

RESOLUTION NO. PC-2020-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RECOMMENDING THAT THE CITY COUNCIL APPROVE THE APPLICATION FOR PLANNED UNIT DEVELOPMENT (PUD) MAJOR MODIFICATION LOCATED AT 4210 ROSEWOOD DRIVE, AS FILED UNDER CASE NO. PUD-89-06-08M

WHEREAS, on October 14, 2019, Gabriela Marks of Marks Architects, Inc. on behalf of Jinglebells, LLC (“Applicant”) applied for a Planned Unit Development (PUD) Major Modification to remove an existing PUD (PUD-89-6) condition of approval prohibiting a drive-through restaurant on “Pad B” within Phase III of the Rose Pavilion Shopping Center (“Project”). The proposed modification would facilitate an application to demolish an existing oil change facility and the construction of a new approximately 1,649-square-foot drive-through Taco Bell restaurant and related site improvements on “Pad B” at 4210 Rosewood Drive; and

WHEREAS, the site is designated Retail/Highway/Service Commercial/Business and Professional Offices in the General Plan; and

WHEREAS, the existing PUD rezone and development plan (PUD-89-6) contains a condition of approval prohibiting a drive-through restaurant on “Pad B;” and

WHEREAS, on January 22, 2020, the Planning Commission, following public notice, conducted a public hearing where it considered the written agenda report, public testimony, related project materials, and staff recommendations; and

WHEREAS, on January 22, 2020, the Planning Commission, following public notice, conducted a public hearing and after it considered the written agenda report, public testimony, related project materials, and staff recommendations directed staff to draft a resolution recommending approval of the PUD Major Modification with the required findings and conditions of approval for City Council consideration.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written agenda reports and all public comment and testimony:

Section 1: Findings for approval of PUD-89-06-08M

With respect to the PUD Major Modification application, PUD-89-06-08M, the Planning Commission makes the following findings and determinations with respect to each of the considerations for a PUD Major Modification as required by Section 18.68.110 of the Pleasanton Municipal Code (PMC):

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

The Planning Commission finds the proposed PUD Major Modification is in the best interests of the public health, safety, and general welfare, and this finding can be made. The proposed PUD Major Modification, as conditioned, would facilitate a drive-through restaurant use that would most likely meet all applicable City standards concerning public health, safety, and welfare. The drive-through restaurant use would include the installation of all required on-site drainage and utilities with connections to municipal systems in order to serve the drive-through restaurant use. The proposed drive-through restaurant use would be compatible with the General Plan and zoning designations for the site and would be subject to design review to ensure it would be consistent with the existing scale and character of the area. In addition, the project would include Green Building measures; improved pedestrian access and connections to the subject site from Rosewood Drive and include enhanced on-site pre-treatment of storm water runoff in vegetative swales before discharge into the City's storm drain system.

Based on the foregoing, the Planning Commission can make this finding.

2. Whether the plan is consistent with the City's General Plan and any applicable specific plan:

"Pad B" has a General Plan Land Use designation of "Retail/Highway/Service Commercial; Business and Professional Offices." This land use designation allows for commercial uses; therefore, a restaurant on "Pad B," as proposed, would be consistent with this land use designation. "Pad B" is located on the south side of Rosewood Drive and is surrounded by commercial uses. A proposed drive-through restaurant use at this location would be compatible with the surrounding uses. The General Plan requires a maximum FAR of 60%. Based on the proposed site plan, a future drive-through restaurant use would be well below this maximum, at under 11% FAR. The proposed Major Modification would not therefore, in and of itself, conflict with these applicable General Plan land use policies. The location is not within a specific plan area.

Based on the foregoing, the Planning Commission can make this finding.

3. Whether the plan is compatible with previously developed properties in the vicinity and the natural, topographic features of the site:

"Pad B" is bordered by commercial uses. The proposed drive-through restaurant use and related site improvements would require limited grading. Grading conducted on the site would continue to be subject to engineering and building standards prior to any development.

Based on the foregoing, the Planning Commission can make this finding.

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

The “Pad B” topography is flat and grading for the proposed drive-through restaurant use and related site improvements would be minimal and limited just to “Pad B.” Erosion control and dust suppression measures would be documented in any building permit plans and would be administered by the City’s Building and Safety Division and Engineering Department. “Pad B” is not located within an Alquist-Priolo Earthquake Fault Zone. The flood hazard maps of the Federal Emergency Management Agency (FEMA) indicate that “Pad B” is not located within a 100-year flood zone.

Based on the foregoing, the Planning Commission can make this finding.

5. Whether streets, buildings, and other manmade structures have been designed and located in such manner to complement the natural terrain and landscape:

“Pad B” is in a developed area of the City, within a previously developed shopping center. Development of this site would not involve the extension of any new public streets. “Pad B” is flat and thus any future redevelopment with a drive-through restaurant use would not require extensive grading and would not contrast unfavorably with the natural terrain.

Based on the foregoing, the Planning Commission can make this finding.

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

“Pad B” currently provides adequate access for police, fire, and other emergency vehicles. The proposed drive-through restaurant use would be equipped with automatic fire suppression systems (sprinklers). Structures would be required to meet the requirements of the California Building Code, Fire Code, other applicable City codes, and State of California energy and accessibility requirements. Site specific soils analyses would be conducted in conjunction with the building permit review. Thus, approval of the Major Modification would not preclude adequate safety measures from being included in a future plan or project.

Based on the foregoing, the Planning Commission can make this finding.

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

In 1989, a PUD rezone and development plan (PUD-89-6) application was approved for Phase III of the Rose Pavilion Shopping Center which included a condition of approval to allow for a 5,000 square-foot-restaurant on "Pad B." The PUD approval explicitly prohibited a drive-through restaurant on "Pad B." In 1992, the PUD development plan was modified (PUD-89-6-4M) to allow for the construction of the current oil change facility on "Pad B." The action to approve PUD-89-6-4M did not remove the condition of approval prohibiting a drive-through restaurant on "Pad B," thereby continuing to restrict a drive-through at this location. However, in consideration of the overall PUD, which permits drive-throughs at other locations within Phase III of the Rose Pavilion shopping Center, and the changed circumstances from when the original condition was applied, including the apparent purpose at the time to limit the use of "Pad B" to a "50's style diner" restaurant use that never materialized, the Planning Commission has determined the PUD Major Modification to remove the condition would be acceptable and would conform to the overall purpose of the PUD district.

Based on the foregoing, the Planning Commission can make this finding.

Section 2: The Planning Commission hereby recommends the following to the City Council:

- a. Find the proposed PUD Major Modification consistent with the purposes of the PUD District; and
- b. Approve PUD-89-06-08M, the PUD Major Modification application of Gabriela Marks of Marks Architects, Inc. on behalf of Jinglebells, LLC to remove an existing PUD (PUD-89-6) condition of approval prohibiting a drive-through restaurant on "Pad B" within Phase III of the Rose Pavilion Shopping Center at 4210 Rosewood Drive, subject to the Conditions of Approval shown in Attachment 1, attached hereto and made part of this case by reference.

Section 3: This resolution shall become effective immediately upon its passage and adoption.

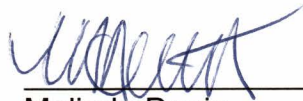
PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on February 12, 2020, by the following vote:

Ayes:	Commissioners Allen, Balch, Brown, O'Connor
Noes:	None
Absent:	Commissioners Pace and Ritter
Abstain:	None

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ATTEST:



Melinda Denis
Secretary, Planning Commission

DocuSigned by:



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Justin Brown
Vice Chair

APPROVED AS TO FORM:



Julie Harryman
Assistant City Attorney

EXHIBIT A
CONDITIONS OF APPROVAL

PUD-89-06-08M
4210 Rosewood Drive
February 12, 2020

The applicant is hereby notified, as part of this approval, that (s)he is required to satisfy and maintain compliance with the conditions of approval below. Where approval by the Director of Community Development, Planning Division, Director of Engineering/City Engineer, City Attorney, Chief Building and Safety Official, Fire Department or other City staff is required, review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations, and accepted practices related to the approval. In addition to complying with the conditions below, the applicant is required to comply with all applicable federal, state, and local laws that pertain to this project whether or not specifically noted herein.

This approval is granted for an Application for a Planned Unit Development (PUD) Major Modification to remove an existing PUD (PUD-89-6) condition of approval prohibiting a drive-through restaurant on "Pad B" within Phase III of the Rose Pavilion Shopping Center. The proposed modification would facilitate the demolition of an existing oil change facility and the construction of a new approximately 1,649-square-foot drive-through Taco Bell restaurant and related site improvements on "Pad B" located on Assessor Parcel No. 946-1100-035-00 at 4210 Rosewood Drive.

THIS APPROVAL IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. APPROVAL: Condition of approval No. 22 shall be removed from Ordinance No. 1421 (approval for PUD-89-06). With this removal, "Pad B" shall no longer be limited to a 5,000-square-foot restaurant use and drive-through restaurants shall no longer be prohibited on "Pad B." (***Project Specific Condition***)
2. PREVIOUS CONDITIONS OF APPROVAL: Except as modified by Condition 1 above, all conditions of Case PUD-89-06 through PUD-89-06-07M shall remain in full force and effect. (***Project Specific Condition***)
3. ENTITLEMENTS: Should the City Council support the Planning Commission recommendation for Case No. PUD-89-06-08M, any future drive-through restaurant use on "Pad B" within Phase III of the Rose Pavilion Shopping Center shall be subject to Planning Commission review and approval of Conditional Use Permit and Design Review applications. The Conditional Use Permit submittal shall include a queuing analysis for the proposed drive-through. (***Project Specific Condition***)
4. LIABILITY AND INDEMNIFICATION: To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or the 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.

PLANNING DIVISION – 925-931-5600

Site Development and Building Design

5. **BUILDING ELEVATIONS:** Should the City Council support the Planning Commission recommendation for Case No. PUD-89-06-08M, any future drive-through restaurant use on “Pad B” within Phase III of the Rose Pavilion Shopping Center shall incorporate high quality and traditional architectural elements into the overall design, complement the existing shopping center architecture and ensure the same level of detail is replicated on all four sides of the proposed restaurant. Typical franchise and/or prototype architecture shall not be permitted. **(Project Specific Condition)**

6. **GREEN BUILDING/AIR QUALITY FEATURES:** Should the City Council support the Planning Commission recommendation for Case No. PUD-89-06-08M, any future drive-through restaurant use on “Pad B” within Phase III of the Rose Pavilion Shopping Center shall:
 - a. Install electric vehicle (EV) charging station to the satisfaction of the Director of Community Development and any applicable building codes;
 - b. Increase the area of site perimeter and interior site landscaping to the satisfaction of the Director of Community Development and the City’s Landscape Architect;
 - c. Create/enhance pedestrian accessibility to “Pad B” from Rosewood Drive; and
 - d. Install photovoltaic (PV) infrastructure such that the building is PV ready to the satisfaction of the Director of Community Development. **(Project Specific Condition)**

Noise

7. **ACOUSTICAL ANALYSIS:** Should the City Council support the Planning Commission recommendation for Case No. PUD-89-06-08M, any future drive-through restaurant use on “Pad B” within Phase III of the Rose Pavilion Shopping Center shall be required to submit an acoustical analysis to ensure the use would comply with the noise requirements and thresholds specified in the City’s General Plan. **(Project Specific Condition)**