



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, April 28, 2010

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

CALL TO ORDER

The Planning Commission Regular Meeting of March 10, 2010, was called to order at 7:00 p.m. by Chair Olson.

1. ROLL CALL

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

Commissioners Present: Chair Arne Olson, Commissioners Phil Blank, Kathy Narum, Greg O'Connor, Jennifer Pearce, and Jerry Pentin

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. March 10, 2010

Commissioner O'Connor requested that the fifth sentence of the first full paragraph on page 10 be modified to read as follows: "...He indicated that he felt the Commission should make sure the house designs do fit within the letter of the design guidelines if all other owners...."

Commissioner Narum moved to approve the Minutes of March 10, 2010, as amended.

Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

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

The Minutes of the March 10, 2009 meeting were approved, as amended.

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

There were no speakers.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Janice Stern advised that Item 6.a., PCUP-266, Robert Byrd, is being continued to the May 12, 2010 meeting at the request of the applicant, who wishes to amend his application.

Commissioner Blank inquired if the Commissioners should hold on to their staff reports and bring them in at the next meeting.

Ms. Stern said yes and added that they may receive a supplemental report, as well.

5. CONSENT CALENDAR

There were no Consent Calendar Items.

6. PUBLIC HEARINGS AND OTHER MATTERS

- a. PCUP-266, Robert Byrd**
Application for a Conditional Use Permit to operate a bar/lounge and a restaurant with alcohol service after 10:00 p.m. on the second floor of the existing building located at 328 St. Mary Street. Zoning for the property is Central Commercial (C-C), Downtown Revitalization, Core Area Overlay District.

This item was continued to the May 12, 2010 meeting.

- b. PUD-87-19-03M – Dr. William & Lydia Yee and Marty Inderbitzen
Application for a major modification to an approved Planned Unit Development to allow four custom lots, where six were previously approved, on an approximately 29.8-acre site, custom lot design guidelines, and off-site construction and access realignment on Foothill Road located at 4100 Foothill Road. Zoning for the property is zoned PUD-LDR/RDR/OS (Planned Unit Development – Low Density Residential/Rural Density Residential/Open Space) District.
Also consider the Negative Declaration prepared for the project.**

Marion Pavan presented the staff report and described the scope, layout, and key elements of the project.

Commissioner Pentin inquired if roosting bats were those known for occupying rock overhangs and crevices.

Mr. Pavan said yes. He added that they primarily occupy nests built into trees and rocks.

Mr. Pavan noted staff and the applicants worked closely together to make the project work. He added that staff has attached a recommended change to Condition No. 60 which both the applicant and staff concur with, and recommended that it be incorporated into the motion, in addition to some clerical corrections made to Tables 2 and 3.

Mr. Dolan stated that staff had the unfortunate experience of receiving environmental comments after the Planning Commission hearing, which staff believed should be addressed prior to having the project go before the City Council. He added that the comments received resulted in the project as described in the staff report. He noted that the two largest issues they struggled with are the loss of oak woodland trees and impacts to the ditch related to the bike lane. He noted that the impact of the construction of the ditch was under-estimated, as the agency was requiring that the City move the ditch up the hill. He indicated that in order to accomplish this and keep the grades correct, there would be a lot of grading, and all trees along the road would have to be removed, which would have resulted in an appearance that would be very different than what the Commission was anticipating. He added that this was the primary reason the project is returning to the Commission.

Mr. Dolan stated that only 200 linear feet of the total 1200 linear feet in bike lane would be lost, and while this is not ideal, the project is providing 1,000 linear feet of bike lane.

Commissioner Pentin commented that the 200 linear feet where the bike lane would be lost is probably where the most critical need is, and his concern is that this will not change in the future.

Mr. Dolan stated that there are other stretches of Foothill Road that do not have a bike lane. He added that at some point, the City may want to look at a more comprehensive solution. He noted that staff reviewed every possibility for making it work such as using area on the other side.

Commissioner Pentin stated that there are examples across the valley where people have constructed bike lanes off the side of the road because there was no area to locate the bike path and he inquired if this was feasible.

Mr. Dolan replied that staff looked at every alternative and could not make any of them work, other than moving the ditch/creek. He added that if the Commission wanted to see this done, it could be considered; however, he noted that all the parties involved worked together in a negotiated compromise. He indicated that the applicant ended up losing two lots, and consideration was given to assist with the oak woodland issue since moving the creek up the hill is a significant expense.

Commissioner Blank thanked the applicant for the high quality of the materials and the time and efforts in putting the plans together. With respect to the stepped house, he inquired what the distance was measuring from the bottom to the top of the structure, and what the impact might be if the house were built the other way.

Mr. Pavan replied that roofs would have to be no steeper than 4:12, and the interior ceiling heights would have to be replaced from nine or ten feet to eight feet. He added that the house would potentially not have a step pattern where the form of the house reflects the lay of the land. He indicated that there would be no variation in the roof height, and the roof would more likely be a continuous roof which would potentially emphasize the visual massing of the house.

Commissioner Blank inquired how the grading would be affected.

Mr. Pavan replied that it would create a flat pad lotting pattern, and the knolls would be pushed back to accommodate a flat pad for the house.

Commissioner Blank referred to page 7 of the Conditions of Approval regarding the CC&R disclosure requirements and stated that it surprised him that the high school and the train tracks were not disclosed. He indicated that he had reviewed the history of the Stoneridge Drive Extension home disclosure where homeowners brought him their packages and noted there were no disclosures. He noted that there are traffic and noise impacts from the high school as well as the railroad noise and inquired why these disclosures were left out.

Mr. Pavan replied that when he was on-site, he did not find the trains to be objectionable and, therefore, did not include it in the disclosure. He indicated that the exclusion of the high school was an oversight, although conceptually, activities associated with the high school would be apparent. He noted that both disclosures could be added should the Commission desire.

Commissioner Blank noted that the train whistle can be heard. He added that homes could be purchased during the summer when school is out, when these impacts would not be evident.

Commissioner Narum stated that she lives within 500 feet of the train tracks and that she can hear the train on non-cloudy days.

Ms. Harryman stated that she thought the train tracks were on the other side of the freeway. She agreed that disclosures are a good thing and could be added to the conditions but indicated she had concerns with the practice of picking some disclosures and not others.

Commissioner Narum stated that the noise is of more impact on the west side than the train tracks are.

Commissioner Blank stated that train whistle blows could be louder than the freeway noise. He added that there have been a number of issues similar to this before the Commission and suggested including the disclosure.

Commissioner Pentin indicated that he rides his bike through the area and believes that the distance from the railroad to the project site is one mile.

Mr. Pavan noted that the railroad is located on the west side of I-680 by the Castlewood Golf Course Country Club, then turns to the right and crosses under the freeway as it goes north.

With respect to the relation between out-buildings and livestock and animals, Commissioner Narum recalled that out-buildings could be constructed through a Conditional Use Permit. She stated that she could not find this stated in any of the conditions and inquired whether they are included in the 8,500-square-foot floor area.

Mr. Pavan replied that if it is an enclosed accessory structure, it would be included in the floor area ratios; and if it is open, it would not be included. He referred to bullet point no. 4 of Condition No. 31.b., which states that the floor area for closed accessory structures shall be included in the site's floor area ratios.

Commissioner Narum stated that the design guidelines talks about accessory structures, cabanas, and pools, and about barns outside the building envelope, but it does not clearly state whether these were or were not included in the floor area maximum.

Mr. Pavan stated that it is covered in the statement on page 10. He added that the design guidelines will be revised to conform to these standards.

Commissioner O'Connor inquired whether the 8,500-square-foot maximum was all within the building envelope.

Mr. Pavan replied that it is very general, stating that the maximum size is 8,500 square feet, exclusive of 700 square feet of garage area, whichever is less, but does not refer to its being exclusive to the building envelope.

Commissioner O'Connor inquired why it would be called a building envelope if structures can be built outside the building envelope.

Mr. Pavan stated that at the time the Commission reviewed this matter, the applicant had requested consideration to allow very limited non-habitable accessory structures for a shed or a barn outside of the building envelope with a Conditional Use Permit. He added that habitable structures such as pool houses would have to be located within the building envelope.

Commissioner O'Connor indicated that he was amenable to adding this clarification to the Conditions of Approval.

Ms. Stern noted that Condition 32 states that non-habitable accessory structures are allowed in the open space areas outside of the building envelope.

Commissioner Pentin stated that he remembers from the Minutes that there was discussion that a three-sided and open structure would be a different kind of building and would not be included in the 8,500-square-foot maximum.

Mr. Pavan confirmed that was correct.

Commissioner Narum referred to a recent Commission discussion on Serenity Terrace regarding what constitutes a custom home. She indicated that she was looking for a statement that clarifies or includes the word "custom" or that a builder could buy a lot, build a house on it, and either live in it or sell it to someone as a spec house..

Commissioner Pentin noted that there is a statement on page 3 that states that the second phase will include the custom homes massed developed by a single applicant or constructed lot by lot. He indicated that he had made a notation that this was similar to the Serenity issue where neighbors in the next-door development may complain of dropping the square footage from 8,500 square feet to 2,800 square feet, which would be considered a custom home. He inquired if this would be an issue.

Mr. Pavan said no. He explained that the Serenity Terrace project deals flat pad lots, whereas there are no flat areas on any of the lots in this project. He added that the height of the buildings would be tied to the form to the topography, which will preclude someone from buying a design from somewhere else and placing it on the property.

Commissioner Pentin disagreed and reiterated that the project includes custom homes massed developed by a single applicant. He stated that a home builder could indicate that they could handle the topography with home plans and put four homes on them. He inquired whether the Commission would be faced with the Serenity issue if true custom homes are not constructed.

Mr. Pavan stated that because the standards for floor area are stated at a maximum, there is nothing to prohibit someone from building something smaller.

Commissioner Pentin stated that this was the same issue with Serenity, where up to 9,000-square-foot homes were allowed, and the neighbors found the proposed 3,500-square-foot homes too small.

Mr. Dolan stated that this is a possibility and that staff can address this in a number of ways. He noted that staff can either take all reference to "custom" out or better define "custom." He said this is a case where there is an assumption that they be custom, so the package is set up to regulate an undesigned home.

Commissioner Pentin expressed concern that there was an issue with "custom homes," "custom lots," and "custom sites." He stated that the Commission walked away from that issue at a past meeting, asking that somewhere along the line, staff put a definition of those in place so that there is clarity when the term is used in the future with another project.

Chair Olson inquired if each home would be subject to design review.

Mr. Pavan said yes. He added that the design review approval and plans will be forwarded to the Commission as an information item for its review.

Commissioner Narum indicated that is exactly what happened with the Serenity Terrace projects.

Commissioner Pentin stated that this particular line lays it out as walking into the same situation.

Commissioner Pearce inquired if there would be any ramifications with taking out the word "custom" in its entirety. She indicated that her big problem with the Serenity issue was not the house size but knowing what was and was not "custom." She suggested removing all reference to the word "custom" and the section that refers to the second phase being mass developed or revising it.

Mr. Dolan replied that he could not think of any downside of taking out all reference to "custom" because staff's intent was not necessarily that they be custom but to deal with an undesigned home.

Commissioner Narum stated that she would go one step further and incorporate in the design guidelines that the owner/builder may not actually be the person to occupy the house.

Commissioner Pearce inquired if those problems would be eliminated if the word "custom" was taken out,

Commissioner Pentin noted that there is also "massed development" which poses a problem.

Commissioner Pearce suggested that the whole portion be removed as well.

Commissioner Blank inquired if there was some economic disincentive here. He noted that at the price that the lots would go for, he did not suspect someone would buy a lot and then end up going to a home builder for plans and propose a house one might see elsewhere.

Commissioner Blank stated that at the last meeting on this project, there was quite a bit of discussion about open space deed restrictions versus easements. He recalled that the recommendation made in the motion was that the open space be done via deed restriction as opposed to easement. He requested that this be done in this application as well.

Mr. Pavan indicated that it would.

Commissioner Narum noted that a condition was included previously for the builder to submit to the Director of Community Development a plan to manage construction traffic so it did not conflict with the morning rush hour at Foothill High School. She noted that reference was made to it in Condition No. 28 and requested that this condition be revised to include the language of the previous condition.

Mr. Pavan stated that the condition would be reworded.

Commissioner Pentin referred to biological mitigation measures and noted that every single one requires a qualified biologist. He inquired if these were specifically for the endangered or special status creature or if a qualified biologist was someone who is qualified for a specific species.

Mr. Pavan replied that it could be one person who has the expertise and noted that this is determined by staff. He added that Mr. Fraser of WRA is qualified to handle all of these different areas.

With respect to tree replacement, Commissioner Pentin stated that page 7 refers to a drip irrigation system for three years. He inquired if this is the average standard with the industry.

Mr. Pavan said that it was.

Commissioner Pearce stated that bullet point 1 of Condition No. 19 refers to requiring 24-inch box replacement trees to be native, but the 15-gallon are not.

Mr. Pavan stated these should also be native and revise the condition.

Commissioner Pearce inquired what the sizes of the houses were in the photo simulations.

Mr. Pavan stated that he believes they are 8,500 square feet. He added that the project architect, Joseph Gorney, was present and could speak to this.

Commissioner Pearce referred to bullet point 3 of Condition No. 31 on page 10 of the Conditions of Approval, which states the maximum floor area as 8,500 square feet exclusive of 700 square feet of garage area, whichever is less. She inquired what "whichever is less" referred to.

Mr. Pavan stated that "whichever is less" should be deleted.

THE PUBLIC HEARING WAS OPENED.

Commissioner Pentin disclosed he met with the applicant long ago and discussed the project.

Marty Inderbitzen, applicant, representing Dr. William and Lydia Yee, stated that Tom Fraser from WRA, the consulting biologist; Joseph Gorney, project architect; and Darryl Alexander, project engineer, were present in the audience to answer questions. He indicated that they worked through the project at great length with staff and that modifications to the project are minor compared to the last review. He noted that the project has been reduced by two lots, and substantial impacts to the project area with regard to the Foothill Road frontage and tree impacts have also been reduced.

Mr. Inderbitzen stated that they worked hard to address issues and comments received regarding environmental impact following the first Planning Commission meeting before they could move forward. He added that they are in agreement with staff that the best way to deal with issues is to review them and determine whether the project could be self-mitigated. He indicated that they spent a significant amount of time and money figuring out how to deal with the creek issues, including a lot of design with a hydrologist, grading design, and meetings with representatives of agencies, boards, and City engineering staff on site. He noted that they reviewed every design on how to fit road-widening and a bike path into the 200-foot long location and could not arrive at anything that made sense while still allowing the project to be financially viable. He indicated that they modified the project in a manner that would be close to meeting everyone's desires.

Mr. Inderbitzen indicated that he has not heard anything from the Planning Commission thus far that they would have difficulty with and are in concurrence with staff's recommendations. He added that while he was not familiar with the Serenity issue, he acknowledged the issue over what is and is not "custom." He indicated that the four-lot project is not one where a typical mass development would be constructed, but it is conceivable that a custom-lot home-builder may want to buy all of the lots and spec them out as custom lots, and a member of the public could argue this was not their expectation.

Joseph Gorney, project architect, referred to the size of the homes for the photo simulations and stated that they used examples of models done before on different properties. He indicated that they added the amount of square footage of the garage: Lot 1 is 7,000 square feet; Lot 2 is 6,500 square feet; Lot 3, which no longer exists, had 7,500 square feet; Lot 4, which is now Lot 3, is 7,000 square feet; and Lot 4 had 5,500 square feet because it was a severe upslope and narrow lot, and the house was designed to step up the hill while still meeting the height restriction. He added that they worked within the rules to see what could be allowed, but the lot is now a little longer and they are working around a tree, making it less restrictive than the first design.

Commissioner Narum noted the word "drawing" was misspelled on page 9 of the April 12, 2010 drawing.

Mr. Gorney noted that there were many typographical errors, which would be corrected.

Commissioner Narum referred to the setbacks and accessory structures on page 7 and stated that she did not see any reference to barns and structures outside the building envelope.

Mr. Gorney stated that this would be integrated into the Conditions of Approval that they would be getting.

Commissioner Narum noted that the height restrictions on page 12 do not match the height restrictions in the Conditions of Approval.

Mr. Gorney noted that they added in the absolute 40 feet in the revision because originally, they were going to have a discussion to finalize it but had not established the number at the last meeting. He indicated that the 40-foot version will need to be added back into the verbiage.

Commissioner Narum referred to page 32 regarding solid fencing and courtyards, but there was no specific reference to fencing around the perimeter, in particular, to what is visible from the street. She added that she did not see anything about fencing in the Conditions of Approval either. She suggested that it be as open as what is at the golf course.

Mr. Pavan stated that the Landscape Design Guidelines provide that no fencing is allowed along the perimeter of the property, and the only fencing allowed is on the building envelopes, which would be open fencing. He noted that the example shown in the Guidelines is a combination of solid fencing and some trellis elements as a means of dealing with courtyard and privacy areas. He added that staff is looking at open fencing for this property.

Commissioner Blank suggested that this be included in the Conditions of Approval.

Mr. Pavan indicated that the condition would be added.

Commissioner Narum indicated that she would like to see all the fencing conditions in the Conditions of Approval, with specifics on what is and is not allowed in the different areas of the property.

Ms. Stern indicated that it can be done.

Mr. Gorney stated that while the picture shows open fencing, it does not indicate that it should be used. He added that solid wall is proposed, but not for the entire area.

Commissioner Narum pointed out that page 2, 2.1 indicates that the owner will provide and maintain a vineyard on Lot 4.

Mr. Gorney stated that this has not been updated since the last meeting and should be removed.

Commissioner O'Connor asked Commissioner Narum whether she wanted the planting of a vineyard to be prohibited or she did not want it required.

Commissioner Narum replied that if it were up to her, there would be no vineyard. She noted, however, that there is a condition to allow it with a Conditional Use Permit should it be proposed, which was all right with her.

Mr. Inderbitzen noted that they are not asking for the vineyard and that the reference will be removed.

Mr. Tim Belcher, California Native Plant Society, indicated that he had commented on the project as a co-signer in July 2009 with the Society. He commended the applicant and City staff for their work on improving the project tremendously. He inquired if there was a possibility to preserve heritage trees nos. 100, 101, 191, 192, 197, and 198 in the driveway for Lots 3 and 4. He further inquired what the net grading would be to make the building envelopes.

Mr. Dolan replied that he would not be able to respond to the question about preserving the trees but that staff would look into the matter to determine whether there is a chance they could be saved. He noted that this is typically done at the detailed design stage

and advised the Commission that it could add a condition to look into that possibility. He added that the project civil engineer could respond to the question regarding grading.

Darryl Alexander, Project Engineer, stated that they will definitely look at the trees. With respect to the grading, he indicated that there are no plans to grade the area as part of the project and that appropriate grading will occur when the homes come in, which would include the driveway.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank commended the applicant and Mr. Inderbitzen for doing a good job on the project.

Commissioner Blank moved to find that the proposed project will not have a significant environmental impact and that the Mitigated Negative Declaration is appropriate for the project and that the proposed PUD development plan conforms to the applicable goals and policies of the Pleasanton General Plan, to make the PUD development plan findings as stated in the staff report, and to recommend approval of the Mitigated Negative Declaration and of Case PUD-87-19-03M, subject to the Conditions of Approval as shown in Exhibit A of the staff report, with the following modifications:

- 1. Modify Condition No. 19 to indicate that the 15-gallon size trees to be planted for every non-heritage tree removed shall be native trees.**
- 2. Modify Condition No. 28 to include language restricting construction trucks from using Foothill Road during Foothill High School's rush traffic hours.**
- 3. Remove the phrase "whichever is less" in Condition No. 31 regarding the 8,500-square-foot maximum floor area for primary structures, exclusive of the 700-square-foot garage floor area.**
- 4. Delete the words "custom" and "mass development" from the Conditions of Approval.**
- 5. Add a condition disclosing possible noise and traffic impacts from Foothill High School located across from the project site.**
- 6. Add a new condition relating to fencing and the types of fencing allowed by the houses and along the perimeter of the building envelope.**

Commissioner Narum seconded the motion.

The Commission also recommended that the applicant disclose possible noise impacts coming from the railroad tracks and the freeway close to the project site. It further directed staff to look into the possibility of preserving Trees Nos. 101, 101, 191, 192, 197, and 198 on Lot. No. 4.

Ms. Stern noted that the Commission had also recommended the removal of the reference to a vineyard on Lot 4.

Commissioner Narum requested the addition of language clarifying that enclosed agricultural accessory structures outside the building envelope would be counted toward the 8,500-square-foot maximum floor area.

Mr. Pavan stated that this would be included in the floor area ratio.

Commissioner O'Connor indicated that this was covered in Condition Nos. 31 and 32.

Commissioner Pearce noted that it was clear that enclosed accessory structures outside the building envelope would be included in the 8,500-square-foot maximum.

Commissioner O'Connor inquired if the proposed condition regarding fencing included no solid fencing on the perimeter only or on all places of the lots.

Commissioner Blank replied that the only reason he suggested no fencing on the perimeter is that a small fence might be proposed off of a house or around a hot tub for privacy reasons.

Commissioner Narum noted that page 6 of the Landscape Design Guidelines states that fencing is not allowed along the perimeter of the lots, rather than fencing is allowed at the perimeter of the building envelope, and that it must be open fencing.

Commissioner Blank amended the motion to allow only open fencing at the perimeter of the building envelope.

Commissioner Blank and Commissioner Narum indicated that the amendments were acceptable to them.

Chair Olson voiced his disappointment that vineyards are not allowed.

Commissioner O'Connor also voiced disappointment that two lots were lost.

ROLL CALL VOTE:

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

Resolutions Nos. PC-2010-07 recommending approval of the Mitigated Negative Declaration and PC-2010-08 recommending approval of Case PUD-87-19-03M were entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Permit Streamlining

Commissioner Narum requested that staff make a presentation on the new permit streamlining for the Commission to understand the process.

Definition of "Custom"

Commissioner O'Connor requested staff to work on a definition of the term "custom."

\$6 Million for Four-Lane Stoneridge Drive Extension

Commissioner O'Connor recalled that Supervisor Haggerty indicated that the County would pay the City \$6 million should the four-lane Stoneridge Drive Extension be approved. He inquired if this offer was still good and, if so, at what point in the Stoneridge Drive Extension process the County would pay those funds.

Mr. Dolan replied that the County has not withdrawn the offer and that he would look into the timing of when the payment would be made and return to the Commission with a response.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Commissioner Blank inquired what items were proposed for the May 12, 2010 meeting.

Ms. Stern replied that the agenda would include the continued public hearing for Mr. Robert Byrd's Conditional Use Permit and the extension of the Bernal Property Development Agreement for the Pleasanton Gateway project.

Mr. Dolan indicated that Staples Ranch is scheduled for the May 26, 2010 meeting.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

9. COMMUNICATIONS

No discussion was held or action taken.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

No discussion was held or action taken.

12. ADJOURNMENT

Chair Olson adjourned the Planning Commission meeting at 8:13 p.m.

Respectfully,

JANICE STERN
Secretary