduit or in a joint utility trench unless otherwise specifically approved by the City Engineer.
68. Any damage to existing street improvements during construction on the subject property shall be repaired to the satisfaction of the City Engineer at full expense to the project applicant. This shall include slurry seal, overlay, or street reconstruction if deemed warranted by the City Engineer.
69. This approval does not guarantee the availability of sufficient water and/or sewer capacity to serve the project.
70. The project applicant and/or the project applicant's contractor(s) shall obtain an encroachment permit from the City Engineer prior to moving any construction equipment onto the site.

71. The project applicant shall include erosion control measures on the final grading plan, subject to the approval of the City Engineer. The project applicant is responsible for ensuring that the contractor is aware of such measures. All cut and fill slopes shall be revegetated and stabilized as soon as possible after completion of grading, in no case later than October 15. No grading shall occur between October 15 and April 15 unless approved erosion control measures are in place, subject to the approval of the City Engineer. Such measures shall be maintained until such time as permanent landscaping is in place.

72. Storm drainage swales, gutters, inlets, outfalls, and channels not within the area of a dedicated public street or public service easement approved by the City Engineer shall be privately maintained by the property owners or through an association approved by the City.

73. The project developer shall submit a dust control plan or procedure as part of the building permit plans.

### **Building**

74. All retaining walls higher than four feet from the top of the wall to the bottom of the footway shall be constructed of reinforced concrete, masonry, or other material as approved by the Director of Community Development, or shall be an approved crib wall type. Calculations signed by a registered civil engineer shall accompany the wall plans.

75. At the time of building permit plan submittal, the project applicant shall submit a final grading and drainage plan prepared by a licensed civil engineer depicting all final grades and on-site drainage control measures to prevent stormwater runoff onto adjoining properties.

### **Fire**

76. The project applicant shall keep the site free of fire hazards from the start of lumber construction until the final inspection.

77. Prior to any construction framing, the project applicant shall provide adequate fire protection facilities, including, but not limited to a water supply and water flow in conformance to the City's Fire Department Standards able to suppress a major fire.

78. Electrical conduit shall be provided to each fire protection system control valve including all valve(s) at the water connections. The Livermore-Pleasanton Fire Department requires electronic supervision of all valves for automatic sprinkler systems and fire protection systems.

79. All curbs located with a seven-foot, six-inch radius of a public/private fire hydrant shall be painted red, unless, modified by the Fire Chief. Blue street "hydrant markers" shall be installed for all fire hydrants per City of Pleasanton Standard Specifications.
80. All driveway aisles designated as fire lanes by the Fire Chief shall be maintained in accordance with Articles 9 and 10 of the Uniform Fire Code, which permits towing vehicles illegally parked on the fire lanes. Fire lane curbs shall be painted red with "No Parking, Fire Lane, Tow Away Zone" in white lettering on the curb, or shall be signed, "No Parking, Fire Lane, Tow Away Zone", as required by the California Vehicle Code.
81. A permit issued by the Fire Chief is required prior to any installation of a fire detection, alarm, and occupant notification system. All sprinkler system water flow and control valves shall be complete and serviceable prior to final inspection. Prior to the occupancy of a building having a fire alarm system, the Fire Department shall test and witness the operation of the fire alarm system.
82. All portions of the building covered by this approval shall have installed and operating, fire extinguishers with a minimum 2-A:10-B:C rating. The fire extinguishers shall be located within a 75-foot radius of each other.

## **URBAN STORMWATER CONDITIONS OF APPROVAL**

83. The project shall comply with the "Alameda Countywide NPDES Permit #CAS0029831 and amendments to this permit" issued the by California Regional Water Quality Control Board, San Francisco Bay Region, a copy of which is available at the Community Development Department, Public Works/Engineering section at City offices, Alameda County Clean Water Program and at State Water Board.

([http://www.waterboards.ca.gov/sanfranciscobay/board\\_info/agendas/2003/february/02-19-03-12finalto.doc](http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2003/february/02-19-03-12finalto.doc))

and

([http://www.waterboards.ca.gov/sanfranciscobay/board\\_info/agendas/2007/march/alameda%20final%20order%20r2-2007-0025.pdf](http://www.waterboards.ca.gov/sanfranciscobay/board_info/agendas/2007/march/alameda%20final%20order%20r2-2007-0025.pdf))

The project shall also comply with the "Construction General Permit" by the California Regional Water Quality Control Board, San Francisco Bay Region.

([http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml))

A. Design Requirements

1. The Permit design requirements include, but are not limited to, the following:
  - a. Source control, sight design measures, and design and implementation of stormwater treatment measures are required when commercial, industrial or residential development creates and replaces 10,000 square feet or more of impervious surface, including roof area, streets, and sidewalk.
  - b. The Permit requires a proactive Diazinon pollutant reduction plan (aka Pesticide Plan) to reduce or substitute pesticide use with less toxic alternatives.
2. The following requirements shall be incorporated into the project:
  - a. The project applicant shall submit a final grading and drainage plan prepared by a licensed civil engineer depicting all final grades and on-site drainage control measures including bio-swales. Irrigated bio-swales shall be redesigned as needed to the satisfaction of the City Engineer to optimize the amount of the stormwater running off the paved surface that enters the bio-swale at its most upstream end. This plan shall be subject to the review and approval of the City Engineer prior to the issuance of any building permits.
  - b. Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate and acceptable to the project soils engineer, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution.
    - Structures shall be designed to prohibit the occurrence and entry of pests into buildings, thus minimizing the need for pesticides.
    - Where feasible, landscaping shall be designed and operated to treat stormwater runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified. Soil shall be amended as required. (See planting guide line by Alameda County Clean Water Program.)
    - Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.

- Landscaping shall also comply with City of Pleasanton ordinances and policies regarding water conservation.
- c. Roof drains shall discharge and drain away from the building foundation. Ten percent of the stormwater flow shall drain to landscaped area or to an unpaved area wherever practicable.

B. Construction Requirements

The Construction General Permit's construction requirements include, but are not limited to, the following:

Construction activities (including other land-disturbing activities) that disturb one acre or more (including smaller sites that are part of a larger common plan of development) are regulated under the NPDES stormwater program. Operators of regulated construction sites are required to develop and implement stormwater pollution prevention plans and to obtain a construction general permit (NOI) from the State Water Resources Control Board to discharge stormwater.

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/docs/finalconstpermit.pdf](http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/finalconstpermit.pdf)

1. The project applicant shall submit a Stormwater Pollution Prevention Plan (SWPPP for review by the City Engineer/Chief Building Official prior to issuance of building or engineering permits. A reviewed copy of the SWPPP shall be available at the project site until engineering and building permits have been signed off by the inspection departments and all work is complete. A site specific SWPPP must be combined with proper and timely installation of the BMPs, thorough and frequent inspections, maintenance, and documentation. Failure to comply with the reviewed construction SWPPP may result in the issuance of correction notices, citations or stop work orders.
2. The amendments to the SWPPP and all the inspection forms shall be completed and available at the site for inspection by the city, county or state staff.
3. The project applicant is responsible for implementing the following Best Management Practices (BMPs). These, as well as any other applicable measure, shall be included in the SWPPP and implemented as approved by the City.
  - a. The project applicant shall include erosion control/stormwater quality measures on the final grading plan which shall specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to,

hydroseeding, hay bales, sandbags, and siltation fences and are subject to the review and approval of the City Engineer/Chief Building Official. If no grading plan is required, necessary erosion control/stormwater quality measures shall be shown on the site plan submitted for an on-site permit, subject to the review and approval of the Building and Safety Division. The project applicant is responsible for ensuring that the contractor is aware of and implements such measures.

- b. Gather all sorted construction debris on a regular basis and place it in the appropriate container for recycling; to be emptied at least on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater runoff pollution.
- c. Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement and storm drains adjoining the site. Limit construction access routes onto the site and place gravel on them. Do not drive vehicles and equipment off paved or graveled areas during wet weather. Broom sweep the street pavement adjoining the project site on a daily basis. Scrape caked-on mud and dirt from these areas before sweeping.
- d. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site in order to retain any debris or dirt flowing in the storm drain system. Maintain and/or replace filter materials to ensure effectiveness and to prevent street flooding.
- e. Create a contained and covered area on the site for the storage of cement, paints, oils, fertilizers, pesticides, or other materials used on the site that have the potential of being discharged into the storm drain system through being windblown or in the event of a material spill.
- f. Never clean machinery, equipment, tools, brushes, or rinse containers into a street, gutter, or storm drain.
- g. Ensure that concrete/gunite supply trucks or concrete/plaster operations do not discharge wash water into street, gutters, or storm drains.

### C. Operation Requirements

The Permit's operation and maintenance requirements include but are not limited to the following: The operation and maintenance of treatment measures including but not limited to bio-swales, lawns, landscaped areas

with deep-rooted plants, oil/water separator, filterra units, etc., requires completing, signing and recording an agreement with Alameda County recorder's office in a format approved by the State and Alameda County.

## **CODE REQUIREMENTS**

*(Applicants/Developers are responsible for complying with all applicable Federal, State and City codes and regulations regardless of whether or not the requirements are part of this list. The following items are provided for the purpose of highlighting key requirements.)*

### **Planning**

84. The permit plan check package will be accepted for submittal only after the ordinance approving the PUD development plan becomes effective, unless the project developer submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the ordinance is overturned or that the design is significantly changed. In no case will a permit be issued prior to the effective date of the ordinance.

### **Building**

85. The project applicant shall submit a building survey and/or record of survey and a site development plan in accordance with the provisions of Chapter 18.68 of the Municipal Code of the City of Pleasanton. These plans shall be approved by the Chief Building and Safety Official prior to the issuance of a building permit. The site development plan shall include all required information to design and construct site, grading, paving, drainage, and utilities.

86. The project applicant shall post address numerals on the building so as to be plainly visible from all adjoining streets or driveways during both daylight and night time hours.

87. The building covered by this approval shall be designed and constructed to meet Title 24 state energy requirements.

88. All building and/or structural plans must comply with all codes and ordinances in effect before the Building Division will issue permits.

### **Fire**

89. All construction shall conform to the requirements of the California Fire Code currently in effect, City of Pleasanton Building and Safety Division and City of Pleasanton Ordinance 2015. All required permits shall be obtained.



90. Automatic fire sprinklers shall be installed in all occupancies in accordance with City of Pleasanton Ordinance 2015. Installations shall conform to NFPA Pamphlet 13 for commercial occupancies NFPA 13D for residential occupancies and NFPA 13R for multifamily residential occupancies.
91. Fire alarm system shall be provided and installed in accordance with the CFC currently in effect, the City of Pleasanton Ordinance 2015 and 2002 NFPA 72 - National Fire Alarm Code. Notification appliances and manual fire alarm boxes shall be provided in all areas consistent with the definition of a notification zone (notification zones coincide with the smoke and fire zones of a building). Shop drawings shall be submitted for permit issuance in compliance with the CFC currently in effect.
92. City of Pleasanton Ordinance 2015 requires that all new and existing occupancies be provided with an approved key box from the Knox Company as specified by the Fire Department. The applicant is responsible for obtaining approval for location and the number of boxes from the Fire Prevention Bureau. Information and application for Knox is available through their website or the Fire Prevention Bureau. Occupant shall be responsible for providing tenant space building access keys for insertion into the Knox Box prior to final inspection by the Fire Department. Keys shall have permanent marked tags identifying address and/or specific doors/areas accessible with said key.

{end}

## EXHIBIT A-2

### Conditions of Approval PCUP-182 2001 Ruby Hill Boulevard

1. Condition No. 1 of CC Res. 07-132 for PCUP-182 is modified as follows:

*This PUD conditional use permit approval will lapse and shall be void on August 16, 2013, unless a building permit is issued and construction has commenced and is diligently pursued toward completion or an extension has been approved by the City.*

2. *To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorneys fees), action, or proceeding brought by a third party against the indemnified parties and the project applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.*
3. Except modified above, all conditions of approval listed in City Council Resolution No. 07-132 shall remain in full force and effect.

**ORDINANCE NO. 1956**

**AN ORDINANCE APPROVING THE APPLICATION OF BARNABAS NAGY FOR A PUD MAJOR MODIFICATION, AS FILED UNDER CASE PUD-93-02-09M**

**WHEREAS**, Barnabas Nagy has applied for a PUD major modification to the Ruby Hill PUD Development Plan to relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue, change the existing office use to restaurant use, and establish a pad location and design guidelines for a future single-family residence; and for a conditional use permit to allow alcoholic beverage service at the restaurant after 10:00 p.m., at the property located at 2001 Ruby Hill Boulevard; and

**WHEREAS**, zoning for the property is PUD-OS/A/LDR (Planned Unit Development – Open Space/Agriculture/Low Density Residential) District; and

**WHEREAS**, based on the Initial Environmental Study and pursuant to Resolution No. 07-133, the City Council adopted the Negative Declaration for the proposed project at its meeting of June 19, 2007; and

**WHEREAS**, pursuant to Resolution No. 07-132, the City Council approved the application of Barnabas Nagy for a conditional use permit to allow alcoholic beverage service at the restaurant after 10:00 p.m.; and

**WHEREAS**, the City Council received the Planning Commission's positive recommendations for approval of the PUD major modification for the subject site; and

**WHEREAS**, the City Council finds that the PUD major modification is consistent with the General Plan policies and the purposes of the PUD ordinance of the City of Pleasanton.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Approves Case PUD-93-02-09M, the application of Barnabas Nagy for a PUD major modification to the Ruby Hill PUD Development Plan to relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue, change the existing office use to restaurant use, and establish a pad location and design guidelines for a future single-family residence at the property located at 2001 Ruby Hill Boulevard, subject to the conditions shown on Exhibit B, attached hereto and incorporated herein by this reference.

**SECTION 2.** A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

**SECTION 3.** This ordinance shall be effective thirty (30) days after its passage and adoption.

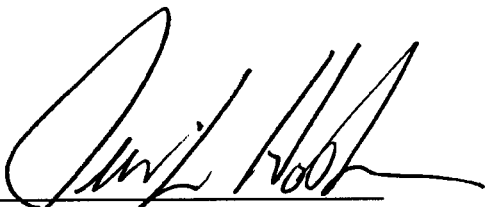
**ADOPTED** at a regular meeting of the City Council of the City of Pleasanton on July 17, 2007.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton on June 19, 2007 by the following vote:


Ayes: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
Noes: None  
Absent: None

And adopted at a regular meeting of the City Council of the City of Pleasanton on July 17, 2007 by the following vote:

Ayes: Councilmembers Cook-Kallio, McGovern, Thorne, Mayor Hosterman  
Noes: None  
Absent: Councilmember Sullivan

  
Jennifer Hosterman, Mayor

ATTEST:  
  
Karen Diaz, City Clerk

APPROVED AS TO FORM:  
  
Michael H. Roush, City Attorney

**EXHIBIT B  
CONDITIONS OF APPROVAL**

**PUD-93-02-9M, Barnabas Nagy  
2001 Ruby Hill Boulevard  
June 19, 2007**

**General Conditions:**

1. The proposed restaurant shall be relocated, operated and maintained in substantial conformance to the development plans and supportive materials, Exhibit A, dated "Received April 20, 2007" on file with the Planning Department, except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits. The applicant shall submit color samples for the review and approval of the Planning Director.
2. All conditions of Case PUD-93-02 shall remain in full force and effect unless otherwise modified herein, except that PUD-93-02 is modified to allow the operation of the restaurant covered by this approval as a conditionally permitted use.
3. The project developer shall obtain a building permit from the Building and Safety Division and any other applicable City permits for the project prior to the commencement of any construction.
4. The project developer shall pay any and all fees to which the property may be subject prior to issuance of building permits. Except for the sewage connection fees, the type and amount of the fees shall be those in effect at the time the building permit is issued. The sewage connection fees shall be paid to the City of Livermore. Evidence of the payment of these fees shall be provided to the Director of Building and Safety before issuance of the building permit. Because of the prior development Agreement covering the property, the project developer is exempt from paying the current City and regional traffic mitigation fees.
5. The proposed outdoor lighting for the subject property shall be of low intensity and shielded in order to minimize its visibility from off-site. Outdoor lighting shall also not glare onto adjacent properties or streets. Exterior lighting shall use the lowest wattage and shall limit the number of fixtures to attain the lowest luminosity. Fixtures shall be no greater than 14 feet in height, including any pedestal assembly, and shall be "shoebox" shielded standards or equal. The design of all lighting shall be reviewed and approved by the Planning Director. The lighting shall utilize photocells and timers to shut off lighting when the facility is not in use. The parking, building, and general site security lighting shall be the

minimum allowed by the Police Department. The applicant shall submit a photometric plan which shall include the following:

- Photometric calculations detailing all exterior security lighting,
  - Foot-candle calculations,
  - Fixture schedule, and
  - Cut sheets for light fixtures identifying the specific luminary and lamp manufacturer.
6. The PUD development plan modification and conditional use permit approvals will lapse and shall be void within two years following the effective date of the City Council approval, unless a building permit is issued and construction has commenced and is diligently pursued toward completion or an extension has been approved by the City.
  7. This approval does not guarantee the availability of sufficient water to serve the project. The City shall withhold building permits for the project if at the time building permits are applied for, mandatory water rationing is in effect, unless the City has adopted a water offset program and unless the project developer is participating in the program. Notwithstanding the project developer's participation in such a program, the City may withhold building permits if the City determines that sufficient water is not available at the time of application of building permits.
  8. Prior to issuance of a building permit, the project developer shall pay the applicable Zone 7 and City connection fees and water meter cost for any water meters, including irrigation meters. Additionally, the project developer shall pay any applicable Dublin San Ramon Services District (DSRSD) sewer permit fee.
  9. The building permit plan check materials will be accepted for submittal only after completion of the 15-day appeal period, measured from the date of the approval letter, unless the project developer submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the approval is overturned on appeal, or that the design is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the 15-day time-period.

**Planning Requirements:**

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10. All conditions of approval shall be written by the project developer on all building permit plan check sets submitted for review and approval or attached and become a part of this plan set. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must

be received before any changes are constituted in site design, building design, etc.

11. The project developer shall submit a waste management plan to the Building and Safety Division prior to issuance of building or demolition permits. The plan shall include the estimated composition and quantities of waste to be generated and how the project developer intends to recycle at least 50% of the total job site construction and demolition waste measured by weight or volume. Proof of compliance shall be provided to the Chief of Building and Safety prior to the issuance of a final building permit. During demolition and construction, the project developer shall mark all trash disposal bins "trash materials only" and all recycling bins "recycling materials only". The project developer shall contact Pleasanton Garbage Service for the disposal of all waste from the site.
12. The project developer shall prepare and record a metes and bounds description delineating the building envelope areas, including the entire event center and winery area covered by this application and the envelope area for the existing residence and three existing accessory buildings shown on the site plan. The metes and bounds description shall be prepared to the satisfaction of the City Engineer, shall be reviewed by representatives of the Tri-Valley Conservancy before its recordation, and shall then be recorded before occupancy of the buildings covered by this approval. In order to clearly demarcate these areas in the field, the project developer shall place brass property corners/hubs in conformance to the metes and bounds description before occupancy of the buildings covered by this approval.
13. The applicant shall submit a design review application for the future residence to staff. The design review process shall following the requirements specified in Chapter 18.20 of the Pleasanton Municipal Code.
14. The applicant shall submit sign details to the Planning Director for review and approval before installation.
15. Back-up generators shall not be allowed except in emergencies where products may be at risk of spoiling.
16. The placement of any portable restroom facilities for harvesting shall be located in a visually screened area and shall be reviewed and approved by the Planning Director. After the initial determination by the Planning Director, all future placements shall correspond to the prescribed location, unless otherwise approved.
17. The restaurant building, its surroundings, and the parking area shall be maintained in a professional manner at all times. If the site is not maintained in a professional manner and becomes a nuisance, at the discretion of the Planning Director, the City will initiate code enforcement actions. If the property owner

fails to conform, the City may take action to clean the site, and/or to remove the building, including but not limited to, placing a lien against the property to cover the costs of cleaning/removal.

18. Prior to the issuance of a building permit, the applicant shall implement mitigation measures as recommended in the Traffic Study, prepared by Dowling & Associates, dated "Received September 20, 2006" on file in the Planning Department, or as otherwise determined by the City Traffic Engineer.
19. Final inspection by the Planning Department is required prior to occupancy.
20. The design guidelines shall include that the development standards for the future residence shall follow those specified for the R-1-20,000 District with a maximum habitable area not to exceed 6,600 square feet and a 700-square-foot garage exemption.
21. The future home shall achieve a "green home" rating as specified in Alameda County Waste Management Authority's "Single-Family Green Building Rating System," current edition at the time of building permit submittal. A list of the green building measures shall be submitted in conjunction with the plans submitted for issuance of building permits and shall be subject to the review and approval by the Planning Director prior to issuance of building permits for the project.

**Building and Site Design Requirements:**

22. The driveway and parking area shall be surfaced with a decomposed granite material. Surfacing shall be completed before occupancy of the restaurant building and shall be maintained by the property owner/operator.
23. The project developer shall post address numerals on the building so as to be plainly visible from all adjoining streets or driveways during both daylight and night time hours.
24. The project developer shall effectively screen from view all ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or on the roof, with materials architecturally compatible with the main structure. The plans shall reflect the location of any above ground utilities to provide adequate review of screening. Roof mounted equipment shall be designed, installed, and maintained so that the equipment does not project above a horizontal plane established by the buildings perimeter roof. All screening details shall be shown on the plans submitted for issuance of building permits, the adequacy of which shall be determined by the Planning Director, and shall be provided prior to occupancy.



25. All trash and refuse shall be contained completely within enclosures architecturally compatible with the main structure. The materials and color of the enclosure walls shall match the building walls, and the gates shall be corrugated metal or solid wood. The design of the enclosures shall be shown on the plans submitted for issuance of building permits, subject to the approval of the Planning Director. Trash containers shall be stored within the enclosure at all times, except when being unloaded. Trash enclosures which are sized to contain dumpsters with an individual capacity of 1.5 cubic yards located within five feet of unprotected building openings, combustible walls, or combustible roof eaves shall be provided with an automatic fire sprinkler system.
26. The location of any pad-mounted transformers shall be subject to approval by the Planning Director prior to issuance of permits by the Building and Safety Division. Such transformers shall be screened by landscaping or contained within an enclosure matching the building and with corrugated metal gates. All transformers shall be shown on the plans submitted for issuance of building permits.
27. The approved building materials and colors shall be stated on the plans submitted for issuance of building permits.
28. All backflow prevention devices, above ground irrigation controls, and above ground irrigation meters shall be located and screened so as to minimize visual impacts. The location of all backflow prevention devices, above ground irrigation controls, and above ground irrigation meters and the quantity and type of proposed landscape screening shall be subject to the review and approval of the Planning Director prior to installation.

**Landscaping and Irrigation System Design and Operation:**

29. No trees shall be removed other than those specifically designated for removal on the approved plans or tree report. The project developer shall post cash, letter of credit, or other security satisfactory to the Planning Director in the amount of five thousand dollars (\$5,000) for each tree required to be preserved, up to a maximum of twenty-five thousand dollars (\$25,000). This cash bond or security shall be retained for two year following completion of construction and shall be forfeited if the trees are removed, destroyed, or disfigured. For trees that are removed, destroyed, or disfigured during construction, the applicant shall pay a fine in the amount equal to the appraised value of the subject tree. If the fine based on the appraised value of the tree(s) exceeds the bond amount, the applicant shall pay the difference between the bond and the appraised value of the subject tree(s).
30. The project developer shall enter into an agreement with the City, approved by the City Attorney, which guarantees that all landscaping and open space areas included in this project will be maintained at all times in a manner consistent with

the approved landscape plan for this development. Said agreement shall run with the land for the duration of the existence of the structures located on the subject property.

31. All trees used in landscaping be a minimum of 15-gallons in size and all shrubs a minimum of five gallons, unless otherwise shown on the approved landscape plan or otherwise approved by the Planning Director.
32. The project developer shall provide root control barriers and four-inch perforated pipes for parking lot trees and trees in planting areas less than 10-feet in width, as determined necessary by the Planning Director at the time of review of the final landscape plans.
33. Prior to occupancy, the landscape architect shall certify in writing to the Planning Director that the landscaping has been installed in accordance with the approved landscape and irrigation plans with respect to size, number, and species of plants and overall design concept.
34. The project developer shall adjust the sprinkler heads to redirect the water away from the monument sign if proposed, while ensuring complete irrigation coverage of the landscaping around the sign. All landscaping around the sign shall be restored after installation of the sign and prior to final of the sign permit.
35. The applicant shall follow the tree protection measures as stated in the tree report, on file as Exhibit A in the Planning Department. All tree protections measures shall be stated in the construction drawings prior to the issuance of a building permit.
36. The final landscape plan shall include planting at the existing sales office location after the building is relocated so that adequate planting would be provided until such time that the home is construction. Said plan is subject to the review and approval by the Planning Director, and the planting shall be complete prior to the occupancy of the restaurant.

**Building Permit Review:**

37. The buildings covered by this approval shall be constructed to meet Title 24 state energy requirements.
38. All building and/or structural plans must comply with all codes and ordinances in effect before the Building and Safety Division will issue permits.
39. The project developer shall submit a building survey and/or record of survey and a site development plan in accordance with the provisions of Chapter 18.68 of the Municipal Code of the City of Pleasanton. These plans shall be approved by the Chief Building Official prior to the issuance of a building permit. The site

development plan shall include all required information to design and construct site, grading, paving, drainage, and utilities. Specific items to be indicated on the site development plan necessary to construct the improvements are to be in accordance with the City of Pleasanton Private Development Design Guidelines adopted April 15, 1986.

40. A sanitary sewer-sampling manhole shall be provided on each of the sanitary sewer lateral from each building, unless otherwise waived by the Chief Building Official.
41. The project developer shall submit two copies of the site soils report to the Chief Building Official at the time plans are submitted for the first building plan check review. When deemed necessary by the Chief Building Official, a third party peer review of the soil report shall be completed. The City will select all third party peer reviewers. All third party peer reviews shall be paid for by the project developer at the time specified by the Chief Building Official.
42. The soils engineer shall certify the pad compactions of all lots containing fill to the satisfaction of the Chief Building Official prior to the issuance of building permits.

**Construction Requirements:**

43. All construction activities shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. In addition, no construction shall be allowed on federal holidays. The Planning Director may allow earlier "start-times" for specific construction activities (e.g., concrete-foundation/floor pouring), if it can be demonstrated to the satisfaction of the Planning Director that the construction and construction traffic noise will not affect nearby residents. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices.
44. At no time shall campers, trailers, motor homes, or any other vehicle be used as living or sleeping quarters on the construction site. All such vehicles shall be removed from the site at the end of each workday.
45. A temporary construction trailer shall be allowed on site during construction for use during the allowed hours of operation.
46. If archeological materials are uncovered during grading, trenching, or other on-site excavation, all work on site shall be stopped and the City immediately notified. The county coroner and the Native American Heritage Commission shall also be notified and procedures followed as required by the California Environmental Quality Act (CEQA). A similar note shall appear on the building permit plans.

47. Portable toilets used during construction shall be emptied on a regular basis as necessary to prevent odor and shall be located the furthest distance from the Ruby Hill homes.

**Fire Department Requirements:**

48. The project developer shall meet all requirements of the Pleasanton Fire Code (Pleasanton Municipal Code, Chapter 20.24).
49. The building covered by this approval shall be equipped with an automatic fire sprinkler system. Plans and specifications for the automatic fire sprinkler system shall be submitted to the Pleasanton Building and Safety Division for review and approval prior to installation. The fire alarm system, including waterflow and valve tamper, shall have plans and specifications submitted to Fire Prevention for review and approval prior to installation. All required inspections and witnessing of tests shall be completed prior to final inspection and occupancy of the building(s). The fire alarm system shall be monitored in accordance with the Pleasanton Municipal Ordinance #1778. The fire alarm system shall transmit zone information to a UL listed Central Station as specified in the Ordinance.
50. The project developer shall keep the site free of fire hazards from the start of lumber construction until the final inspection.
51. Prior to any construction framing, the project developer shall provide adequate fire protection facilities, including, but not limited to surface roads, fire hydrants, and a water supply and water flow in conformance to the City's Fire Department Standards able to suppress a major fire.
52. The Fire Chief and the Chief Building Official shall approve the number, type, and location of all private fire hydrants, if required.
53. All curbs located with a seven-foot, six-inch radius of a public/private fire hydrant shall be painted red, unless, modified by the Fire Chief. Blue street "hydrant markers" shall be installed for all fire hydrants per City of Pleasanton Standard Specifications.
54. All driveway aisles designated as fire lanes by the Fire Chief shall be maintained in accordance with Articles 9 and 10 of the Uniform Fire Code, which permits towing vehicles illegally parked on the fire lanes. Fire lane curbs shall be painted red with "No Parking, Fire Lane, Tow Away Zone" in white lettering on the curb, or shall be signed, "No Parking, Fire Lane, Tow Away Zone", as required by the California Vehicle Code.
55. A permit issued by the Fire Chief is required prior to any installation of a fire detection, alarm, and occupant notification system. All sprinkler system water flow and control valves shall be complete and serviceable prior to final

inspection. Prior to the occupancy of a building having a fire alarm system, the Fire Department shall test and witness the operation of the fire alarm system.

56. All portions of the building covered by this approval shall have installed and operating, fire extinguishers with a minimum 2-A:10-B:C rating. The fire extinguishers shall be located within a 75-foot radius of each other.
57. The applicant shall submit the design of the EVA gate to the Fire Marshall for review and approval prior to the issuance of a building permit.
58. The applicant shall show turning radius details on the parking lot circulation plan for the review and approval by the Fire Marshal. The driveway shall be designed to hold the load of loaded fire truck, and is subject to the review and approval by the Fire Marshal prior to the issuance of a building permit.
59. The applicant shall provide a fire hydrant for the proposed development. The details of the fire hydrant shall be submitted to the Fire Marshal for review and approval prior to occupancy.

**Engineering Requirements:**

60. The applicant shall submit a detailed sanitary sewer design for the review and approval by the City Engineer prior to issuance of a building permit.
  61. All utilities required to serve the proposed development on-site shall be installed underground.
  62. The project developer shall submit a refundable cash bond for hazard and erosion control prior to issuance of an Engineering or Building and Safety Division permit. The amount of this bond will be determined by the City Engineer.
  63. The haul route for all materials to and from this development shall be approved by the City Engineer prior to the issuance of an encroachment permit.
  64. The project developer shall submit a dust control plan or procedure as part of the building permit plans.
  65. Storm drainage swales shall be privately maintained by the property owner.
- 
66. The design of the water supply systems shall be subject to the review and approval of the City Engineer.
  67. Any damage to existing public streets during construction on the subject property shall be repaired to the satisfaction of the City Engineer at full expense to the

project developer. This shall include slurry seal, overlay, or street reconstruction if deemed warranted by the City Engineer.

68. The project developer's contractor(s) shall obtain an encroachment permit from the City Engineer prior to moving any construction equipment onto the site.

**Urban Stormwater Runoff Requirements:**

**Stormwater Design Requirements**

69. The project shall comply with the Alameda Countywide NPDES Permit #CA50029831, a copy of which is available at the City offices.
70. The following requirements shall be incorporated into the project:
- a) The project developer shall submit a final grading and drainage plan prepared by a licensed civil engineer depicting all final grades and on-site drainage control measures. This plan shall be subject to the review and approval of the City Engineer prior to the issuance of any building permits.
  - b) The project developer shall submit sizing design criteria to treat stormwater runoff at the time of plan submittal.
  - c) Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution.
    - 1) Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides.
    - 2) Where feasible, landscaping shall be designed and operated to treat stormwater runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified. Soil shall be amended as required.
    - 3) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
    - 4) Landscaping shall comply with City of Pleasanton ordinances and policies regarding water conservation.
-

- d) Trash areas, dumpsters, and recycling containers shall be enclosed and roofed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal. These areas shall not drain to the storm drain system, but to the sanitary sewer system and an area drain shall be installed in the enclosure area, providing a structural control such as an oil/water separator or sand filter. No other area shall drain into the trash enclosure; a berm shall be installed to prevent such drainage if found necessary by the City Engineer/Chief Building Official. A sign shall be posted prohibiting the dumping of hazardous materials into the sanitary sewer. The project developer shall notify the Dublin-San Ramon Services District (DSRSD) upon installation of the sanitary connection; a copy of this notification shall be provided to the Planning Department.
- e) Prior to grading permit issuance the project developer shall submit a copy of the State Water Resources Control Board Notice of Intent (NOI) for coverage under the State Construction Storm Water General Permit for projects with clearing, grading and excavation exceeding the current standards.

#### **Stormwater Construction Requirements**

- 71. The project development shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the City Engineer prior to issuance of building or grading permits. Failure to comply with the approved construction SWPPP may result in the issuance of correction notices, citations or stop work order. The following construction Best Management Practices (BMPs), as well as any other applicable measure, shall be included in the SWPPP and implemented as approved by the City.
- 72. The project developer is responsible for implementing the following measures during all construction phases of the project:
  - a) The project developer shall include erosion control/storm water quality measures on the final grading plan which shall specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydroseeding, hay bales, sandbags, and siltation fences and are subject to the review and approval of the City Engineer/Chief Building Official. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to the review and approval of the Chief Building Official. The project developer is responsible for ensuring that the contractor is aware of and implements such measures.

- b) Gather all construction debris on a regular basis and place it in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water runoff pollution.
- c) Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement and storm drains adjoining the site. Limit construction access routes onto the site and place gravel on them. Do not drive vehicles and equipment off paved or graveled areas during wet weather. Broom sweep the street pavement adjoining the project site on a daily basis. Scrape caked-on mud and dirt from these areas before sweeping.
- d) Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site in order to retain any debris or dirt flowing in the storm drain system. Maintain and/or replace filter materials to ensure effectiveness and to prevent street flooding.
- e) Create a contained and covered area on the site for the storage of bags, cement, paints, oils, fertilizers, pesticides, or other materials used on the site that have the potential of being discharged into the storm drain system through being windblown or in the event of a material spill.
- f) Never clean machinery, equipment, tools, brushes, or rinse containers into a street, gutter, or storm drain.
- g) Ensure that concrete/gunite supply trucks or concrete/plaster operations do not discharge wash water into street, gutters, or storm drains.

**73. Stormwater Operation Requirements**

The project, unless otherwise determined by the City Engineer or Chief Building Official, shall enter into a recorded Stormwater Treatment Measures Inspection and Maintenance Agreement for ongoing maintenance and reporting of required stormwater measures. These measures may include, but are not limited to:

- a) On-site storm drain inlets clearly marked and maintained with the words "No Dumping – Drains to Bay."
  - b) Proper maintenance of landscaping, with minimal pesticide and fertilizer use.
- 
- c) Ensure wastewater from vehicle and equipment washing operations is not discharged to the storm drain system.
  - d) Ensure that no person shall dispose of, nor permit the disposal, directly or indirectly, of vehicle fluids, hazardous materials or rinsewater from cleaning tools, equipment or parts into storm drains.



- e) Clean all on-site storm drains at least twice a year with one cleaning immediately prior to the rainy season. The City may require additional cleanings.
- f) Regularly but not less than once a month, sweep driveways, sidewalks and paved areas to minimize the accumulation of litter and debris. Corners and hard to reach areas shall be swept manually. Debris from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wastewater containing any soap, cleaning agent or degreaser shall not be discharged into the storm drain.

*{end}*

**RESOLUTION NO. 07- 132**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PLEASANTON, APPROVING A CONDITIONAL USE PERMIT FOR BARNABAS NAGY, AS FILED UNDER CASE PCUP-182**

**WHEREAS**, Barnabas Nagy has applied for a PUD major modification to the Ruby Hill PUD Development Plan to relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue, change the existing office use to restaurant use, and establish a pad location and design guidelines for a future single-family residence; and for a conditional use permit to allow alcoholic beverage service at the restaurant after 10:00 p.m., at the property located at 2001 Ruby Hill Boulevard; and

**WHEREAS**, zoning for the property is PUD-OS/A/LDR (Planned Unit Development – Open Space/Agriculture/Low Density Residential) District; and

**WHEREAS**, a duly noticed public hearing was held before the City Council on June 19, 2007, at which time all pertinent testimony and documents were received; and

**WHEREAS**, the City Council determined that the proposed conditional use permit is consistent with the approval of similar use permits for other similar projects.

**NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES RESOLVE, DECLARE, DETERMINE, AND ORDER THE FOLLOWING:**

**SECTION 1.** Approves Case PCUP-182, the application of Barnabas Nagy for a conditional use permit to allow alcoholic beverage service after 10:00 p.m., at the restaurant to be located at 2001 Ruby Hill Boulevard, subject to the conditions of approval shown on Exhibit B, attached hereto and incorporated herein by this reference.

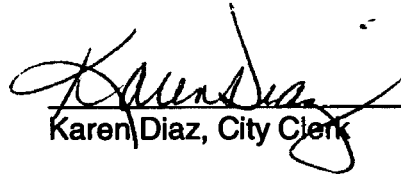
**SECTION 2.** This resolution shall become effective upon the effective date of Ordinance No. 1956.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Pleasanton at a regular meeting held on June 19, 2007.


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I, Karen Diaz, City Clerk of the City of Pleasanton, California, certify that the foregoing resolution was adopted by the City Council at a regular meeting held on the 19<sup>th</sup> day of June 2007, by the following vote:

Ayes: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
Noes: None  
Absent: None

  
Karen Diaz, City Clerk

APPROVED AS TO FORM:

  
Michael H. Roush, City Attorney

**EXHIBIT B  
CONDITIONS OF APPROVAL**

**PCUP-182, Barnabas Nagy  
2001 Ruby Hill Boulevard  
June 19, 2007**

1. Approval of this conditional use permit shall be contingent upon approval of the PUD development modification, Case No. PUD-93-02-09M.
2. The operation of the proposed restaurant shall be in substantial conformance to the written narratives, dated "Received April 20, 2007" on file in the Planning Department, except as modified by the following conditions. Minor changes to the operation may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits.
3. The proposed facility shall conform to the following hours of operations:

Dining Hours:

Sunday- Thursday: 6:00 p.m. to 10:00 p.m.

Friday/Saturday, and the day  
before a federal holiday: 6:00 p.m. to 11:00 p.m.

Private Functions:

Daily: 11:00 a.m. – 5:00 p.m.

Any outdoor-related events shall conclude by no later than 9:00 p.m. daily. Additional hours and activities beyond that stated may be approved by the Planning Director if found to be in substantial conformance with the approval. The Planning Director may also refer the matter to the Planning Commission if the proposed changes would be significant.

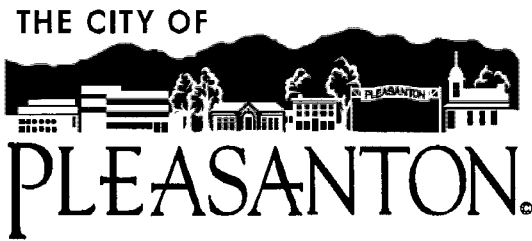
4. Valet parking shall be provided during private functions and shall not block or impede any emergency vehicle access.

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5. Acoustic-only, non-amplified music /voice accompaniment, e.g. acoustic guitar or piano, shall be allowed outside the building. A string quartet shall also be allowed to play outside the building.
6. Amplified musical instruments and DJ's shall only allowed indoors.

7. All exterior doors and windows shall be closed, but not locked, at all time during the events.
8. Terrace dining shall be strictly seasonal and weather permitting. Special light will be allowed but must not be a nuisance and may only be used during dining hours.
9. If operation of this use permit results conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Planning Director, this conditional use permit may be referred to the planning Commission for subsequent review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.
10. The applicant shall obtain all necessary approvals from the Department of Alcoholic Beverage Control prior to serving alcohol.
11. Prior to start of employment, employees that serve alcohol shall undergo a training program such as TIPS (Training for Intervention Procedures) that is designed to prevent intoxication, underage drinking, and drunk driving.
12. A full menu shall be available for patrons of the restaurant during the operating hours and when alcoholic beverages are served.

*{end}*



**Planning Commission  
Staff Report**

May 9, 2007  
Item 6.b.

**SUBJECT:** PUD-93-02-09M/PCUP-182

**APPLICANT/  
PROPERTY OWNER:** Barnabas and Arpad Nagy

**PROPOSAL:** Applications for a major modification to the Ruby Hill PUD development plan to: 1) relocate the existing sales office toward Vineyard Avenue, 2) change the existing use from office to a restaurant, and 3) establish a pad location for a future single-family residence with design guidelines, and for conditional use permit to allow alcoholic beverage service at the restaurant after 10:00 p.m. Also Consider the Negative Declaration prepared for this project.

**GENERAL PLAN:** Agriculture and Grazing and Urban Growth Boundary Line.

**ZONING:** PUD (Planned Unit Development) – A/OS/LDR (Agriculture/Open Space/Low Density Residential) District.

**LOCATION:** 2001 Ruby Hill Boulevard

**ATTACHMENTS:**

1. Exhibit A: Written Narratives, Site Plan, Floor Plans, Building Elevations, Landscaping Plan, Design Guidelines, dated “Receive April 20, 2007”, Arborist Report, dated “Received April 27, 2007”, Traffic Report, dated “Received September 20, 2006”
2. Exhibit B-1: Proposed Conditions of Approval for PUD-93-02-09M
3. Exhibit B-2: Proposed Conditions of Approval for PCUP-182
4. Exhibit C: Letter from Peter MacDonald, dated “Received April, 2, 2007”
5. Exhibit D: Tri-Valley Conservancy Letter
6. Exhibit E: South Livermore Valley Area Plan

7. Exhibit F: Deed of Perpetual Agricultural Conservation Easement
  8. Exhibit G: Comments from Ruby Hill HOA and resident
  9. Exhibit H: Negative Declaration
  10. Location Map
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## **BACKGROUND**

The subject site is located within the Ruby Hill Planned Unit Development (PUD-93-02). The overall development was originally approved by Alameda County prior to its annexation to the City of Pleasanton in 1993. Development of the site is subject to the County's planned development conditions of approval, the Ruby Hill Development Agreement, the South Livermore Valley Area Plan policies, and conformance to the Conservancy Easement with Tri-Valley Conservancy requirements. An existing conservation easement limits the amount of land not in grape production to a maximum of 2.5 acres.

Existing uses on the site are planted grapes and an existing two-story building previously used as the Ruby Hill sales office. Permitted uses within the 2.5-acre conservation easement include but are not limited to: homes, wineries, tasting rooms, restaurants, and lodging.

Signatures Properties, Inc. was the developer of Ruby Hill. In February 1994, a building permit was issued for the construction of a two-story to be used as a temporary sales office and information center for the Ruby Hill development. The access to and from the sales office is via Ruby Hill Boulevard, and the sales office is connected to the City sewer via a private sewer line and private sewer pump located under Ruby Hill Drive.

The applicant, Mr. Nagy, proposes to convert the existing sales office to a restaurant. Mr. Nagy has requested a major modification of the Ruby Hill development plan to create a future home site. He is also requesting consideration of a conditional use permit to allow alcohol sales after 10:00 p.m.

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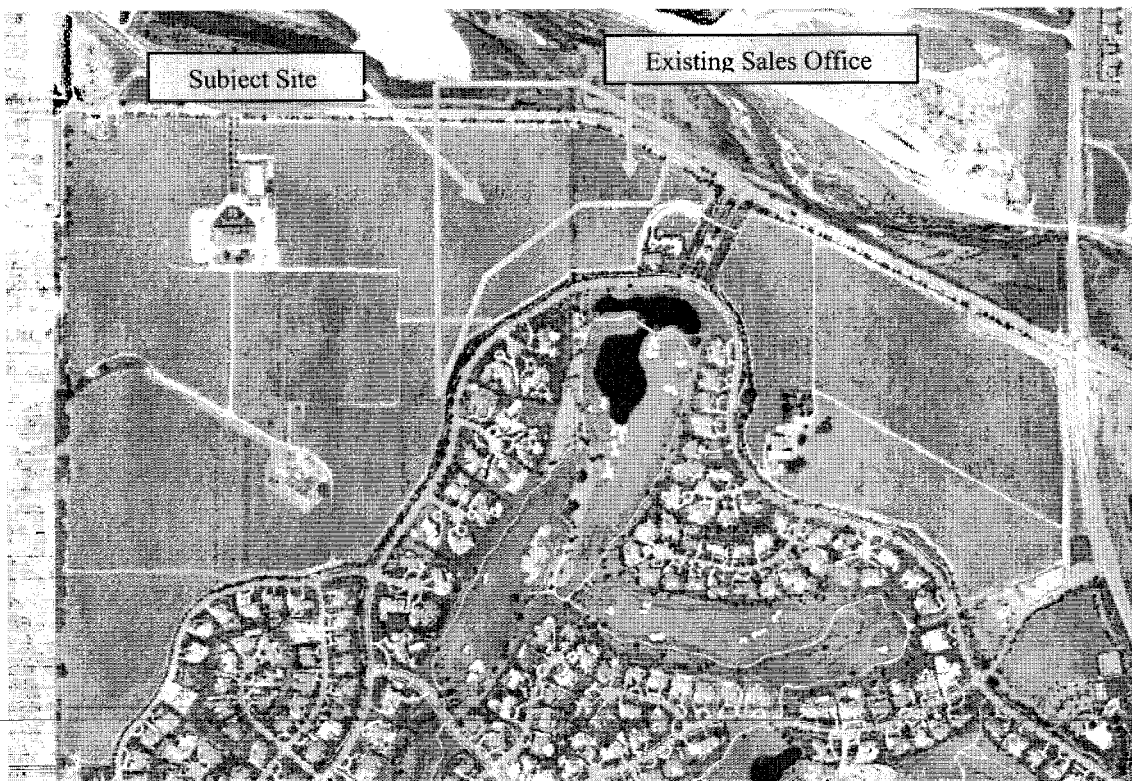
Major modifications are subject to review by the Planning Commission and by the City Council. Conditional Use Permit normally is subject to the approval by the Planning Commission. Since the proposed modification focuses on the restaurant use, staff thought it is necessary to have use permit be reviewed together with the PUD modification.

## SITE DESCRIPTION

The subject site is a relative flat site located on the south side of Vineyard Avenue between the Mitchell Katz Winery and the signalized entrance to Ruby Hill. It is approximately 36 acres in size, a vineyard property, planted by Signature Properties with Ruby Hill development and operated by Wente Brothers. Access to the site is provided by an existing driveway from Ruby Hill Boulevard before the entrance kiosk. A seasonal drainage channel running in a north-south direction bisecting through the property.

Surrounding uses are listed as the following:

North:	Gravel Quarries (Alameda County)
East:	Commercial (City of Livermore)
South:	Vineyards and Ruby Hill Development
West:	Vineyards and Ruby Hill Development



**Site Location**



## PROJECT DESCRIPTION

The applicant proposes to modify the approved Ruby Hill Development plan to allow a restaurant use and to allow a building envelope for a future residence. Specifically the proposal includes the following:

- \* Change the existing use of the building from sales office to restaurant;
- \* Relocate the existing two-story, approximately 4,200-square-foot building toward Vineyard Avenue and to the east side of the seasonal drainage channel;
- \* Create basement area for use as a wine cellar;
- \* Construct a new driveway off Vineyard Avenue and a parking lot with 91 parking spaces exclusively for the restaurant use;
- \* Remodel the building interior and operate a restaurant that serves dinner to the public daily and holds private functions during non-dinner hours;
- \* Allow consumption of alcoholic beverages at the restaurant after 10:00 p.m.;
- \* Establish a building envelope at the sales office building location for the construction of a future residence; and,
- \* Review the proposed design guidelines for the future home.

When relocated, the building would be situated approximately 180 feet from Vineyard Avenue. It would be oriented northeasterly with the entryway directly facing the new driveway on Vineyard Avenue. A roundabout would be constructed in the front of the building to be used as a drop-off site for valet parking. The roundabout area will feature a fountain and decorative landscaping. The exterior of the building would remain as it currently is. The existing terrace area at the back of the building would be used primarily as the outdoor dining area when weather permits. This outdoor dining area would face southwest toward the vineyard, away from the existing residential properties at Ruby Hill. In addition to the terrace, the applicant proposes a courtyard located to the immediate south of the building. The proposed courtyard would be used exclusively during private functions. It would not be used as restaurant seating area.

The proposed restaurant would be open daily as follows:

- Sunday -Thursday: 9:00 a.m. to 10:00 p.m.
- Friday/Saturday, and the day before a Federal holiday: 9:00 a.m. to 11:00 p.m.

The applicant also proposes to host private functions at the restaurant. These functions may include weddings, corporate events, etc. In order to offset any scheduling conflict and any potential impacts to the restaurant patrons, Ruby Hill residents, and the public in general, the

private functions would take place during non-dining hours, i.e. between the hours of 10 a.m. to 5 p.m.

The dining area within the restaurant would be provided on both the ground and the upper floors. An elevator would be installed to provide access to those in need. At full capacity, the restaurant could accommodate 230 people, with 180 seats within the restaurant and 50 seats in the terrace area. A parking lot is proposed to the east of the site entrance. It would have a total of 100 parking spaces for restaurant staff and patrons.

Acoustic music would be played inside the restaurant and in the garden during private functions.

There would be no changes to the existing landscaping along Vineyard Avenue, except that the landscaping at the proposed entryway would be removed. The proposed landscaping scheme could be categorized as “perimeter landscaping” and “focused landscaping”.

A building pad for a future residence is also part of the application. The proposed residential building pad is the current location of the sale office building. Access to and from the proposed residence would be via the existing driveway off Ruby Hill Boulevard. To prevent restaurant patrons from entering the restaurant from Ruby Hill Boulevard, a gate would be installed at the end of the parking. This gate however would be accessible by emergency vehicles when needed.

Signage for the restaurant consists of a freestanding sign located at the entryway. The sign would be made of tempered glass with etched lettering.

The design elements of the future residence are listed in the proposed design guidelines. The home would be a Tuscan style home blending into the vineyard setting.

## **ANALYSIS**

### **General Plan and Land Use**

The subject site is designated by the Land Use Element of the Pleasanton General Plan for Agriculture and Grazing uses. The General Plan for this area encourages uses which relate to the outlying wine country and calls for creating an attractive gateway to the Livermore Valley wine country and implementing wine country architectural and landscape design themes throughout the corridor. The Vineyard Avenue Specific Plan contains similar land use objectives to encourage development of vineyard and related commercial uses.

The restaurant use is one of the uses allowed within the conservation easement area. It is an appropriate use for this site as it is closely affiliated with the vineyards and will retail some of the local wines. Restaurants are often located in the wine-growing regions and, as such, would promote local economy and would attract tourism. This is consistent with one of the policies of the South Livermore Valley Area Plan, adopted by Alameda County in 1993, which encourages the promotion of the area as a premier wine-producing center by encouraging appropriate tourist attractions and supporting uses such as the proposed event center and winery.

The proposal includes one future home site for a Tuscan style single-family residence. Ruby Hill was allotted to a housing cap of 850 residential units. In the past, two residential lots were combined into one for the construction of one single-family home, bringing the total residential lots in Ruby Hill from the original 850 lots to 849. The proposed home site for a single-family residential unit would bring the total number of unit back to the housing cap and is therefore in conformance the Ruby Hill PUD.

### **South Livermore Valley Agricultural Land Trust/Tri-Valley Conservancy**

The subject site is covered by an agricultural conservation easement granted to the Tri-Valley Conservancy (TVC), formerly South Livermore Valley Agricultural Land Trust (SLVALT). This proposal was reviewed and supported by the Board of Directors of TVC. The conservation easement benefiting the TVC limits the non-vineyard use to a total of 2.5-acres of building envelope area. The building envelope is required to be one continuous piece, i.e. the restaurant area and the future home site would need to be linked via a driveway. The building envelope area includes the restaurant location, parking lot and area surrounding the restaurant, the patio area to the west of the restaurant building, the building area for a future residence and the driveway access to the home. The TVC requested that the applicant amend the conservation easement to clearly describe both building envelope, and the building envelope should be physically demarcated from the vineyard areas. As conditioned, the applicant would amend the easement by preparing and recording a metes and bounds description of the building envelope, and would then monument the property corners.

### **Fees**

Ruby Hill development, including the subject site, is not part of the Vineyard Avenue Corridor Specific Plan area. By prior development agreement, the proposed development is not subject to the Citywide and area wide traffic mitigation fees. The applicant would be required to pay all required City fees, such as swage fee, traffic mitigation fee, etc. for this development. A condition of approval has addressed this issue.

## Site Design

The proposed development has been reviewed by the Ruby Hill HOA at two separate meetings, and by a group of Ruby Hill homeowners whose homes might be the closest ones to the subject site on many occasions. The original proposal was to convert the existing sales office to a restaurant the existing location. The proposal included the outdoor dining area which created concerns from the neighboring Ruby Hill residents. The concerns were related to noise, lighting, parking, and utility service infrastructure.

In response to the residents' concerns, the applicant proposes to relocate the building from the current location, and to orient the building northeasterly so that the terrace dining area at the rear of the building would face the vineyards and the Palm Event Center to the west instead of facing the residential sites to the south. The proposed location is the furthest location possible from the existing residential uses so that all development would be contained within the allocated 2.5-acre area meanwhile not to disturb the existing drainage channel. The intention for this site design is to use the existing vineyard to separate the commercial use from the residential use, and to use the existing vineyard to shield any light and glare from vehicles at night.

The existing sales office location would be reserved for use as future home site.

## Building Design

Restaurant Building: No significant changes are proposed to the exterior of the existing sales office building which will be relocated adjacent to Vineyard Avenue. This building is an existing two-story building with one terrace area on the front and one at the rear. The front terrace has steps and a ramp to lead to the restaurant. A valet zone is located near the front terrace, and a fountain is decorated with a formal knot garden. They together form a welcoming entry to the restaurant. The rear terrace would be enlarged on the sides to provide a comfortable seating area for up to 50 people. A courtyard area would be established, and this courtyard area would wrap around the rear terrace. A five-foot high old brick-and-stone wall would be constructed to at the southeast edge of the courtyard to separate the courtyard/terrace area from the existing vineyard.

A full basement would also be constructed to provide for a wine cellar and storage area.

The existing floor plan would be changed to accommodate a restaurant. The first floor would include a lounge, open dining, a piano area, kitchen, restrooms, and a banquet room. The second floor would be used primarily for dining and banquet use. The second floor has a small office area along with public restroom facility. Access to the second floor would be via two separate staircases, one for patrons and one for staff use. An elevator is also provided.

Future Residence: A building pad for a future residence is part of this application. The applicant has included design guidelines for a Tuscan style home. The design guidelines include a conceptual site plan that shows a U-shaped house with an interior courtyard facing east. The home would have S-type or similar style roof tiles in terracotta, stucco walls with stone veneer and wood framed doors and windows. The design guidelines specify the details for window trims, porches, eaves, etc. In addition the design guidelines include samples of homes that exhibit typical features of a Tuscan style home.

Great detail related to window treatments, color and stucco finish texture etc. would be reviewed during the design review process. Staff recommends this design review process be a Zoning Administrator review.

### **Parking**

The Parking Ordinance requires one parking space for three seats in the dining area. It does not require parking for outdoor dining, as outdoor dinner is considered seasonal. At such, the proposed 180-seat dining area within the restaurant, it requires 60 parking spaces ( $180/3=60$ ).

If the restaurant would host a banquet for special event, the maximum occupancy would be 180 people. This would be a parking demand of 90 people assuming that two people travel together. The proposed 100-space parking lot would have adequate capacity to handle the parking demand for either use.

The driveway to the restaurant and the parking area would have a permeable surface, such as pavers, cobble stone, turf, etc. to allow water to percolate through to meet the storm water management requirements. Handicap spaces would be provided near the restaurant entrance to meet the requirement of ADA and would likely require impervious pavement material.

The parking lot would be located along Vineyard Avenue and Ruby Hill Boulevard. The existing vineyards would screen the parking area, and help provide a seamless vineyard visual presence.

The residential site would continue to be accessed from Ruby Hill Boulevard.

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Ruby Hill residents expressed various concerns relating to: 1) potential traffic congestion at the right turn lane on Vineyard Avenue onto Ruby Hill Boulevard; 2) potential traffic congestion on Ruby Hill Boulevard that may impede residential traffic, and 3) potential safety issues resulting from ingress and egress traffic.

The applicant has redesigned the site to mitigate the traffic concerns by proposing a new driveway from Vineyard Avenue exclusively for the restaurant. The existing driveway at Ruby Hill Boulevard would be used to access the proposed home site, and it would be used as an Emergency Vehicle Access (EVA). As conditioned, the applicant is required to install a gate at the eastern end of the parking lot. The specification of this gate should meet Fire Department requirements.

## **Traffic**

The project was initially proposed as a restaurant facility that could accommodate approximately 300 people at one time. This capacity has generated concerns of possible vehicular trips on Vineyard Avenue if functions at the other nearby facilities were held around the same time. Thus, a traffic study was performed by Dowling and Associates to investigate the trip volume on Vineyard Avenue and the potential impacts on Vineyard Avenue and at various intersections. The study showed that the proposed facility would add trip volume to the existing traffic; however, the anticipated increase would not be significant. The report found that the proposed driveway on Vineyard Avenue is appropriate and that it would provide safe stacking distance, and deceleration for vehicle's ingress and egress. The report recommends mitigation measure to offset traffic congestion.

The City Traffic Engineer has reviewed the traffic report prepared by Dowling and Associates, and concurred that the proposed restaurant would not have significant impacts existing traffic.

## **Circulation**

Private functions would be held at non-peak hours, therefore, anticipated traffic would be lessened. The proposed driveway located at approximately 500 feet west of the Vineyard Avenue/Ruby Hill Boulevard T-section provides a safe distance for vehicles exiting the restaurant site. To facilitate efficient site access for traffic on Vineyard, the City Traffic Engineer requires that the applicant install a left-turn pocket on Vineyard Avenue for westbound traffic entering the site and a deceleration lane for traffic exiting the site. As conditioned, the applicant is required to construct these improvements prior to opening of the restaurant.

## **Noise**

Staff understands that the noise from outdoor activities is a concern of the Ruby Hill residents. For this reason, there is a general prohibition for outdoor music events/performances taking place in the courtyard, dining terrace, or any other outdoor area at the facility. Staff, however, believes that private functions, such as weddings and similar events, should be allowed to take place outdoor such as in the courtyard area to take advantage of the scenery. Staff believes it is

reasonable to request that acoustic-only music /voice accompaniment, e.g. acoustic guitar or piano, would be appropriate. Staff also believes that at such functions, it would be appropriate to include a string quartet. As proposed, outdoor functions would only take place from 10:00 a.m. to 5:00 p.m. As conditioned, all events taking place at the restaurant must conclude operation by 11:00 p.m. The outdoor dining area would be required to conclude prior to 9:00 p.m. The proposed hours, acoustic restrictions, and the distance from the facility to the residential sites would mitigate any of the perceived negative impacts Ruby Hill residents.

Acoustical and amplified music instruments, or a DJ are proposed for indoor events. Staff believes that any noise concerns would be mitigated through requiring windows and doors remain closed, but not locked, during business hours.

Terrace dining is strictly seasonal. There would be no heating lamps or light provided specifically for outdoor dining.

### **Easements**

Mr. Peter MacDonald, attorney for the applicant, sent the City a letter on April 2, 2007, asserting that the Nagys have both a roadway and sewer easement for the benefit of 2001 Ruby Hills Boulevard.

Sewer Easement: Mr. MacDonald's letter states that when the sales office was constructed, because of gravity, sewer at the sales office was and still is connected to public sewer via a private sewer line and pump station located under Ruby Hill Drive. At that time, the owner, Signature, obtained a permit from the City for the sales office for 332 gallons per day of sewer capacity.

Mr. MacDonald further asserts that the private sewer line and pump station were included in the improvement plan for Ruby Hill development (Tract 6452). As such, the subject site has the rights to continue to use the private sewer line and the pump station. The rights of which, however, would be limited to the established sewer capacity of 332 gallons, which would not be sufficient for the restaurant use; but is adequate for the future residence.

The applicant proposes a separate sewer line for the restaurant use. This sewer line would be connected to the City's sewer main at Vineyard Avenue and Saffreno Way (near Fire Station No. 5). In order to overcome the uphill slope situation, the project engineer, RJA, proposes a forced main design. The City Engineer agrees with this plan in concept but will need design details to be submitted for review and approval prior to the issuance of a building permit. A condition has been included to address this issue.

Access Road Easement: In April 1994, the developer of Ruby Hill granted several private streets in Ruby Hill development, including Ruby Hill Boulevard, to the Ruby Hill Homeowners Association. Mr. MacDonald asserts that the subject site has a private easement for ingress and egress over Ruby Hills Boulevard. His letter states that “[t]hough such rights do not need to be perfected by usage, Signature’s use of Ruby Hills Blvd for ingress and egress from 2001 Ruby Hills Blvd further affirms the existing easement rights.” For these reasons, he asserts that the future residence has the right to use Ruby Hills Boulevard for ingress and egress.

## **Signage**

A monument sign would be installed at the entrance to the restaurant fronting Vineyard Avenue. The sign would be tempered glass etched with the restaurant name “Liliom”. The glass would be set in a pedestal, clad in limestone. Lighting would be provided from the slot where the glass

inserted into the limestone. The concept of the sign is modern, and would be consistent with the proposed gourmet restaurant. Staff believes the concept is appropriate; however, additional detail is needed. As conditioned, the applicant is required to submit a revised sign proposal with details for review and approval by the Planning Director.

## **Arborist Report**

HortScience Inc. surveyed and evaluated thirty-five (35) trees on site. Among them, 20 trees are located near the proposed home site, and the remaining 15 trees are at the proposed restaurant location. The trees represent five species; Coast live oak, London plane and Callery pear are among them. None of the trees are heritage-sized trees. The report states that 71% (20 trees) are in a good condition and the rest are in a moderate condition. The report recommends the removal of five trees (three London plane and two coast live oak) to accommodate the proposed driveway and the building relocations. The appraised values for these five trees are approximately \$5,540. As conditioned, the applicant is required to pay for the loss these trees at the appraised value.

## **Landscaping**

New landscaping would consist of olive trees, palms, crape myrtle, and Italian cypress with various color shrubs, groundcover, and annuals grouped in the driveway, parking areas, in the fountain area and in the courtyard.

The proposed landscaping theme could be categorized as “perimeter landscaping” and “focused landscaping”. The perimeter landscaping is the landscaping planted along the Vineyard Avenue frontage and in at the parking lot. Italian cypress would be planted along the parking lot edge.



Ten planting islands are proposed among the parking stalls. They would be planted with groups of Mexican feather grass/ fruitless swan hill olive/ lavender or groups of rosemary/Italian cypress.

The focused landscaping is proposed near the restaurant entrance and at the foundation area and resembles a knot garden. The planting material chosen for this area are more of a decorative and ornamental specimens. Among a variety of roses and daylilies, the planting list includes bearded iris, common calla, veronica, seasonal annuals, etc.

### **Drainage**

As proposed, the vineyards would receive all storm water runoff from the building and the parking areas. This approach has been reviewed and accepted by the Public Works/ Engineering Department and is the same methodology as the other sites nearby. As conditioned, the applicant is required to submit a drainage plan to the City Engineer for review and approval prior to the issuance of a building permit.

### **Public Comment**

As previously mentioned, the original proposal was to convert the use of the existing building from office to restaurant at the current location. Many of the nearby residents responded unfavorably to the proposal, citing concerns of noise, lighting, traffic, parking, and utility service infrastructure.

To respond to the issues, the applicant met with a group of residents reside on East Ruby Hill Drive, Avio Court, Varese Court, and Santel Court on November 28, 2006. The residents indicated support of the project if the restaurant use would be relocated toward Vineyard Avenue further away from the existing residents.

On January 18, 2007, the Ruby Hill Homeowners Association first heard the proposal. The HOA agreed to schedule a special meeting to hear the details of the proposal. On February 26, 2007, the applicant presented the project to the HOA. The plans showed the restaurant relocated approximately 1,000 feet away from the closet home in Ruby Hill, and approximately 180 feet to the Vineyard Avenue as discussed with the residents in November 2006. The proposal also separated the private event functions from daily dining. Many issues were discussed, and HOA provided written comment summaries its comments.

Notices of the Planning Commission's public hearing on this item were sent to property owners, business tenants, and homeowners within 1,000 feet of the subject property.

Ms. Rosanne Hoffman, resident at 1751 Spumante Place, contacted staff via email. Ms. Hoffman addressed concerns relating to traffic, noise, and odors, and potential competition among restaurants.

## **PUD DEVELOPMENT PLAN MAJOR MODIFICATION FINDINGS**

The Zoning Ordinance of the Pleasanton Municipal Code sets forth the purposes of the Planned Unit Development (PUD) District and the considerations to be addressed in reviewing a PUD Development Plan and any major modification of an approved development plan. The Planning Commission must make the following findings that the proposed modification of the PUD-93-02 conforms to the purposes of the PUD District, before making its recommendation.

### **1. Whether the proposed development plan is in the best interests of the public health, safety, and general welfare:**

The proposed project as designed and conditioned meets all applicable City standards concerning public health, safety, and welfare, e.g., vehicle access, geologic hazards (new development not within a special studies zone), and flood hazards. The proposed development plan is designed in conformance with the Pleasanton General Plan designations for this site and all other relevant policies and programs. The applicant will be required to install a left-turn pocket and on Vineyard Avenue to facilitate efficient access to the site for westbound traffic and a decelerate lane on Vineyard Avenue. As proposed, there would be a total of 100 parking spaces provided in the parking area, which will adequately meet the event and daily parking demand. The number of proposed parking spaces greatly exceeds the number of spaces required by the Pleasanton Municipal Code.

The proposed building pad for the future residence would replace the existing sales office. This site is appropriate as the residence when constructed would act as a buffer between the restaurant and the existing homes on the south side of the Ruby Hill Drive. The proposed design guidelines of a Tuscan style home is appropriate for the vineyard setting.

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Therefore, staff believes that this finding can be made.

**2. Whether the proposed development plan is consistent with the Pleasanton General Plan:**

The subject property is designated by the Land Use Element of the Pleasanton General Plan for Agriculture and Grazing uses. The site is adjacent to the Vineyard Avenue Corridor Specific Plan area, and the General Plan for this area encourages uses which relate to the outlying wine country and calls for creating an attractive gateway to the Livermore Valley wine country and implementing wine country architectural and landscape design themes throughout the corridor. The Vineyard Avenue Corridor Specific Plan similarly contains land use objectives to encourage development of vineyard related commercial uses.

There would be minimal changes to the exterior of the existing building. The decorative fountain, courtyard and extended terrace area in the rear would be complementary to the existing vineyards. Staff believes that it is appropriate for such use be located in wine-growing regions since people enjoy the vineyard setting for fine dining and private functions. The proposal is consistent with one of the policies of the South Livermore Valley Area Plan, which encourages the promotion of the area as a premier wine-producing center by encouraging appropriate tourist attractions and supporting uses such as the proposed fine dining restaurant.

Therefore, staff believes that this finding can be made.

**3. Whether the proposed development plan is compatible with previously developed properties located in the vicinity of the plan:**

Public street access to this site by the Vineyard Avenue Corridor Specific Plan would be from Vineyard Avenue. The proposed restaurant site is well separated from the existing homes in the Ruby Hill development. The building and surrounding landscaping would complement the architectural design of the existing commercial buildings in the vicinity.

Therefore, staff believes that this finding can be made.

**4. Whether the proposed development plan is compatible with the natural, topographic features of the site:**

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Grading would be required to create a basement underneath the building. Minimal grading would be needed for other site improvements. The applicant would grade the site to drain towards the vineyard areas. In this manner, the vineyards would receive some storm water runoff from the buildings and parking areas.

Therefore, staff believes that this finding can be made.

5. **Whether grading in conjunction with the proposed development plan takes into account environmental characteristics and is designed in keeping with the best engineering practices to avoid erosion, slides, or flooding, and to have as minimal an effect upon the environment as possible.**

Requirements of the Uniform Building Code – implemented by the City at the Building Permit review – would ensure that building foundations and parking/driveway areas are constructed on satisfactorily compacted fill. Erosion control and dust suppression measures will be documented in the final subdivision map and will be administered by the City’s Building and Public Works Departments. All construction activities are limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices.

Therefore, staff believes that this finding can be made.

6. **Whether adequate public safety measures have been incorporated into the design of the proposed development plan:**

The proposed building is required to be designed and constructed to meet the requirements of the Uniform Building Code, other applicable City codes, and State of California mandated noise, energy, and accessibility requirements. All streets meet City standards and are adequate to handle anticipated traffic volumes. Adequate access is provided to all structures for police, fire, and other emergency vehicles.

Through the design of the proposed development in conjunction with the recommended conditions of approval, staff believes that all public safety measures will be addressed.

Therefore, staff believes that this finding can be made.

7. **Whether the proposed development plan conforms to the purposes of the PUD District:**

The proposed modification to the original Ruby Hill development plan approval sets forth the parameters for the design and operation of the event center and winery in a manner consistent with the Pleasanton General Plan and with the surrounding area. The proposed development plan modification implements the purposes of the City’s PUD Ordinance by providing uses consistent and supportive of the operations of the wine county. Through the proposed design augmented by the recommended conditions of approval, the project

will substantially conform to the requirements for development specified in the Pleasanton General Plan.

Therefore, staff believes that this finding can be made.

## **CONDITIONAL USE PERMIT FINDINGS**

The Planning Commission must make the following findings prior to granting the conditional use permit for allowing serving alcoholic beverages after 10:00 p.m.:

**1. The location of the proposed conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.**

Objectives of the zoning ordinance include: protecting existing land uses from inharmonious influences and harmful intrusions; fostering harmonious, convenient, workable relationships among land uses; and insuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. As conditioned, staff believes that the proposed restaurant/bar would be consistent with these objectives. The proposed conditions of approval for the project will give the City appropriate controls to ensure that the use does not have any negative impacts on surrounding businesses and properties.

The General Plan encourages uses relating to the wine country and calls for creating an attractive gateway to the Livermore Valley wine country. Having a restaurant in the area that serve local wine is an appropriate use and it would promote local wine-growing business and attract tourism.

Therefore, staff believes that this finding can be made.

**2. The proposed location of the conditional use and the conditions under which the conditional uses would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.**

The proposed restaurant offers fine dining to local residents and the general public. The applicant proposes a separate driveway off Vineyard Avenue, thus, avoiding restaurant patrons entering the nearby residential development. As conditioned, staff does not anticipate that the proposed use will create adverse impacts on the residential community.

Staff feels that any areas of possible concern have either been mitigated by project design or conditioned so that the proposed use will meet all applicable Municipal Code requirements and would be operated in a non-nuisance manner. Furthermore, the applicant can be required to mitigate any future nuisances or problems. Therefore, if all the conditions of approval are complied with, staff feels the proposed/ restaurant will not detrimentally impact the surrounding properties, and staff believes that this finding can be made.

Therefore, staff believes that this finding can be made.

**3. The proposed conditional use will comply with each of the applicable provisions of this chapter.**

The proposed conditional use is required to comply with all applicable sections of the Pleasanton Municipal Code and with PUD-93-02-9M, the PUD development plan and development plan modification governing the subject property. Conditions of approval for the operation of the restaurant would ensure its compliance with the City's zoning ordinance and with the PUD. By complying with the recommended conditions of approval, the proposed facility would meet the criteria for receiving a conditional use permit and would, therefore, comply with the intent of the Pleasanton Municipal Code and the PUD development plan.

Therefore, staff believes that this finding can be made.

## **ENVIRONMENTAL ASSESSMENT**

A negative declaration was prepared in conjunction with the proposed development. Based on the Initial Study and Negative Declaration, the project would not have a significant effect on the environment. The proposed project plans have been revised to include building relocation, independent driveway to the restaurant, separating the regular dining hours from private event functions, and restriction on noise. These revisions have avoided significant effects or mitigated the project by design to a point where the effects are insignificant and there is no substantial evidence that the project as revised may have a significant effect.

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## **CONCLUSION**

The proposed restaurant and the future residential pad would establish a compatible use and would meet the goals of the Pleasanton General Plan and the South Livermore Valley Area Plan. It is appropriate to retain the existing building as it fits the existing silhouette. The design details specified in the design guidelines for the future residence carry many architectural features that

are seen in wineries of the Napa/Sonoma area. The fountain and the entrance are the focal point, while terrace and the inner courtyard area create an attractive, pedestrian-oriented space. The views of the restaurant as entering the site from Vineyard Avenue would reinforce the winemaking heritage of the Ruby Hill area and, additionally, would work well with the nearby Ruby Hill development. As proposed and conditioned, the project would be compatible with Ruby Hill.

## **STAFF RECOMMENDATION**

Staff recommends the Planning Commission recommend approval of Case PUD-93-02-9M and Case PCUP-182 to the City Council by taking the following actions:

1. Find that the project will not have a significant effect on the environment, and adopt the resolution approving the Negative Declaration as shown in Exhibit I, and Find that the project has a De Minimis impact on the site's wildlife;
2. Find that the proposed major modification to the PUD Development Plan is consistent with the General Plan and the purposes of the PUD Ordinance, and make the findings as identified in the staff report and recommend approval of PUD-93-02-09M subject to Exhibit "B-1", Draft Conditions of Approval, and,
3. Make the Conditional Use Permit findings as stated in the staff report and recommend approval of PCUP-182 subject to Exhibit "B-2", Draft Conditions of Approval.

Staff Planner: Jenny Soo: 925.931.5615 or email: [jsoo@ci.pleasanton.ca.us](mailto:jsoo@ci.pleasanton.ca.us)

**PUD-93-02-09M/PCUP-182, Barnabas Nagy**

**Applications for: (1) a major modification to the Ruby Hill PUD development plan to: (a) relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue; (b) change the existing office use to restaurant use; (c) revise the configuration of the existing parking lot; (d) establish a new driveway off of Vineyard Avenue; and (e) establish a pad location and design guidelines for a future single-family residence; and (2) a conditional use permit to allow alcoholic beverage service after 10:00 p.m. The property is located at 2001 Ruby Hill Boulevard and is zoned PUD/OS/A/LDR (Planned Unit Development/Open Space/ Agriculture/Low Density Residential) District.**

**Also consider a Negative Declaration for the project.**

Ms. Soo presented the staff report and summarized the background, scope, and layout of the proposed project. She noted that following many neighborhood meetings to address concerns regarding noise, traffic, and proximity to residences, the applicant indicated he was willing to make the project work and decided to push the building farther out towards Vineyard Avenue, thereby providing a 1,000-foot buffer between the project and the closest residence. She noted that a condition had been added requiring the restaurant to be placed closest to Vineyard Avenue and that the surroundings must be maintained in an attractive way; enforcement actions would be taken if that condition were to be disregarded.

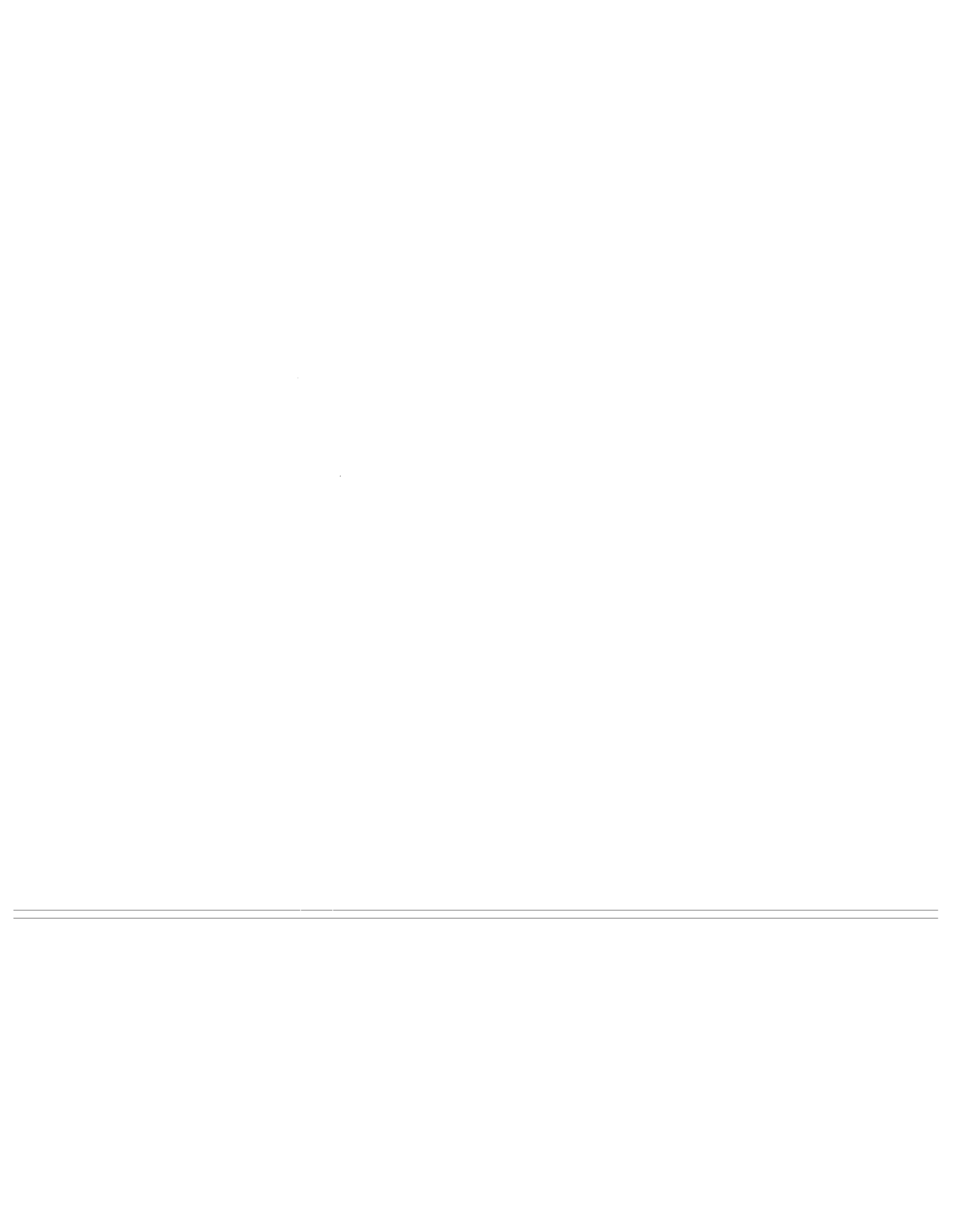
Ms. Soo described the Tuscan-style home which would be built in the future. She noted that the applicant proposed to use the development standards for R-1-6,500. Staff recommended to R-1-20,000 standard instead because the building pad is approximately 18,000 square feet, which was closer to the R-1-20,000 standard. Staff believed it provided much wider setbacks, and the floor area ratio (FAR) would be lower at 30 percent rather than 40 percent, while allowing a sufficient home size.

In response to Commissioner Blank's inquiry regarding whether there was a stand-alone bar in the restaurant, Ms. Soo replied there was only a cocktail lounge. Commissioner Blank requested that a condition be included requiring a full menu to be available when alcoholic beverages were to be served. Ms. Soo noted that condition could be added. She then described the requirements placed on the applicants should the buildings fall into disrepair or become abandoned.

Chairperson Fox recalled that the Planning Commission had been told that no buildings would be placed on land designated as Open Space/Grazing, such as on the Austin PUD. Ms. Decker stated that the difference between the two projects was that the leftover land in the Austin PUD was considered to be dedicated open space. In this case, the General Plan designation is Agriculture/Open Space, with an overlay with the South Livermore Valley Area Plan as well as the Tri-Valley Conservancy, outlining a 2.5-acre limit for development. The Tri-Valley Conservancy has voiced its support for this project within those limits.

In response to an inquiry by Chairperson Fox regarding the FAR and the maximum size of the house, Ms. Soo replied that staff recommended following the R-1-20,000 regulations, which





allow a maximum FAR of 30 percent. The pad area drawn on the plan was 130 feet wide by 130 feet deep. The living area could be a maximum size of 6,000 square feet.

Commissioner Olsen referenced the letter from the Ruby Hill Homeowners Association in Attachment 8 and inquired whether the transition of landscaping maintenance had been conditioned. Ms. Soo indicated that was not a condition because it was an agreement between two private parties. Ruby Hill would like to give the maintenance responsibility to the Nagy's.

In response to an inquiry by Chairperson Fox regarding the FAR and maximum size of the house, Ms. Soo replied that staff recommended the %-1-20,000 standard which allows a maximum FAR of 30 percent. The pad area drawn on the plan was 130 feet wide by 120 feet deep, totaling approximately 18,000 square feet. With a 30-percent FAR, staff believes the home would have a sufficient size. Ms. Decker added that the living area of the home could be a maximum of 6,000 square feet based on the 30-percent FAR. Ms. Soo added that the measurement did not include the garage.

#### **THE PUBLIC HEARING WAS OPENED.**

Arpad Nagy, applicant, described the vision for the site as a five-star restaurant which would be a valuable enhancement to the 36-acre vineyard parcel as well as the former sales office. He described the ambience that would be achieved by the dining experience and noted that both families and professionals could enjoy a welcoming, fine-dining experience. He noted that the architecture and landscaping would also be attractive for visitors to the area as well. He noted that the project had been revised several times, and meetings by a focus group consisting of residents resulted in the 500-foot buffer zone. They also decided to build the residence between the residence and the Ruby Hill homes in order to buffer lighting and noise impacts; the courtyard would also serve as a buffer. He believed the current project was much better due to the input provided by the neighbors. He corrected the operating hours as starting at 11:00 a.m. He noted that the dining hours would be from 6:00 p.m. to 10:00 p.m. on weekdays, and from 6:00 p.m. to 11:00 p.m. on weekends and days before a national holiday. He added that private dining would be available during the daytime. He requested that Condition No. 7 regarding heating lamps and lighting on the terrace be removed following a meeting with the neighbors. He noted that the current condition did not allow dining flexibility, and he would like the diners to have the ability to dine outside and still read the menu.

In response to an inquiry by Chairperson Fox regarding lighting, Ms. Soo confirmed that the standard condition called for the lowest level of luminosity possible. Mr. Nagy noted that the lights would be controlled by photocell timers; he then described the landscaping buffers.

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Ms. Soo stated that requirement was memorialized on page 20 (B.1.) of the conditions of approval.

In response to an inquiry by Commissioner Blank regarding whether language such as "Special lighting will be allowed, but must not be an attractive nuisance" would be acceptable, Mr. Nagy replied that would be acceptable.

In response to an inquiry by Commissioner Blank regarding whether the applicant would object to a condition requiring food service whenever alcohol would be served, Mr. Nagy replied he would be amenable to that condition.

Peter MacDonald, project architect, 400 Main Street, Suite 210, noted that Mr. Nagy had been the driving force throughout this process. He noted that the creation of a wine country ambience was the vision of the City's Vineyard Corridor and that the creation of Ruby Hill was one of the trade-offs to achieve that goal. He noted that the General Plan called for the creation of many amenities, including a restaurant such as this. He noted that the Nagy family came to the United States from Hungary and saw the country as a beacon of freedom which would allow them to exercise their entrepreneurial spirit and hard work in order to create a five-star restaurant. He noted that entrepreneurial projects were fragile, especially at the start. He noted that the applicants responded to the residents' concerns in several significant ways and added that the costs had far exceeded what the family had expected. He was surprised that a small project such as this would require a \$20,000 traffic study. He encouraged the Planning Commission to support this project, which he believed would enhance the City. He noted that Condition No. 8 on page 23 referenced a \$5,500 charge for the removal of three trees, which had originally been to encourage people to retain heritage trees where possible. In this case, the trees were being removed as a mitigation measure because they had to move their existing building to a new location, currently surrounded by landscaping. He noted those three trees were not heritage trees.

Earl and Linda Ault, 7000 Tesla Road, Livermore, noted that they owned Cedar Mountain Winery and added that they looked forward to any enhancement to the area with such a high quality restaurant. He would like more people to visit the wine country and complimented the Nagy's on their display of fortitude during this project. He believed this project was wholly consistent with the goals of the area.

Kerry Lamson, 799 Avio Court, noted that he was speaking on behalf of the Ruby Hill owners. He noted that living in a wine destination had its drawbacks as well, and he hoped the infrastructure would support the projects. He noted that they had been approached by the Nagy's and described the series of meetings with the neighbors, the latest of which had been at 4:00 that afternoon. He noted that he and the neighbors had developed a great deal of trust in the Nagy's and in what they were working to accomplish. He noted that the Nagy's had addressed all of their concerns and had been responsive to the neighbors; he believed they could support this project. He believed the compromises were acceptable under the circumstances and noted that there were already several other event centers and wineries. He hoped the traffic models would work to the area's benefit and believed they should be specific enough to be effective without stifling the business. He hoped that the Nagy's would continue to be responsible throughout the process. He noted that they would remain available throughout the process and hoped the neighbors would also become involved with the development of the residence. He believed it was important that the developers would be living in the immediate vicinity and noted that they were concerned regarding any ownership change. He hoped there would not be any blanket approvals with respect to any ownership change. Mr. Lamson believed the directional signage was a very important addition and believed the FAR corresponding to the R-1-20,000 standard was appropriate.

Commissioner Olson complimented Mr. Lamson on the approach he had taken.

In response to an inquiry by Chairperson Fox regarding whether a condition could be added to ensure that the ownership of the residence and the restaurant stayed the same similar to live/work sites, Ms. Harryman replied that it was not within the Planning Commission's authority to limit sale of a piece of private property. She noted that it would not be legally advisable to limit a use based on a change in ownership. She noted that if the site or restaurant use were vacated or a change in ownership occurred, a new business license must be obtained and a zoning certificate obtained, which would require review of the PUD conditions and reassessment of the conformity.

Mr. MacDonald confirmed that the restaurant and the residence must be on a single parcel under single ownership per the conservation easement; further subdivision would not be allowed.

Kara Simone, 2694 Casalino Court, noted that she had not taken part in the focus group and noted that her neighborhood had stringent design guidelines and understood that the residence would not be in the neighborhood. She expressed concern about how the design and landscaping would impact her neighborhood visually and in terms of any safety issues. She was concerned about the size of the house footprint and inquired how big the house could be. She expressed concern about the safety of the curve in the road, where cars often pass her, even with a double-yellow line. She inquired whether the traffic report addressed that issue.

Ms. Soo noted that should the City Council approve the project, the very detailed design guidelines would also be approved. She added that there would be an opportunity for public comment at that point. She noted that the building height is limited to 30 feet and described the turning lanes and turning pockets into and out of the site.

Ms. Decker wished to clarify that the FAR and size of the home were more restrictive than the design guidelines originally proposed. Staff recommended an amendment to conditions of approval as well as to the design guidelines regarding the allowable FAR.

Dave Cunningham, 2463 Pomino Way, believed the restaurant would be a real asset to the community. He expressed concern about the setback requirements for the new residence, which were 10 to 12 feet from their back fence. Ms. Soo noted that the back setback must be 25 feet; the Commission may increase that setback if it believed it was necessary.

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Jack Sum, 708 Avio Court, submitted a speaker card but noted that his question had been answered.

Mr. Nagy requested that the original FAR be retained per the design guidelines and in consideration of the 16-foot wide access roadway from the Ruby Hill gate to the pad as well as the comparable sizes of the surrounding homes.

In response to Commissioner O'Connor's inquiry regarding the average size of the homes in the Ruby Hill development, Mr. Lamson stated that there are three distinct communities in the

development. The smallest homes measure from 2,200 square feet to between 2,900 and 3,200 square feet; in the second group are semi-custom homes and measure between 3,200 and 3,800 square feet; and the third type is the custom homes which are built around the golf course and measure from 3,200 to 12,500 square feet.

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

Chairperson Fox complimented the applicant's good faith effort in moving the building.

Commissioner Blank commended the applicants and the residents in working together, as well as Ms. Soo in presenting a very thorough staff report.

**Commissioner Blank moved to find that the project will not have a significant effect on the environment and has a *de minimus* impact on the site's wildlife and to recommend approval of the Negative Declaration for the project; to find that the proposed major modification to the PUD development plan is consistent with the General Plan and the purposes of the PUD Ordinance, to make the PUD findings as identified in the staff report, and to recommend approval of Case PUD-93-02-09M subject to the conditions of approval as shown in Exhibit B-1; to make the conditional use findings as stated in the staff report and to recommend approval of Case PCUP-182, subject to the conditions of approval as shown in Exhibit B-2, including the amendments in the staff memo to the Planning Commission, dated May 9, 2007, and the following amendments: (1) Modify Condition No. 7 to replace the language prohibiting heating lamps and/or special lighting with the following: "Special lighting will be allowed but must not be a nuisance"; and (2) Add a new condition requiring that the full menu be made available at all times when alcoholic beverages are served.**

**Chairperson Fox seconded the motion.**

**Ms. Decker requested that the Planning Commission amend Condition No. 4 which was not addressed in the staff memo, addressing payment of sewer fees to the City of Livermore/City of Pleasanton.**

**Commissioner Blank and Chairperson Fox accepted the proposed amendment.**

**Ms. Decker requested that a condition be added to clarify in the PUD guidelines whether or not the home should comply with the R-1-6,500 or the R-1-20,000 standard.**

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**Commissioner Blank and Chairperson Fox indicated their preference for the R-1-20,000 standard. Commissioner Blank suggested the language "not to exceed 6,600 square feet." Chairperson Fox stated that she could support that language.**

**Ms. Decker recommended that the Planning Commission consider a garage exemption of approximately 700 square feet as is typical for contemporary custom homes.**

Chairperson Fox noted that she would support the R-1-20,000 standard, plus the addition suggested by Ms. Decker. However, if the percentages were to exceed the R-1-20,000, she

would like the matter to return to the Planning Commission rather than have a staff-level design review. She noted that the neighbors indicated that the smaller homes were at the front area of Ruby Hill.

Ms. Decker suggested supporting the proposed design review process as a staff-level review rather than a two-phase process. She advised that this project was for a recommendation by the Planning Commission, not an approval.

Chairperson Fox reiterated that she would prefer it to be R-1-20,000 and would not be able to support to the amendment. She retracted her second to the initial motion.

**Commissioner Narum seconded the amended motion.**

**Commissioner Pearce did not believe the \$5,500 fee for removing non-heritage tree was in the spirit of the Heritage Tree Ordinance and proposed that Condition No. 28 of Exhibit B-1 be deleted.**

**Commissioners Blank and Narum accepted the proposed amendment.**

Chairperson Fox inquired whether the restaurant and house could be the subject of separate votes. Ms. Decker noted that would not be advisable because it was one PUD.

**Commissioner Blank suggested added the following condition: “Special lighting will be allowed but must not be a nuisance and may only be used during dining hours.”**

Commissioner Narum suggested additional signage to direct drivers to the restaurant.

Ms. Decker noted that Condition No. 14 on page 21 addressed a sign program that must come back to the Planning Department. She noted that idea could be strongly supported with respect to directional signage. Commissioner Blank suggested the addition of the following language: “The sign program shall include directional signage for vehicular traffic.”

Commissioner Narum would support the addition of language for temporary directional signage.

Chairperson Fox noted that she would support staff’s recommendation for the R-1-20,000 and, therefore, would not support this motion although she supported the project.

Ms. Decker summarized the motion as follows:

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- Find that the project will not have a significant effect on the environment and has a *de minimus* impact on the site’s wildlife and to recommend approval of the Negative Declaration for the project;
  - Find that the proposed major modification to the PUD development plan is consistent with the General Plan and the purposes of the PUD Ordinance; make the PUD findings as identified in the staff report, and recommend approval of Case PUD-93-02-09M, subject to the conditions of approval as shown in Exhibit B-1;

- Make the conditional use findings as stated in the staff report and recommend approval of Case PCUP-182, subject to the conditions of approval as shown in Exhibit B-2, including the amendments in the staff memo to the Planning Commission, dated May 9, 2007;
- Modify Condition No. 7 of Exhibit B-2 to replace the language prohibiting heating lamps and/or special lighting with the following language: “Special lighting will be allowed but must not be a nuisance and may only be used during dining hours”;
- Add a new condition to Exhibit B-2 requiring that the full menu be made available at all times that alcoholic beverages are served;
- Add a new condition to Exhibit B-1 that the site development standards be those of the R-1-20,000 with a maximum habitable area not to exceed 6,600 square feet and a 700-square-foot garage exemption.
- Delete Condition No. 28 of Exhibit B-1 regarding payment for the loss of existing non-heritage trees on the site.

**ROLL CALL VOTE:**

**AYES:** Commissioners Blank, Narum, Olson, and Pearce.

**NOES:** Commissioners Fox.

**ABSTAIN:** None.

**RECUSED:** None.

**ABSENT:** None.

**Resolutions Nos. PC-2007-21 recommending approval for the Negative Declaration, PC-2007-22 recommending approval for Case PUD-93-02-09M, and PC-2007-23 recommending approval for Case PCUP-182, were entered and adopted as motioned.**

PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-2007-22

RESOLUTION RECOMMENDING APPROVAL OF THE APPLICATION OF  
BARNABAS NAGY FOR A MAJOR MODIFICATION,  
AS FILED UNDER CASE PUD-93-02-09M

WHEREAS, Barnabas Nagy has applied for a major modification to the Ruby Hill PUD development plan to: (1) relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue; (2) change the existing office use to restaurant use; (3) revise the configuration of the existing parking lot; (4) establish a new driveway off of Vineyard Avenue; and (5) establish a pad location and design guidelines for a future single-family residence at the property located at 2001 Ruby Hill Boulevard; and

WHEREAS, zoning for the property is PUD/OS/A/LDR (Planned Unit Development – Open Space/Agriculture/Low Density Residential) District; and

WHEREAS, at its duly noticed public hearing of May 9, 2007, the Planning Commission considered all public testimony, relevant exhibits, and recommendations of the City staff concerning this application; and

WHEREAS, the Planning Commission recommended approval for the Negative Declaration prepared for this project; and

WHEREAS, the Planning Commission determined that the proposed modification would be consistent with other recently approved projects in the area and would not alter the natural topographical features of the area.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES THE FOLLOWING:

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Section 1. Recommends approval of Case PUD-93-02-09M, the application of Barnabas Nagy for a major modification to the Ruby Hill PUD development plan to: (1) relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue; (2) change the existing office use to restaurant use; (3) revise the configuration of the existing parking lot; (4) establish a new driveway off of Vineyard Avenue;



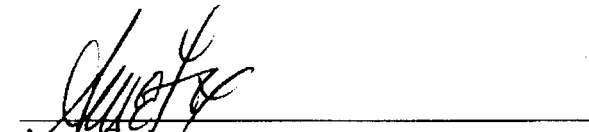
Section 2. This resolution shall become effective immediately upon its passage and adoption.

THIS RESOLUTION ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF PLEASANTON ON THE 9<sup>TH</sup> DAY OF MAY 2007 BY THE FOLLOWING VOTE:

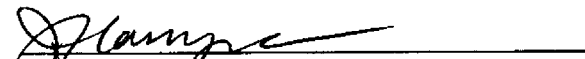
AYES: Commissioners Blank, Narum, Olson, and Pearce.  
NOES: Commissioner Fox.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: None.

ATTEST:

  
\_\_\_\_\_  
Donna Decker  
Secretary, Planning Commission

  
\_\_\_\_\_  
Anne Fox  
Acting Chairperson

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Julie Harryman  
Assistant City Attorney

**EXHIBIT B  
CONDITIONS OF APPROVAL**

**PUD-93-02-9M, Barnabas Nagy  
2001 Ruby Hill Boulevard  
June 19, 2007**

**General Conditions:**

1. The proposed restaurant shall be relocated, operated and maintained in substantial conformance to the development plans and supportive materials, Exhibit A, dated "Received April 20, 2007" on file with the Planning Department, except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits. The applicant shall submit color samples for the review and approval of the Planning Director.
  2. All conditions of Case PUD-93-02 shall remain in full force and effect unless otherwise modified herein, except that PUD-93-02 is modified to allow the operation of the restaurant covered by this approval as a conditionally permitted use.
  3. The project developer shall obtain a building permit from the Building and Safety Division and any other applicable City permits for the project prior to the commencement of any construction.
  4. The project developer shall pay any and all fees to which the property may be subject prior to issuance of building permits. Except for the sewage connection fees, the type and amount of the fees shall be those in effect at the time the building permit is issued. The sewage connection fees shall be paid to the City of Livermore. Evidence of the payment of these fees shall be provided to the Director of Building and Safety before issuance of the building permit. Because of the prior development Agreement covering the property, the project developer is exempt from paying the current City and regional traffic mitigation fees.
  5. The proposed outdoor lighting for the subject property shall be of low intensity and shielded in order to minimize its visibility from off-site. Outdoor lighting shall also not glare onto adjacent properties or streets. Exterior lighting shall use the lowest wattage and shall limit the number of fixtures to attain the lowest luminosity. Fixtures shall be no greater than 14 feet in height, including any pedestal assembly, and shall be "shoebox" shielded standards or equal. The design of all lighting shall be reviewed and approved by the Planning Director. The lighting shall utilize photocells and timers to shut off lighting when the facility is not in use. The parking, building, and general site security lighting shall be the
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minimum allowed by the Police Department. The applicant shall submit a photometric plan which shall include the following:

- Photometric calculations detailing all exterior security lighting,
  - Foot-candle calculations,
  - Fixture schedule, and
  - Cut sheets for light fixtures identifying the specific luminary and lamp manufacturer.
6. The PUD development plan modification and conditional use permit approvals will lapse and shall be void within two years following the effective date of the City Council approval, unless a building permit is issued and construction has commenced and is diligently pursued toward completion or an extension has been approved by the City.
  7. This approval does not guarantee the availability of sufficient water to serve the project. The City shall withhold building permits for the project if at the time building permits are applied for, mandatory water rationing is in effect, unless the City has adopted a water offset program and unless the project developer is participating in the program. Notwithstanding the project developer's participation in such a program, the City may withhold building permits if the City determines that sufficient water is not available at the time of application of building permits.
  8. Prior to issuance of a building permit, the project developer shall pay the applicable Zone 7 and City connection fees and water meter cost for any water meters, including irrigation meters. Additionally, the project developer shall pay any applicable Dublin San Ramon Services District (DSRSD) sewer permit fee.
  9. The building permit plan check materials will be accepted for submittal only after completion of the 15-day appeal period, measured from the date of the approval letter, unless the project developer submits a signed statement acknowledging that the plan check fees may be forfeited in the event that the approval is overturned on appeal, or that the design is significantly changed as a result of the appeal. In no case will a building permit be issued prior to the expiration of the 15-day time-period.

### **Planning Requirements:**

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10. All conditions of approval for this approval shall be written by the project developer on all building permit plan check sets submitted for review and approval or attached and become a part of this plan set. These conditions of approval shall be on, at all times, all construction plans kept on the project site. It is the responsibility of the building developer to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, building design, etc.

11. The project developer shall submit a waste management plan to the Building and Safety Division prior to issuance of building or demolition permits. The plan shall include the estimated composition and quantities of waste to be generated and how the project developer intends to recycle at least 50% of the total job site construction and demolition waste measured by weight or volume. Proof of compliance shall be provided to the Chief of Building and Safety prior to the issuance of a final building permit. During demolition and construction, the project developer shall mark all trash disposal bins "trash materials only" and all recycling bins "recycling materials only". The project developer shall contact Pleasanton Garbage Service for the disposal of all waste from the site.
12. The project developer shall prepare and record a metes and bounds description delineating the building envelope areas, including the entire event center and winery area covered by this application and the envelope area for the existing residence and three existing accessory buildings shown on the site plan. The metes and bounds description shall be prepared to the satisfaction of the City Engineer, shall be reviewed by representatives of the Tri-Valley Conservancy before its recordation, and shall then be recorded before occupancy of the buildings covered by this approval. In order to clearly demarcate these areas in the field, the project developer shall place brass property corners/hubs in conformance to the metes and bounds description before occupancy of the buildings covered by this approval.
13. The applicant shall submit a design review applicant of the future residence to staff. The design review process shall following the requirements specified in Chapter 18.20 of the Pleasanton Municipal Code.
14. The applicant shall submit sign details to the Planning Director for review and approval before installation.
15. Back-up generators shall not be allowed except in emergencies where products may be at risk of spoiling.
16. The placement of any portable restroom facilities for harvesting shall be located in a visually screened area and shall be reviewed and approved by the Planning Director. After the initial determination by the Planning Director, all future placements shall correspond to the prescribed location, unless otherwise approved.
17. The restaurant building, its surroundings and the parking area shall be maintained in a professional manner at all time. If the site is not maintained in a profession manner and becomes a nuisance, at the discretion of the Planning Director, the City will initiate code enforcement actions. If the property owner fail to conform, the City may take action to clean the site, and/or to remove the

building, including but not limited to, placing a lien against the property to cover the costs of cleaning/removal.

18. Prior to the issuance of a building permit, the applicant shall implement mitigation measures as recommended in the Traffic Study, prepared by Dowling & Associates, dated "Received September 20, 2006" on file in the Planning Department, or as otherwise determined by the City Traffic Engineer.
19. Final inspection by the Planning Department is required prior to occupancy.
20. The design guidelines shall include that the development standards for the future residence shall follow those specified for the R-1-20,000 District with a maximum habitable area not to exceed 6,600 square feet and a 700-square-foot garage exemption.
21. The future home shall achieve a "Green Home" rating as specified in Alameda County Waste Management Authority's "Single-Family Green Building Rating System," current edition at the time of building permit submittal. A list of the green building measures shall be submitted in conjunction with the plans submitted for issuance of building permits and shall be subject to the review and approval by the Planning Director prior to issuance of building permits for the project.

**Building and Site Design Requirements:**

22. The driveway and parking area shall be surfaced with a decomposed granite material. Surfacing shall be completed before occupancy of the restaurant building and shall be maintained by the property owner/operator.
23. The project developer shall post address numerals on the building so as to be plainly visible from all adjoining streets or driveways during both daylight and night time hours.
24. The project developer shall effectively screen from view all ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or on the roof, with materials architecturally compatible with the main structure. The plans shall reflect the location of any above ground utilities to provide adequate review of screening. Roof mounted equipment, the equipment shall be designed, installed, and maintained so that the equipment does not project above a horizontal plane established by the buildings' perimeter roofs. All screening details shall be shown on the plans submitted for issuance of building permits, the adequacy of which shall be determined by the Planning Director, and shall be provided prior to occupancy.

25. All trash and refuse shall be contained completely within enclosures architecturally compatible with the main structure. The materials and color of the enclosure walls shall match the building walls, and the gates shall be corrugated metal or solid wood. The design of the enclosures shall be shown on the plans submitted for issuance of building permits, subject to the approval of the Planning Director. Trash containers shall be stored within the enclosure at all times, except when being unloaded. Trash enclosures which are sized to contain dumpsters with an individual capacity of 1.5 cubic yards located within five feet of unprotected building openings, combustible walls, or combustible roof eaves shall be provided with an automatic fire sprinkler system.
26. The location of any pad-mounted transformers shall be subject to approval by the Planning Director prior to issuance of permits by the Building and Safety Division. Such transformers shall be screened by landscaping or contained within an enclosure matching the building and with corrugated metal gates. All transformers shall be shown on the plans submitted for issuance of building permits.
27. The approved building materials and colors shall be stated on the plans submitted for issuance of building permits.
28. All backflow prevention devices, above ground irrigation controls, and above ground irrigation meters shall be located and screened so as to minimize visual impacts. The location of all backflow prevention devices, above ground irrigation controls, and above ground irrigation meters and the quantity and type of proposed landscape screening shall be subject to the review and approval of the Planning Director prior to installation.

**Landscaping and Irrigation System Design and Operation:**

29. No trees shall be removed other than those specifically designated for removal on the approved plans or tree report. The project developer shall post cash, letter of credit, or other security satisfactory to the Planning Director in the amount of five thousand dollars (\$5,000) for each tree required to be preserved, up to a maximum of twenty-five thousand dollars (\$25,000). This cash bond or security shall be retained for two year following completion of construction and shall be forfeited if the trees are removed, destroyed, or disfigured. For trees that are removed, destroyed, or disfigured during construction, the applicant shall pay a fine in the amount equal to the appraised value of the subject tree. If the fine based on the appraised value of the tree(s) exceeds the bond amount, the applicant shall pay the difference between the bond and the appraised value of the subject tree(s).
30. The project developer shall enter into an agreement with the City, approved by the City Attorney, which guarantees that all landscaping and open space areas included in this project will be maintained at all times in a manner consistent with

the approved landscape plan for this development. Said agreement shall run with the land for the duration of the existence of the structures located on the subject property.

31. All trees used in landscaping be a minimum of 15-gallons in size and all shrubs a minimum of five gallons, unless otherwise shown on the approved landscape plan or otherwise approved by the Planning Director.
32. The project developer shall provide root control barriers and four-inch perforated pipes for parking lot trees and trees in planting areas less than 10-feet in width, as determined necessary by the Planning Director at the time of review of the final landscape plans.
33. Prior to occupancy, the landscape architect shall certify in writing to the Planning Director that the landscaping has been installed in accordance with the approved landscape and irrigation plans with respect to size, number, and species of plants and overall design concept.
34. The project developer shall adjust the sprinkler heads to redirect the water away from the monument sign if proposed, while ensuring complete irrigation coverage of the landscaping around the sign. All landscaping around the sign shall be restored after installation of the sign and prior to final of the sign permit.
35. The applicant shall follow the tree protection measures as stated in the tree report, on file as Exhibit A in the Planning Department. All tree protections measures shall be stated in the construction drawings prior to the issuance of a building permit.
36. The final landscape plan shall include planting at the existing sales office location after the building is relocated so that adequate screening would be provided until such time that the residential home is construction. Said plan is subject to the review approval by the Planning Director, and that the planting shall be complete prior to the occupancy of the restaurant building.

**Building Permit Review:**

37. The buildings covered by this approval shall be constructed to meet Title 24 state energy requirements.

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38. All building and/or structural plans must comply with all codes and ordinances in effect before the Building and Safety Division will issue permits.
39. The project developer shall submit a building survey and/or record of survey and a site development plan in accordance with the provisions of Chapter 18.68 of the Municipal Code of the City of Pleasanton. These plans shall be approved by the Chief Building Official prior to the issuance of a building permit. The site

development plan shall include all required information to design and construct site, grading, paving, drainage, and utilities. Specific items to be indicated on the site development plan necessary to construct the improvements are to be in accordance with the City of Pleasanton Private Development Design Guidelines adopted April 15, 1986.

40. A sanitary sewer-sampling manhole shall be provided on each of the sanitary sewer lateral from each building, unless otherwise waived by the Chief Building Official.
41. The project developer shall submit two copies of the site soils report to the Chief Building Official at the time plans are submitted for the first building plan check review. When deemed necessary by the Chief Building Official, a third party peer review of the soil report shall be completed. The City will select all third party peer reviewers. All third party peer reviews shall be paid for by the project developer at the time specified by the Chief Building Official.
42. The soils engineer shall certify the pad compactions of all lots containing fill to the satisfaction of the Chief Building Official prior to the issuance of building permits.

#### **Construction Requirements:**

43. All construction activities shall be limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. In addition, no construction shall be allowed on Federal Holidays. The Planning Director may allow earlier "start-times" for specific construction activities (e.g., concrete-foundation/floor pouring), if it can be demonstrated to the satisfaction of the Planning Director that the construction and construction traffic noise will not affect nearby residents. All construction equipment must meet Department of Motor Vehicles (DMV) noise standards and shall be equipped with muffling devices.
  44. At no time shall campers, trailers, motor homes, or any other vehicle be used as living or sleeping quarters on the construction site. All such vehicles shall be removed from the site at the end of each workday.
  45. A temporary construction trailer shall be allowed on site during construction for use during the allowed hours of operation.
- 
46. Final inspection by the Planning Department is required prior to occupancy.
  47. If archeological materials are uncovered during grading, trenching, or other on-site excavation, all work on site shall be stopped and the City immediately notified. The county coroner and the Native American Heritage Commission shall also be notified and procedures followed as required by the California



Environmental Quality Act (CEQA). A similar note shall appear on the building permit plans.

48. Portable toilets used during construction shall be emptied on a regular basis as necessary to prevent odor and shall be located the furthest distance from the Ruby Hill homes.

**Fire Department Requirements:**

49. The project developer shall meet all requirements of the Pleasanton Fire Code (Pleasanton Municipal Code, Chapter 20.24).
  50. The building covered by this approval shall be equipped with an automatic fire sprinkler system. Plans and specifications for the automatic fire sprinkler system shall be submitted to the Pleasanton Building and Safety Division for review and approval prior to installation. The fire alarm system, including waterflow and valve tamper, shall have plans and specifications submitted to Fire Prevention for review and approval prior to installation. All required inspections and witnessing of tests shall be completed prior to final inspection and occupancy of the building(s). The fire alarm system shall be monitored in accordance with the Pleasanton Municipal Ordinance #1778. The fire alarm system shall transmit zone information to a UL listed Central Station as specified in the Ordinance.
  51. The project developer shall keep the site free of fire hazards from the start of lumber construction until the final inspection.
  52. Prior to any construction framing, the project developer shall provide adequate fire protection facilities, including, but not limited to surface roads, fire hydrants, and a water supply and water flow in conformance to the City's Fire Department Standards able to suppress a major fire.
  53. The Fire Chief and the Chief Building Official shall approve the number, type, and location of all private fire hydrants, if required.
  54. All curbs located within a seven-foot, six-inch radius of a public/private fire hydrant shall be painted red, unless, modified by the Fire Chief. Blue street "hydrant markers" shall be installed for all fire hydrants per City of Pleasanton Standard Specifications.
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55. All driveway aisles designated as fire lanes by the Fire Chief shall be maintained in accordance with Articles 9 and 10 of the Uniform Fire Code, which permits towing vehicles illegally parked on the fire lanes. Fire lane curbs shall be painted red with "No Parking, Fire Lane, Tow Away Zone" in white lettering on the curb, or shall be signed, "No Parking, Fire Lane, Tow Away Zone", as required by the California Vehicle Code.

56. A permit issued by the Fire Chief is required prior to any installation of a fire detection, alarm, and occupant notification system. All sprinkler system water flow and control valves shall be complete and serviceable prior to final inspection. Prior to the occupancy of a building having a fire alarm system, the Fire Department shall test and witness the operation of the fire alarm system.
57. All portions of the building covered by this approval shall have installed and operating, fire extinguishers with a minimum 2-A:10-B:C rating. The fire extinguishers shall be located within a 75-foot radius of each other.
58. The applicant shall submit the design of the EVA gate to the Fire Marshall for review and approval prior to the issuance of a building permit.
59. The applicant shall show turning radius details on the parking lot circulation plan for the review and approval by the Fire Marshal. The driveway shall be designed to hold the load of loaded fire truck, and is subject to the review and approval by the Fire Marshal prior to the issuance of a building permit.
60. The applicant shall provide a fire hydrant for the proposed development. The details of the fire hydrant shall be submitted to the Fire Marshal for review and approval prior to occupancy.

**Engineering Requirements:**

61. The applicant shall submit a detailed sewer design for the review and approval by the City Engineer prior to issuance of a building permit.
  62. All utilities required to serve the proposed development on-site shall be installed underground.
  63. The project developer shall submit a refundable cash bond for hazard and erosion control prior to issuance of an Engineering or Building and Safety Division permit. The amount of this bond will be determined by the City Engineer.
  64. The haul route for all materials to and from this development shall be approved by the City Engineer prior to the issuance of an encroachment permit.
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65. The project developer shall submit a dust control plan or procedure as part of the building permit plans.
  66. Storm drainage swales shall be privately maintained by the property owner.
  67. The design of the water supply systems shall be subject to the review and approval of the City Engineer.

68. The design of the sanitary sewer systems shall be subject to the review and approval of the City Engineer and the City of Livermore.
69. Any damage to existing street improvements during construction on the subject property shall be repaired to the satisfaction of the City Engineer at full expense to the project developer. This shall include slurry seal, overlay, or street reconstruction if deemed warranted by the City Engineer.
70. The project developer's contractor(s) shall obtain an encroachment permit from the City Engineer prior to moving any construction equipment onto the site.

Urban Stormwater Runoff Requirements:

Stormwater Design Requirements

71. The project shall comply with the Alameda Countywide NPDES Permit #CA50029831, a copy of which is available at the City offices.
72. The following requirements shall be incorporated into the project:
  - a) The project developer shall submit a final grading and drainage plan prepared by a licensed civil engineer depicting all final grades and on-site drainage control measures. This plan shall be subject to the review and approval of the City Engineer prior to the issuance of any building permits.
  - b) The project developer shall submit sizing design criteria to treat stormwater runoff at the time of plan submittal.
  - c) Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution.
    - 1) Structures shall be designed to discourage the occurrence and entry of pests into buildings, thus minimizing the need for pesticides.
    - 2) Where feasible, landscaping shall be designed and operated to treat stormwater runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified. Soil shall be amended as required.
    - 3) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.

- 4) Landscaping shall comply with City of Pleasanton ordinances and policies regarding water conservation.
- d) Trash areas, dumpsters and recycling containers shall be enclosed and roofed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal. These areas shall not drain to the storm drain system, but to the sanitary sewer system and an area drain shall be installed in the enclosure area, providing a structural control such as an oil/water separator or sand filter. No other area shall drain into the trash enclosure; a berm shall be installed to prevent such drainage if found necessary by the City Engineer/Chief Building Official. A sign shall be posted prohibiting the dumping of hazardous materials into the sanitary sewer. The project developer shall notify the Dublin-San Ramon Services District (DSRSD) upon installation of the sanitary connection; a copy of this notification shall be provided to the Planning Department.
- e) Prior to grading permit issuance the project developer shall submit a copy of the State Water Resources Control Board Notice of Intent (NOI) for coverage under the State Construction Storm Water General Permit for projects with clearing, grading and excavation exceeding the current standards.

#### Stormwater Construction Requirements

73. The project development shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review and approval by the City Engineer prior to issuance of building or grading permits. Failure to comply with the approved construction SWPPP may result in the issuance of correction notices, citations or stop work order. The following construction Best Management Practices (BMPs), as well as any other applicable measure, shall be included in the SWPPP and implemented as approved by the City.
  74. The project developer is responsible for implementing the following measures during all construction phases of the project:
    - a) The project developer shall include erosion control/storm water quality measures on the final grading plan which shall specifically address measures to prevent soil, dirt, and debris from entering the storm drain system. Such measures may include, but are not limited to, hydroseeding, hay bales, sandbags, and siltation fences and are subject to the review and approval of the City Engineer/Chief Building Official. If no grading plan is required, necessary erosion control/storm water quality measures shall be shown on the site plan submitted for an on-site permit, subject to the review and approval of the Chief Building Official. The project developer is responsible for ensuring that the contractor is aware of and implements such measures.
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- b) Gather all construction debris on a regular basis and place it in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water runoff pollution.
- c) Remove all dirt, gravel, rubbish, refuse, and green waste from the street pavement and storm drains adjoining the site. Limit construction access routes onto the site and place gravel on them. Do not drive vehicles and equipment off paved or graveled areas during wet weather. Broom sweep the street pavement adjoining the project site on a daily basis. Scrape caked-on mud and dirt from these areas before sweeping.
- d) Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site in order to retain any debris or dirt flowing in the storm drain system. Maintain and/or replace filter materials to ensure effectiveness and to prevent street flooding.
- e) Create a contained and covered area on the site for the storage of bags, cement, paints, oils, fertilizers, pesticides, or other materials used on the site that have the potential of being discharged into the storm drain system through being windblown or in the event of a material spill.
- f) Never clean machinery, equipment, tools, brushes, or rinse containers into a street, gutter, or storm drain.
- g) Ensure that concrete/gunite supply trucks or concrete/plaster operations do not discharge wash water into street, gutters, or storm drains.

75. Stormwater Operation Requirements

All projects, unless otherwise determined by the City Engineer or Chief Building Official, shall enter into a recorded Stormwater Treatment Measures Inspection and Maintenance Agreement for ongoing maintenance and reporting of required stormwater measures. These measures may include, but are not limited to:

- a) On-site storm drain inlets clearly marked and maintained with the words "No Dumping – Drains to Bay."
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- b) Proper maintenance of landscaping, with minimal pesticide and fertilizer use.
  - c) Ensure wastewater from vehicle and equipment washing operations is not discharged to the storm drain system.
  - d) Ensure that no person shall dispose of, nor permit the disposal, directly or indirectly, of vehicle fluids, hazardous materials or rinsewater from cleaning tools, equipment or parts into storm drains.

- e) Clean all on-site storm drains at least twice a year with one cleaning immediately prior to the rainy season. The City may require additional cleanings.
- f) Regularly but not less than once a month, sweep driveways, sidewalks and paved areas to minimize the accumulation of litter and debris. Corners and hard to reach areas shall be swept manually. Debris from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wastewater containing any soap, cleaning agent or degreaser shall not be discharged into the storm drain.

*{end}*

PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-2007-23

RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR BARNABAS NAGY,  
AS FILED UNDER CASE PCUP-182

WHEREAS, Barnabas Nagy has applied for a conditional use permit to allow alcoholic beverage service after 10:00 p.m. at the restaurant to be located at 2001 Ruby Hill Boulevard; and

WHEREAS, zoning for the property is PUD/OS/A/LDR (Planned Unit Development – Open Space/Agriculture/Low Density Residential) District; and

WHEREAS, at its duly noticed public hearing of May 9, 2007, the Planning Commission considered all public testimony, relevant exhibits, and recommendations of the City staff concerning this application; and

WHEREAS, at its meeting of May 9, 2007, the Planning Commission recommended approval of the Initial Study and Negative Declaration prepared for the project; and

WHEREAS, the Planning Commission made the following findings:

1. The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The proposed project, as designed and conditioned, meets all applicable City standards concerning public health, safety, and welfare, e.g., vehicle access, geologic hazards (new development not within a special studies zone), and flood hazards. The proposed development plan is designed in conformance with the Pleasanton General Plan designations for this site and all other relevant policies and programs. The applicant will be required to install a left-turn pocket and on Vineyard Avenue to facilitate efficient

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The proposed building pad for the future residence would replace the existing sales office. This site is appropriate as the residence, when constructed, would act as a buffer between the restaurant and the existing homes on the south side of the Ruby Hill Drive. The proposed design guidelines for a Tuscan-style home are appropriate for the vineyard setting. Therefore, this finding can be made.

2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The subject property is designated by the Land Use Element of the Pleasanton General Plan as Agriculture and Grazing uses. The site is adjacent to the Vineyard Avenue Corridor Specific Plan area; the General Plan encourages uses for this area which relate to the outlying wine country and calls for creating an attractive gateway to the Livermore Valley wine country and implementing wine country architectural and landscape design themes throughout the Corridor. The Vineyard Avenue Corridor Specific Plan similarly contains land use objectives to encourage development of vineyard-related commercial uses.

There would be minimal changes to the exterior of the existing building. The decorative fountain, courtyard, and extended terrace area in the rear would be complementary to the existing vineyards. It is appropriate for such use to be located in wine-growing regions since people enjoy the vineyard setting for fine dining and private functions. The proposal is consistent with one of the policies of the South Livermore Valley Area Plan, which encourages the promotion of the area as a premier wine-producing center by supporting appropriate tourist attractions and uses such as the proposed fine dining restaurant. Therefore, this finding can be made.

3. The proposed conditional use will comply with each of the applicable provisions of the Zoning Ordinance.

Public street access to this site by the Vineyard Avenue Corridor Specific Plan would be from Vineyard Avenue. The proposed restaurant site is well separated from the existing homes in the Ruby Hill development. The building and surrounding landscaping would complement the architectural design of the existing commercial buildings in the vicinity. Therefore, this finding can be made.

WHEREAS, the Planning Commission determined that the proposed conditional use would be compatible with the existing uses in the area.



NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES THE FOLLOWING:

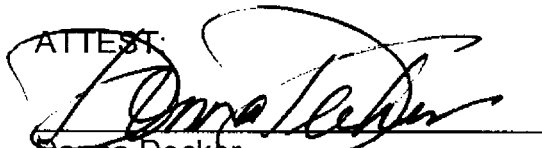
Section 1. Approves Case PCUP-182, the application of Barnabas Nagy for a conditional use permit to allow alcoholic beverage service after 10:00 p.m. at the restaurant to be located at 2001 Ruby Hill Boulevard, subject to the conditions shown in Exhibit B, attached hereto and made part of this case by reference.

Section 2. This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.

THIS RESOLUTION ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF PLEASANTON ON THE 9<sup>TH</sup> DAY OF MAY 2007 BY THE FOLLOWING VOTE:

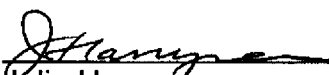
AYES: Commissioners Blank, Narum, Olson, and Pearce.  
NOES: Commissioners Fox.  
ABSTAIN: None.  
RECUSED: None.  
ABSENT: None.

ATTEST:

  
\_\_\_\_\_  
Donna Decker  
Secretary, Planning Commission

  
\_\_\_\_\_  
Anne Fox  
Chairperson

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Julie Harryman  
Assistant City Attorney

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**EXHIBIT B  
CONDITIONS OF APPROVAL**

**PCUP-182, Barnabas Nagy  
2001 Ruby Hill Boulevard  
May 9, 2007**

1. Approval of this conditional use permit shall be contingent upon approval of the PUD development modification, Case No. PUD-93-02-09M.
2. The operation of the proposed restaurant shall be in substantial conformance to the written narratives, dated "Received April 20, 2007" on file in the Planning Department, except as modified by the following conditions. Minor changes to the operation may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits.
3. The proposed facility shall conform to the following hours of operations:

Dining Hours:

Sunday- Thursday: 6:00 p.m. to 10:00 p.m.

Friday/Saturday, and the day  
before a Federal holiday: 6:00 p.m. to 11:00 p.m.

Private Functions:

Daily: 11:00 a.m. – 5:00 p.m.

Any outdoor-related events shall conclude by no later than 9:00 p.m. daily. Additional hours and activities beyond that stated may be approved by the Planning Director if found to be in substantial conformance with the approval. The Planning Director may also refer the matter to the Planning Commission if the proposed changes would be significant.

4. Valet parking shall be provided during private functions and shall not block or impede any emergency vehicle access.
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5. Acoustic-only, non-amplified music /voice accompaniment, e.g. acoustic guitar or piano, shall be allowed outside the building. A string quartet shall also be allowed to play outside the building.

Amplified musical instruments and DJ's shall only allowed indoors.

6. All exterior doors and windows shall be closed, but not locked, at all time during the events.
7. Terrace dining shall be strictly seasonal and weather permitting. Special light will be allowed but must not be a nuisance and may only be used during dining hours.
8. If operation of this use permit results conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Planning Director, this conditional use permit may be referred to the planning Commission for subsequent review at a public hearing. If necessary, the Planning Commission may modify or added conditions of approval to mitigate such impacts, or may revoke said conditional use permit.
9. The applicant shall obtain all necessary approvals from the Department of Alcoholic Beverage Control prior to serving alcohol.
10. Prior to start of employment, employees that serve alcohol shall undergo a training program such as TIPS (Training for Intervention Procedures) that is designed to prevent intoxication, underage drinking, and drunk driving.
11. A full menu shall be available for patrons of the restaurant during the operating hours and when alcoholic beverages are served.

*{end}*



## CITY COUNCIL AGENDA REPORT

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June 19, 2007  
Planning and Community Development

**TITLE:** PUD-93-02-09M/PCUP-182/BARNABAS NAGY – CONSIDER AN APPLICATION FOR A MAJOR MODIFICATION TO THE RUBY HILL PUD DEVELOPMENT PLAN TO RELOCATE THE EXISTING SALES OFFICE BUILDING ON RUBY HILL BOULEVARD NORTHWESTERLY ALONG VINEYARD AVENUE, CHANGE THE EXISTING OFFICE USE TO RESTAURANT USE, AND ESTABLISH A PAD LOCATION AND DESIGN GUIDELINES FOR A FUTURE SINGLE-FAMILY RESIDENCE; AND FOR A CONDITIONAL USE PERMIT TO ALLOW ALCOHOLIC BEVERAGE SERVICE AT THE RESTAURANT AFTER 10:00 P.M. THE PROPERTY IS LOCATED AT 2001 RUBY HILL BOULEVARD AND IS ZONED PUD/OS/A/LDR (PLANNED UNIT DEVELOPMENT/OPEN SPACE/AGRICULTURE/LOW DENSITY RESIDENTIAL) DISTRICT.

**ALSO CONSIDER THE NEGATIVE DECLARATION PREPARED FOR THE PROJECT.**

**PROPERTY OWNER:** Barnabas Nagy

**GENERAL PLAN:** Agriculture and Grazing and Urban Growth Boundary Line

**ZONING:** PUD (Planned Unit Development) – A/OS/LDR  
(Agriculture/Open Space/Low Density Residential) District.

### **SUMMARY**

The applicant proposes to relocate the existing two-story building previously used as the Ruby Hill sales office from the current location northwesterly toward Vineyard Avenue. This building would be converted into a fine-dining restaurant open for dinner and for private functions by reservation during non-dining hours. A new driveway would be established off Vineyard Avenue for exclusive use by the restaurant patrons, and a 100-space parking lot would be constructed along Vineyard Avenue. Alcoholic beverages would be served in conjunction with the restaurant activities. In addition, the applicant proposes a pad location for a future residence, which is the current location of the sales office. Staff, the Planning Commission and representative neighbors from Ruby Hill believe that the project, as conditioned, will be compatible with the surrounding area. The applicant is in agreement with the Planning Commission's recommended conditions of approval.

## **PLANNING COMMISSION RECOMMENDATION**

The Planning Commission recommended approval of the application (4-1 vote), subject to the conditions of approval recommended by staff and modified by the Commission.

## **RECOMMENDATION**

1. Find that the project will not have a significant effect on the environment, adopt the draft resolution approving the Negative Declaration as shown in Attachment 4, and find that the project has a *de minimus* impact on the site's wildlife;
2. Find that the proposed major modification to the PUD Development Plan is consistent with the General Plan and the purposes of the PUD Ordinance, make the findings as identified in Attachment 7, and introduce the draft ordinance approving PUD-93-02-09M subject to Exhibit B-1, Conditions of Approval as shown in Attachment 2; and
3. Make the Conditional Use Permit findings as stated in Attachment 8 and adopt the draft resolution approving PCUP-182 subject to Exhibit B-2, Conditions of Approval, as shown in Attachment 3.

## **FINANCIAL STATEMENT**

The proposed project would be responsible to pay fees and the costs of any required utility or infrastructure improvements. The project would incrementally increase the demand for City services and would add sales and property tax revenue. Staff believes that the net fiscal impact to the City resulting from the proposed project would be positive.

## **BACKGROUND**

The subject site is located within the Ruby Hill Planned Unit Development (PUD-93-02). The overall development was originally approved by Alameda County prior to its annexation to the City of Pleasanton in 1993. Development of the site is subject to the County's planned development conditions of approval, the Ruby Hill Development Agreement, the South Livermore Valley Area Plan policies, and to the Conservation Easement with the Tri-Valley Conservancy. An existing conservation easement limits the amount of land not in grape production to a maximum of 2.5 acres.

Existing uses on the site are planted grapes and an existing two-story building previously used as the Ruby Hill sales office. Permitted uses within the 2.5-acre conservation easement include but are not limited to homes, wineries, tasting rooms, restaurants, and lodging.

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Signatures Properties, Inc. was the developer of Ruby Hill. In February 1994, a building permit was issued for the construction of a two-story building to be used as a temporary sales office and information center for the Ruby Hill development. The access to and from the sales office is via Ruby Hill Boulevard, and the sales office is connected to the City sewer via a private sewer line and private sewer pump located under Ruby Hill Drive.

The applicant, Mr. Nagy, proposes a major modification to the Ruby Hill PUD development plan to relocate the existing sales office and convert it to a restaurant, and to create a future home site. He is also requesting consideration of a conditional use permit to allow alcohol sales after 10:00 p.m.

Major modifications are subject to review by the Planning Commission and by the City Council. Conditional use permits are normally subject to the approval of the Planning Commission. Since the proposed modification focuses on the restaurant use, staff thought it necessary to have the use permit reviewed together with the PUD modification.

### **SITE DESCRIPTION**

The subject site is a relatively flat site located on the south side of Vineyard Avenue between the Mitchell Katz Winery/Palm Event Center and the signalized entrance to Ruby Hill. It is approximately 36 acres in size, a vineyard property planted by Signature Properties with Ruby Hill development and operated by Wentte Brothers. Access to the site is provided by an existing driveway from Ruby Hill Boulevard before the entrance kiosk. A seasonal drainage channel running in a north-south direction bisects the property.

Surrounding uses are the following:

North:	Gravel Quarries (Alameda County)
East:	Commercial (City of Livermore)
South:	Vineyards and Ruby Hill Development
West:	Vineyards and Ruby Hill Development



**Site Location**

## **PROJECT DESCRIPTION**

The proposal includes the following:

- \* Relocate the existing two-story, approximately 5,000-square-foot building toward Vineyard Avenue and to the east side of the seasonal drainage channel;
- \* Change the use of the existing building from a sales office to a restaurant;
- \* Create a basement area for use as a wine cellar/storage;
- \* Construct a new driveway off Vineyard Avenue and a parking lot with 100 parking spaces exclusively for the restaurant use;
- \* Remodel the building interior and operate a restaurant that serves dinner and holds private functions during non-dinner hours;
- \* Allow consumption of alcoholic beverages at the restaurant after 10:00 p.m.;
- \* Reserve the existing sales office location for the construction of a future residence; and,
- \* Review the proposed design guidelines for the future home.

When relocated, the building would be situated approximately 180 feet from Vineyard Avenue. It would be oriented northeasterly with the entryway directly facing the new driveway on Vineyard Avenue. A roundabout would be constructed in the front of the building to be used as a drop-off site for valet parking. The roundabout area will feature a fountain and decorative landscaping. The exterior of the building would remain as it currently is. The existing terrace area at the back of the building would be used primarily as the outdoor dining area when weather permits. This outdoor dining area would face southwest toward the vineyard, away from the existing residential properties at Ruby Hill. In addition to the terrace, the applicant proposes a courtyard located to the immediate south of the building. The proposed courtyard would be used exclusively during private functions; it would not be used as restaurant seating area.

The proposed restaurant would be open daily as follows:

- Sunday -Thursday: 6:00 p.m. to 10:00 p.m.
- Friday/Saturday, and the day before a federal holiday: 6:00 p.m. to 11:00 p.m.

The applicant also proposes to host private functions at the restaurant. These functions may include weddings, corporate events, etc. In order to offset any scheduling conflict and any potential impacts to the restaurant patrons, Ruby Hill residents, and the public in general, private functions may take place only during non-dining hours, i.e. between the hours of 11:00 a.m. to 5:00 p.m.

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The dining area within the restaurant would be provided on both the ground and the upper floors. An elevator would be installed to provide access to those in need. At full capacity, the restaurant could accommodate 230 people, with 180 seats within the restaurant and 50 seats in the terrace area. A parking lot is proposed to the east of the site entrance. It would have a total of 100 parking spaces for restaurant staff and patrons.

Some existing trees along Vineyard Avenue would be removed for the proposed driveway to the restaurant. Some of the existing vineyard would be removed for the construction of the parking lot. A preliminary landscaping plan is included in the proposal showing "perimeter landscaping" along Vineyard Avenue and "focused landscaping" at the restaurant entrance.

The proposed residential building pad is the current location of the sale office building. Access to and from the proposed residence would be via the existing driveway off Ruby Hill Boulevard. To prevent restaurant patrons from entering the restaurant from Ruby Hill Boulevard, a gate would be installed at the end of the drive isle. This gate, however, would be accessible by emergency vehicles when needed.

The design elements of the future residence are listed in the proposed design guidelines. The home would be a Tuscan style home blending into the vineyard setting.

Signage for the restaurant consists of a freestanding sign located at the entryway. The sign would be made of tempered glass with etched lettering.

Please refer to the attached Planning Commission staff report, dated May 9, 2007, and the proposed plans for additional project information.

#### **PLANNING COMMISSION ACTION**

The Planning Commission held a public hearing on May 9, 2007 to review the subject application. Detailed information on this meeting is provided by the attached excerpts of the Planning Commission minutes. Several members of the public spoke at the hearing in support of the proposed development and also discussed the size of the future home. The Commission approved the application on a 4-1 vote. Chairperson Fox voted against the proposal stating that she wishes to see a smaller sized home be constructed. The Commission modified the conditions as recommended by staff and added additional conditions. Please refer to Attachment 6 for the Planning Commission Meeting Minutes.

#### **DISCUSSION**

##### **General Plan and Land Use**

The subject site is designated by the Land Use Element of the Pleasanton General Plan for Agriculture and Grazing uses. The General Plan for this area encourages uses which relate to the outlying wine country. It calls for creating an attractive gateway to the Livermore Valley wine country and implementing wine country architectural and landscape design themes throughout the Vineyard Avenue corridor. The Vineyard Avenue Specific Plan contains similar land use objectives to encourage development of vineyards and related commercial uses.

The restaurant use is one of the uses allowed within the conservation easement area. Restaurants are often located in the wine-growing regions and, as such, would promote the local economy and attract tourism. It is appropriate to have a restaurant use at the



subject site as it is closely affiliated with the vineyards and will feature local wines. This is consistent with one of the policies of the South Livermore Valley Area Plan, adopted by Alameda County in 1993, which encourages the promotion of the area as a premier wine-producing center by encouraging appropriate tourist attractions and supporting uses such as the proposed restaurant.

Ruby Hill was allotted a housing cap of 850 residential units. In the past, two residential lots were combined into one for the construction of one single-family home, bringing the total residential lots in Ruby Hill from the original 850 lots to 849. The proposed home site for a single-family residential unit would bring the total number of unit back to the 850-lot housing cap and is, therefore, in conformance the Ruby Hill PUD.

### **Tri-Valley Conservancy**

The subject site is covered by an agricultural conservation easement granted to the Tri-Valley Conservancy (TVC), formerly South Livermore Valley Agricultural Land Trust. This proposal was reviewed and supported by the Board of Directors of TVC. The conservation easement benefiting the TVC limits non-vineyard use to a total of 2.5-acres of building envelope area. As such, the 2.5-acre area includes the restaurant location and area surrounding the restaurant, the parking lot, the building area for a future residence, and the driveway access to the home. TVC requested that the applicant amend the conservation easement to clearly describe building envelope, so that the building envelope would be physically demarcated from the vineyard areas. As conditioned, the applicant would amend the easement by preparing and recording a metes and bounds description of the building envelope, and would then place monuments at the property corners.

### **Site Design**

The proposed development has been reviewed by the Ruby Hill HOA at two separate meetings, and by a group of Ruby Hill homeowners whose homes would be closest to the subject site. The original proposal was to convert the existing sales office to a restaurant the existing location. The proposal generated concerns from Ruby Hill residents relating to noise, lighting, parking, and utility service infrastructure.

In response to the residents' concerns, the applicant proposes to relocate the building from the current location, and to orient the building northeasterly so that the terrace dining area at the rear of the building would face the vineyards and the Palm Event Center to the west instead of facing the residential sites to the south. The proposed location is the furthest location possible from the existing residential uses while containing it within the allocated 2.5-acre area and avoiding the existing drainage channel. The intention for this site design is to use the existing vineyard to separate the commercial use from the residential use and to shield any light and glare from vehicles at night.

The existing sales office location would be reserved for use as future home site.

## **Building Design**

Restaurant Building: No significant changes are proposed to the exterior of the existing sales office building which will be relocated adjacent to Vineyard Avenue. This building is an existing two-story building with one terrace area on the front and one at the rear. Please refer to the attached Planning Commission staff report for further details.

Future Residence: A building pad for a future residence is part of this application. The applicant has included design guidelines for a Tuscan style home. The design guidelines include a conceptual site plan that shows a U-shaped house with an interior courtyard facing east and calls for a one-story home. The home would have S-type or similar style roof tiles in terracotta, stucco walls with stone veneer, and wood framed doors and windows. The design guidelines specify the details for window trims, porches, eaves, etc. In addition, the design guidelines include samples of homes that exhibit typical features of a Tuscan style home.

Details related to window treatments, color and stucco finish texture etc. would be reviewed during the design review process. Staff recommends this design review process be a Zoning Administrator review.

At the Planning Commission on May 9, 2007, the applicant stated that the existing sales office building is approximately 6,600 square feet in size. The Planning Commission conditioned the habitable space for the future home to be no larger than 6,600 square feet in addition to 700 square feet for garage space.

## **Parking**

The Parking Ordinance requires one parking space for three seats in the dining area. It does not require parking for outdoor dining, as outdoor dinner is considered seasonal. At such, the proposed 180-seat dining area within the restaurant would require 60 parking spaces ( $180/3=60$ ). The existing parking should be adequate for dining room patrons as well as for staff. Additional parking may be needed during private functions. Overflow valet parking is available between the vineyards. Thus, the proposed 100-space parking lot would have adequate capacity to handle the parking demand for either use.

The driveway to the restaurant and the parking area would have a permeable surface, such as pavers or cobblestone to allow water to percolate through to meet the storm water management requirements. Handicap spaces would be provided near the restaurant entrance to meet the requirement of ADA and would likely require impervious pavement material.

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## **Traffic**

A traffic study was performed by Dowling and Associates to investigate the trip volume on Vineyard Avenue and the potential impacts on Vineyard Avenue and at various intersections. The City Traffic Engineer has reviewed the traffic report and concurred with its findings that the proposed restaurant would not have significant impacts on existing traffic. The ideal location for access to this facility is via Ruby Hill Boulevard

where there is a signalized intersection to provide controlled access to and from Vineyard Avenue. However, the proposed driveway at approximately 500 feet west of Vineyard Avenue/Ruby Hill Boulevard T-intersection would provide adequate sight distance for ingress and egress to the facility.

The report recommends mitigation measures including turning lanes in and out of the site to offset traffic congestion. To facilitate efficient site access for traffic on Vineyard, the applicant will install a left-turn pocket on Vineyard Avenue for westbound traffic entering the site and a deceleration lane for traffic exiting the site. As conditioned, the applicant is required to pay for the entire amount the construction and to complete the construction prior to commencement of the restaurant. However, because of the prior Development Agreement covering the property, the applicant is exempt from paying the current City and regional traffic mitigation fees.

### **Noise**

When relocated, the restaurant building would be approximately 1,000 feet from the nearest home in Ruby Hill. Staff understands that the noise from outdoor activities is a concern of the Ruby Hill residents. For this reason, there is a general prohibition for outdoor music events/performances taking place in the courtyard, dining terrace, or any other outdoor area at the facility. Staff, however, believes that private functions, such as weddings and similar events, should be allowed to take place outdoors such as in the courtyard area to take advantage of the scenery. Staff believes it is reasonable to request that acoustic-only music /voice accompaniment, e.g. acoustic guitar or piano, would be appropriate. As proposed, outdoor functions would only take place from 11:00 a.m. to 5:00 p.m. As conditioned, all events taking place at the restaurant must conclude operation by 11:00 p.m. The outdoor dining area would be required to close prior to 9:00 p.m. The proposed hours, music restrictions, and the distance from the facility to the residential sites would mitigate any of the perceived negative impacts Ruby Hill residents.

Acoustical and amplified music instruments are proposed for indoor events. Staff believes that any noise concerns would be mitigated through requiring windows and doors remain closed, but not locked, during business hours.

### **Signage**

A monument sign would be installed at the entrance to the restaurant fronting Vineyard Avenue. The sign would be tempered glass etched with the restaurant name "Liliom". The glass would be set in a pedestal, clad in limestone. Lighting would be provided from the slot where the glass inserted into the limestone. Staff believes the concept is appropriate; however, additional detail is needed. As conditioned, the applicant is required to submit a revised sign proposal with details for review and approval by the Planning Director.

### **Arborist Report**

HortScience Inc. surveyed and evaluated thirty-five (35) trees on site. Among them, 20 trees are located near the proposed home site, and the remaining 15 trees are at the

proposed restaurant location. The trees represent five species; coast live oak, London plane, and callery pear are among them. None of the trees are heritage-sized trees. The report states that 71 percent (20 trees) are in a good condition and the rest are in a moderate condition. The report recommends the removal of five trees (three London plane and two coast live oak) to accommodate the proposed driveway and the building relocations. To mitigate the loss of the existing trees, the proposed landscape plan shows that a total of 179 trees would be planted, and all of them are 24-inch box sized or larger.

### **Landscaping**

New landscaping would consist of olive trees, palms, crape myrtle, and Italian cypress with various shrubs, groundcover, and annuals grouped in the driveway, parking areas, fountain area, and courtyard.

The proposed landscaping theme could be categorized as “perimeter landscaping” and “focused landscaping”. The perimeter landscaping is the landscaping planted along the Vineyard Avenue frontage and in at the parking lot. Italian cypress would be planted along the parking lot edge.

The focused landscaping is proposed near the restaurant entrance and at the foundation area. The planting material chosen for this area are more decorative and ornamental specimens. Among a variety of roses and daylilies, the planting list includes bearded iris, common calla, veronica, seasonal annuals, etc.

### **Drainage**

As proposed, the vineyards would receive all storm water runoff from the building and the parking areas. This approach has been reviewed and accepted by the Public Works/ Engineering Department and is the same methodology as the other sites nearby. As conditioned, the applicant is required to submit a drainage plan to the City Engineer for review and approval prior to the issuance of a building permit.

### **PUD AND CONDITIONAL USE PERMIT FINDINGS**

The Pleasanton Municipal Code sets forth the purposes of the Planned Unit Development (PUD) District and the considerations to be addressed in reviewing a PUD development plan proposal or modifications of an approved development plan. Although the requested modification would not alter the agricultural/viticulture uses or the allowed building envelop on the subject site, it would allow a restaurant and home as part of the Ruby Hill PUD. The City Council must make findings that the proposed PUD major modification conforms to the purposes of the PUD District, before taking action. These findings are listed in Attachment 7.

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The City Council must also make findings prior to granting the conditional use permit for allowing serving alcoholic beverages after 10:00 p.m. These findings are listed in Attachment 8.

## **PUBLIC NOTICE**

Notices of the City Council's public hearing on this item were sent to the homeowners located in Ruby Hill and within 1,000-feet of the subject property. Staff has not received any comments pertaining to the proposed project as of the time the staff report was written.

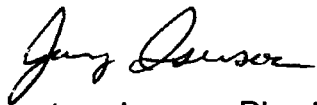
## **ENVIRONMENTAL ASSESSMENT**

A Negative Declaration was prepared in conjunction with the proposed development. Based on the Initial Study and Negative Declaration, the project would not have a significant effect on the environment. The proposed project plans have been revised to include building relocation, independent driveway to the restaurant, separating the regular dining hours from private event functions, and restriction on noise. These revisions have avoided significant effects or mitigated the project by design to a point where the effects are insignificant and there is no substantial evidence that the project as revised may have a significant effect.

## **CONCLUSION**

The proposed restaurant and the future residential pad would establish a compatible use and would meet the goals of the Pleasanton General Plan and the South Livermore Valley Area Plan. It is appropriate to retain the existing building as it fits in with the surrounding area.. The design details specified in the design guidelines for the future residence include many architectural features that are seen in wineries of the Napa/Sonoma area. The fountain and the entrance are the focal point, while the terrace and the inner courtyard area create an attractive outdoor space. The views of the restaurant entering the site from Vineyard Avenue would reinforce the winemaking heritage of the Ruby Hill area and, additionally, would work well with the nearby event centers. As proposed and conditioned, the project would be compatible with Ruby Hill.

Submitted by:



Jerry Iserson, Director  
Director of Planning  
and Community Development

Fiscal Review:



David P. Culver  
Director of Finance

Approved by:



Nelson Fialho  
City Manager

### **Attachments:**

1. Exhibit A, Site Plan, Floor Plans, Building Elevations, Landscaping Plan, and Design Guidelines, dated "Received April 20, 2007"
2. Draft Ordinance for PUD-93-02-09M, with Exhibit B-1, Conditions of Approval
3. Draft Resolution for PCUP-182, with Exhibit B-2, Conditions of Approval
4. Draft Resolution adopting the Negative Declaration for PUD-93-02-09M, with the Negative Declaration
5. Planning Commission Staff Report, dated May 9, 2007, without attachments
6. Excerpts from the May 9, 2007 Planning Commission Meeting Minutes.
7. Findings for the PUD Development Plan Major Modification, PUD-93-02-09M

8. Findings for the Conditional Use Permit, PCUP-182
9. Ruby Hill Conversion Traffic Study, prepared by Dowling Associates, Inc., dated September 18, 2006
10. Letter from Laura Mercier, Associate Director of Tri-Valley Conservancy, dated June 7, 2007
11. Location Map

**CONSENT CALENDAR**

9. Public Hearing: PUD-93-02-09M/PCUP-182, Barnabas Nagy – Introduced Ordinance No. 1956 approving an application for a major modification to the Ruby Hill PUD development plan to relocate the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue, change the existing office use to restaurant use, revise the configuration of the existing parking lot, establish a new driveway off of Vineyard Avenue, and establish a pad location and design guidelines for a future single-family residence; adopted Resolution No. 07-132 approving conditional use permit to allow alcoholic beverage service at the restaurant after 10:00 p.m. The property is located at 2001 Ruby Hill Boulevard and is zoned PUD/OS/A/LDR (Planned Unit Development/Open Space/Agriculture/Low Density Residential) District; and adopted Resolution No. 07-133 approving the Negative Declaration prepared for the project

Councilmember McGovern said she was surprised Item 9 was on Consent, but noted the community and builder have worked out issues and there was agreement. City Manager Fialho said the project went through a public hearing process with the Planning Commission and the staff report reflects comments from that hearing, with the exception of one email which was distributed to the Council. There was no registered opposition to the project, and therefore, staff placed it on Consent.

Councilmember Sullivan said he also had the same question, and City Manager Fialho said it was at the Council's discretion as to where it should be placed on the agenda, but because agendas were full, they include non-controversial items knowing that the option was to remove it or continue it to another meeting. He confirmed there was no public comment on the item.

Councilmember McGovern asked for a description of the development and Director of Planning and Community Development Jerry Iserson noted that the new restaurant for the Ruby Hill development would be moved to where the existing sales office is located, and the office will be relocated to the northwest portion of the site toward Vineyard Avenue. With this change, the community was fully in support of the proposal. He noted an email was received regarding concern of their use permit that would allow the sales of alcoholic beverages beyond 10:00 p.m. He said the restaurant would be open until 10:00 p.m. only from Sunday through Thursday and open until 11:00 p.m. on Friday, Saturday and a holiday night.

Councilmember Sullivan noted he would be voting no on Item 10, and Councilmember McGovern announced that she provided minor corrections to Item 1.

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Motion: It was m/s by Sullivan/Thorne to approve Consent Calendar Items, as amended to include changes on the minutes per Councilmember McGovern and as noted. Motion passed by the following vote:

Ayes: Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman  
Noes: None  
Absent: None  
Abstain: None

**Jenny Soo**

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**From:** elaine.lusher,  
**Sent:** Tuesday, August 23, 2011 12:52 PM  
**To:** Jenny Soo  
**Subject:** PUD-93-02-10M

I OPPOSE the use of the Ruby Hill sales office as a restaurant. It will violate the security of our neighborhood. The back of the restaurant is too close to our gated community to be safe.

Elaine Lusher  
Ruby Hill resident

Click [here](#) to report this email as spam.



## Jenny Soo

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**From:** Cyrus Razavi  
**Sent:** Sunday, October 02, 2011 2:04 PM  
**To:** Jenny Soo  
**Cc:**  
**Subject:** I AM TOTALLY OPPOSED TO changing Sales Office at Ruby Hill to Restaurant

Dear Jenny,

I am a resident and owner of a house at Ruby Hill. I am TOTALLY opposed to turning the sales office to a restaurant -- for many reasons including:

1. This will change the character of the development to a busy semi commercial setting which will violate the spirit of the commitment made to me at the time of the purchase of my land from Ruby Hill developers. At the time of my purchase, during the Sales presentation I specifically discussed the sales office. They mentioned that the office would be part of the common property. Furthermore they committed it would never find a commercial usage.
2. The pressure to start a restaurant is coming from folks who want to further benefit themselves at the expense of owner-residents of Ruby Hill. It is simply against the interest of those who live here and have invested their hard earned money in their homes here.
3. The subsequent traffic generated by the patrons of the restaurant will violate the owners right to enjoy full usage of common property including access roads.

Due to previous commitments I will not be able to attend the meeting. I would like to request that this email be considered as part of the record in that meeting.

If you have any questions please don't hesitate to contact me.

Best Regards,

Cyrus Razavi & Roya Shafiei  
3932 Vierra St., Ruby Hill

Click [here](#) to report this email as spam.

## Jenny Soo

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**From:** santokh soha  
**Sent:** Saturday, October 01, 2011 7:50 PM  
**To:** Jenny Soo  
**Subject:** PUD-93-02-10M, Arpad Nagy

Hello jenny,

I live in Ruby Hill, and I just found out that they rae making the existing sales office into a restaurant, which will be serving alcohol after 10 pm.

I am deeply disturbed by that, as it will make a lot of noise for Ruby Hill community and there could be drunk people wondering nearby the ruby hill entrance.

I am highly opposed to this plan.

Please let me know what my legal rights are to oppose this development

Thanks

Santokh Sohal

Resident of Ruby Hill

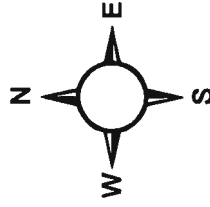
Click [here](#) to report this email as spam.

**2001 RUBY HILL**

**City of Pleasanton**

**GIS**

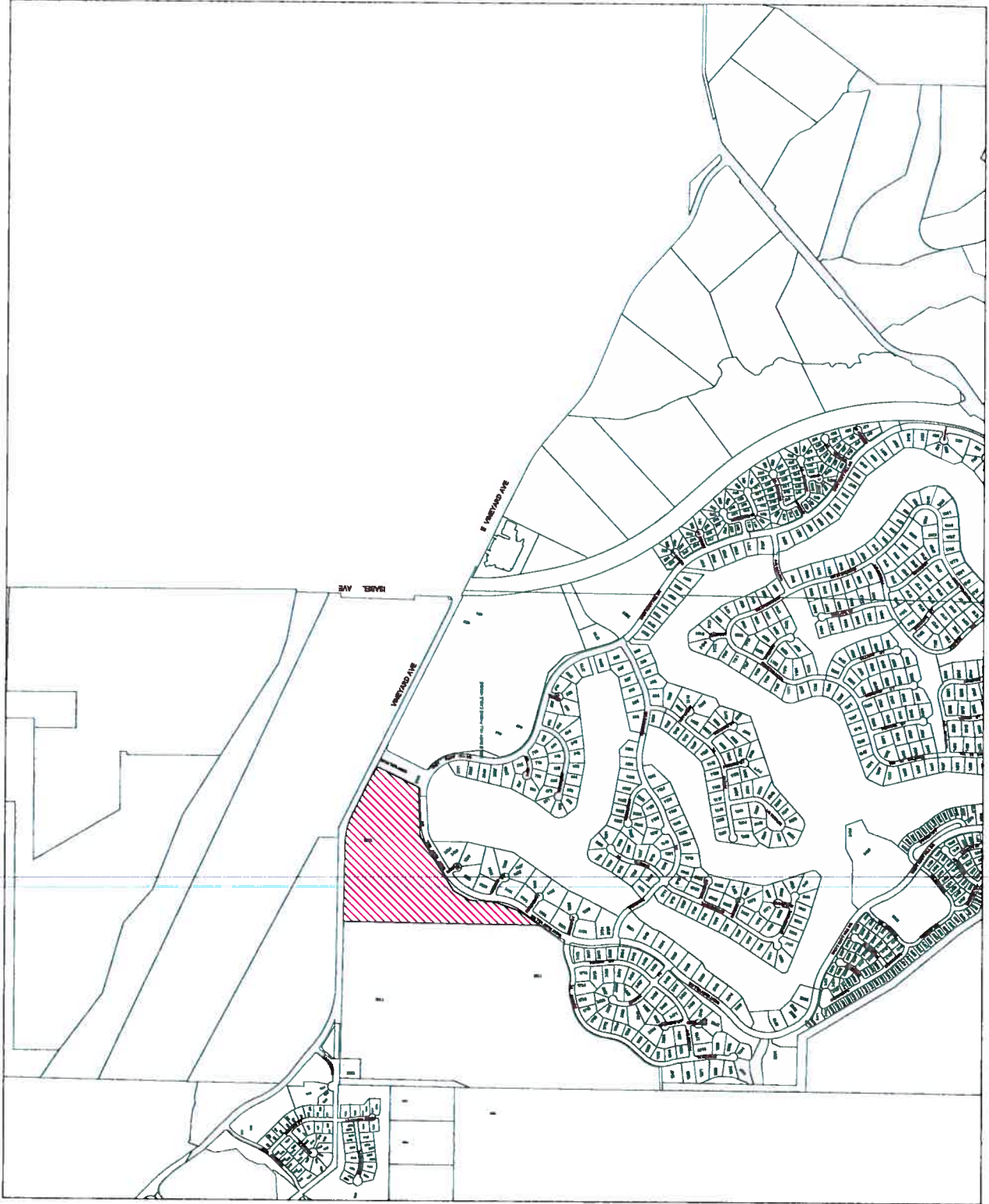
**Department**



**EXHIBIT G**



Printed 10/6/2011

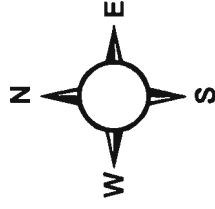


**2001 RUBY HILL**

**City of Pleasanton**

**GIS**

**Department**



**EXHIBIT H**

Printed 10/6/2011

