



## PLANNING COMMISSION MINUTES

---

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

**APPROVED**

**Wednesday, January 28, 2009**

*(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 January 28, 2009, was called to order at 7:00 p.m. by Acting Chair Olson.

#### **1. ROLL CALL**

Staff Members Present: Brian Dolan, Director of Planning and Community Development; Donna Decker, Principal Planner and Maria L. Hoey, Recording Secretary

Commissioners Present: Acting Chair Arne Olson; Commissioners Phil Blank, Anne Fox, Kathy Narum and Greg O'Connor

Commissioners Absent: Chair Jennifer Pearce

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

a. January 14, 2009

Acting Chair Olson advised that the consideration of the Minutes would be continued to the next meeting.

#### **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**

Mr. Dolan advised that **Item 6a. PMCC-2, Vineyard Villa** is being continued by staff to the February 25, 2009 meeting. Commissioner Blank inquired if there would be a new staff report for this item, and Mr. Dolan said yes.

Commissioner Blank stated that he and Mr. Dolan had previously discussed that there was that a lot of information received on this item and that the Commission would like to get staff's view of what the Commission can and cannot do in view of the correspondence received.

Mr. Dolan stated that it is staff's intent to provide that direction.

**5. CONSENT CALENDAR**

**6. PUBLIC HEARINGS AND OTHER MATTERS**

- a. **PMCC-2, Vineyard Villa**  
**Consider an application for a Vesting Tentative Map converting a 208-unit mobile home park located at 3263 Vineyard Avenue into residential condominium units. Zoning for the property is C-F (Freeway Interchange Commercial) District.**

This item was continued by staff to the February 25, 2009 meeting.

**7. MATTERS INITIATED BY COMMISSION MEMBERS**

- a. **Consideration of Planning Commission Priorities to Process Various Code Amendments**

Ms. Decker presented the staff report, stating that the Planning Commission had indicated an interest in recommending Municipal Code amendments to the City Council for consideration as Council Priorities in February. She noted that to effect this, the Commission would need to make a formal recommendation to Council, and staff would prepare a letter to the City Council on behalf of the Commission.

Ms. Decker noted that on the list of Municipal Code Amendments, several items have been labeled as "Initiated by Staff" which had been initiated over three or more years ago. She noted that the process at that time was different, and staff initiated areas of the Municipal Code that needed updating. She added that the process has changed due to limitation of staff resources.

Ms. Decker presented a list identifying nine Municipal Code amendments; she noted that these were previously included in the Commission's Future Planning Calendar. She indicated that she highlighted PRZ-38; Automatic Sprinkler Systems, which should have been omitted because it is already on the Council's current work priority list. She added that work on PRZ-12, Wood-Burning ordinance, began about four to

five years ago. She stated that none of the other items are very far along and recommended that the Commission review and force-prioritize the items.

Commissioner Blank stated that he spoke to Ms. Decker earlier today and suggested a couple of different prioritization processes and briefly explained them. Mr. Dolan noted that the process should emphasize the level of importance of items, but the Commission could also choose to simply rank the items.

Commissioner Blank noted that there was a lot on the list and that the Council has tremendous existing priorities of its own. He stated that he believed the Commission should try to force-prioritize one or two items that are real issues. Commissioner Narum agreed and noted that this was a similar, and successful, strategy utilized by the Parks and Recreation Commission.

Commissioner O'Connor inquired whether or not PRZ-25, Commercial Districts, was already on the current Priority list, and Ms. Decker replied that this Municipal Code amendment ordinance has been drafted and is in process. She explained that in terms of the CUP process, it has been a goal to identify areas that could be streamlined, and consideration of all the zones in the City is underway as well.

Commissioner O'Connor suggested that the Commission eliminate from its top three priorities those items that already have steam behind them.

Commissioner Blank stated that he would not want to use the Commission's steam if it is already in process. He noted that from a personal perspective, PRZ-36, Sports Courts, is an absolutely horrific situation that is perfectly legal but for which there is no regulation and could end up in court. He asked the Commission to determine which among PRZ-35, PRZ-36, and PRZ-25 would be considered a priority.

Commissioner Fox noted that she distributed a list which included revamping the parking ordinance and added that there had been issues regarding basing the number on interior square footage. She stated that she believed the Commission had also discussed background checks for adults and volunteers who work with children as well as the mobile home condominium conversion ordinance. She then recommended revisiting the Code amendment that the Commission had previously approved regarding recreational facilities for 20 children or less as permitted uses and reversing it back to a conditional use.

Commissioner Narum voiced support for reverting recreation facilities to conditional use and believed it was part of PRZ-25. She added that any application involving children should not be granted over the counter but should have at the least a 24-hour waiting period prior to approval.

Commissioner Fox suggested that rather than designing what the ordinance should be, the Commission should instead put a placeholder for the Commission to consider different options as to what was done a couple of years ago for the item.

Commissioner Narum agreed but thought that it should be identified and be listed, for instance, as PRZ-25 (a).

Ms. Decker confirmed Commissioner Narum's statement that this particular Code amendment was initially part of PRZ-25 and was removed from the overall ordinance amendment for PRZ-25 in order to help streamline those projects. She noted that this began as a grass roots discussion from both staff and the Commission and placed under the Consent Calendar. She added that an opportunity to amend it will occur when PRZ-25 comes before the Commission.

Commissioner Fox suggested that the discussion on PRZ-25 also include revisiting PRZ-37, Schools, Tutoring, and Recreational Facilities. Mr. Dolan stated that this would need to be done separately; either as a separate discussion or when PRZ-25 comes forward on the priority list.

Commissioner Fox indicated that she would rate PRZ-37 as a higher priority than re-doing the entire PRZ-25 and wanted it to be separated out. Commissioner Blank requested to see the language that was adopted, and Commissioner Fox indicated that a Code amendment was done across multiple zoning districts. She noted that it began with 30-40 children and was then reduced to 20, such that when someone operates a recreation facility, indoor recreational facility, or private school with 20 children or less in the CC (Central Commercial), CN (Neighborhood Commercial), and some I (Industrial) Districts, the application no longer needs to come before the Planning Commission for a conditional use permit. She stated that in this sense, anyone "with a pulse" could obtain approval.

Commissioner Narum referred to the Pfund application, stating that staff granted the application over the counter based upon this revision, and it turned out that Valley Business Park had not accepted it and still required a conditional use permit. She noted that this was not found out until after Mr. Pfund was already in business.

Commissioner Blank stated that he seriously doubts that the guidance the Planning staff had was that if someone comes in "with a pulse" and makes an application to have a facility with 19 students, they automatically get the permitted use. Commissioner Fox stated that they currently do and that they also get a zoning clearance. Ms. Decker clarified that this would occur in straight-zoned properties and that if the site is located within a Planned Unit Development (PUD) District, a conditional use permit is still required. She added that this was the reason Mr. Pfund's application came before the Commission.

Commissioner Blank stated that his point was that this approval was not due to the fact that the City had PRZ-37, but rather that an error was made at the counter and a CUP should have been required initially instead. Commissioner Narum agreed, but noted that when it comes to children in general, she thinks that a 24-hour waiting period should be required to ensure there are no outstanding nuances affecting

approval. Commissioner Fox asked that it simply exist as a placeholder for each Commissioner to rate as high, medium, or low.

Commissioner Narum inquired whether or not PRZ-25 and PRZ-41, Planned Unit Development Processing Requirements, go hand-in-hand. Acting Chair Olson inquired if they were related at all.

Ms. Decker replied that PRZ-25 is related to amending Chapter 18.44, which is specific to uses that are allowed and uses that require CUP's in Commercial zones. She noted that the Code amendment is specific only to straight-zoned properties and does not affect PUD's. With respect to PRZ-41, Ms. Decker explained that this is a very small portion of the Code's Section 18.68 and relates to some inconsistencies that need to be fixed.

Commissioner Narum inquired which between PRZ-25 and PRZ-41 needed more work or was more outdated. Ms. Decker replied that PRZ-41 was prepared to come before the Planning Commission and had been continued due to other reasons.

Mr. Dolan stated that PRZ-25 is already on the Council's list of Priorities as one of the Customer Service Review Team's (CSRT) recommendations and on which a lot of work has already been done. He explained, however, that the City Manager has instructed staff to proceed on the CSRT recommendations that do not require a policy decision. He noted that there are many process items that the Planning staff can do to improve the way the Division operates before moving them to the City Council for discussion and decisions. He indicated that it is much more involved than PRZ-41, which is a simple change relating to whether or not a tentative map can be brought forward at the same time as a PUD.

Acting Chair Olson inquired whether or not, given their momentum, PRZ-25 and PRZ-41 could be removed from the list. The Commissioners agreed to exclude them from the shorter priority list. Acting Chair Olson then asked if both would require policy decisions. Mr. Dolan confirmed that they would and added that PRZ-25 will happen after some administrative fixes are accomplished and that PRZ-41 is likely to happen at some point as well. Mr. Dolan further stated that the staff report for the Planning Commission has been written but that it would require Council consideration and decision as well. He added, however, that the City Manager believed there were other priorities that needed to be on the agenda before this small clean-up.

Commissioner Blank stated that the criteria he used is something that works but perhaps not well gets less priority than something that is broken. Acting Chair Olson agreed that this was reasonable and inquired what items were broken.

Commissioner O'Connor stated that he believed PRZ-39, Personal Wireless Service Facilities, was broken and needed to be cleaned up to meet with State legislation. He inquired if, in the event that it is not considered a priority, its non-compliance with

State legislation would be brought to the Commission's attention when considering applications under this category.

Ms. Decker stated that both PRZ-39 and PRZ-43, Massage Ordinance, are designed to bring the Code up to State requirements and consistency with the entire Code. She added that if the ordinances are not prioritized and are consequently not worked on, staff would follow State requirements. Mr. Dolan advised that staff would most likely alert the Commission as required and that this might be a good reason to make them less of a priority than other items.

Commissioner Narum asked if the Commission had discussed PRZ-31, the 40-day requirement to hear appeals. She stated that she felt it was more an overhaul of the appeal process, fees, and criteria and that she would rather see this done than piece-mealing it. Commissioner Blank stated that Chair Pearce had a lot to say about it the past month and wondered if it was a more rigorous interpretation by the City's legal counsel because other than one time, he could not recall a situation where an item did not meet the 40-day requirement.

Mr. Dolan stated that the City has had success in being persuasive in granting an extension and that he could not explain why more recent applicants have raised the concern. He added that he and felt that in some previous cases, the applicant might not have been aware of it or was not that concerned.

Commissioner Blank agreed with Commissioner Narum that there was more to PRZ-31 than just the 40-day requirement, and Commissioner O'Connor inquired if fees would be affected. Mr. Dolan replied that PRZ-31 includes a recommendation to evaluate the appeal process in a very comprehensive way, which would include fees, criteria, and others.

Commissioner Blank stated that from his perspective, PRZ-31 is an administrative, functional issue that can be handled by the City Manager or the City's administrative staff and should not be a priority of the Planning Commission to fix.

Acting Chair Olson stated that based on his two-year experience as a Planning Commissioner, he believed there were a couple of items on the list that needed to be prioritized.

Commissioner Fox referred to wood burning fireplaces and inquired if this would pertain only to new construction or if existing fireplaces would be banned. Mr. Dolan replied that four to five years ago, the Bay Area Air Quality Management District (BAAQMD) developed a model ordinance and pushed to have all jurisdictions consider adopting it or some version of it. He stated that he did not believe it outlawed existing wood burning stoves.

Commissioner Blank noted that BAAQMD has a much higher profile with Spare the Air Nights and was conducting enforcement. He noted that in his four years as

Planning Commissioner, he has never seen an issue come before the Planning Commission on the subject.

Commissioner O'Connor stated that he spoke with Jerry Iserson shortly before he left the City as Planning Director and noted that it was around 2004 that the Planning Commission stopped approving developments with wood burning fireplaces. Ms. Decker stated that the City's condition currently reads that the fireplace needs to be an Environmental Protection Agency (EPA)-approved wood burning fireplace. Mr. Dolan agreed there were changes to the requirements around that timeframe.

Commissioner O'Connor noted that Greenbriar Homes had built a development with wood-burning fireplaces, but its next development on the Bernal Property included the installation of gas-burning fireplaces.

Acting Chair Olson confirmed with the Commissioners that PRZ-25, PRZ-31, PRZ-38, PRZ-39, PRZ-41, and PRZ-43 should be crossed off the list.

Commissioner O'Connor noted that there were two more items on RV's (Recreational Vehicles) at the bottom of the page. Acting Chair Olson inquired why they had not been assigned a case number, and Mr. Dolan replied that the application has not been started.

Commissioner Blank reiterated his frustration with dealing with sports courts and recreation vehicles. Commissioner Fox noted that the City has PUD's in the R (Residential) District where private recreational facilities are allowed to be built. She stated that the issue is how these facilities are used and whether or not ten people are allowed to play basketball ten hours a day.

The Commissioners discussed whether sports courts are allowed in a straight zoned "R" district or would need approval as a conditional use. Ms. Decker described sports court as either a lawn, turf, batting cages, netting for soccer, croquette with a stick, and flatwork or concrete for basketball or tennis. She stated that these do not require a building permit unless there are very restrictive Conditions of Approval such as limitations on grading, how much area can be paved, and others.

Commissioner Blank inquired if a flatwork for a tennis court could be installed in a straight-zoned property with no CC&R's without a permit and play could occur at any time. Mr. Dolan confirmed that was correct except if an overheight fence were requested.

Commissioner O'Connor clarified that the noise should not exceed certain levels.

Commissioner Fox inquired what a private recreational facility was and if it was something like a private motor cross use. Mr. Dolan replied that he was not exactly sure but suggested it might pertain to something like an Elks Lodge, which is private

and recreational. He noted that the fact that some of the answers were ambiguous is a good reason they need to be addressed.

Commissioner Fox stated that she would rate RV's and Sports Courts as a high priority; the Commissioners agreed that these should be done first.

Acting Chair Olson confirmed with the Commissioners that the recommendation would be that an RV Ordinance, which includes fifth wheels, boats, and other related vehicles, be included and that it be assigned a PRZ number.

Commissioner Fox suggested a re-review of the entire commercial recreational facilities and private schools of 20 children or less by the Council and suggested including background checks for adults, including volunteers, who work with children. She noted that there was some clean-up that needed to be done, stating there was "extra sensory consulting" identified in part of the Municipal Code which should be deleted. She also stated that the Code also uses certain childcare terms that are inconsistent with the State's usage, such as "nursery schools" as opposed to "childcare centers."

Commissioners Blank and O'Connor stated that they felt staff could administratively work on this clean-up if the Commission felt the Code was so out of sync that it was causing issues for the Commission and forward it to the City Council for adoption.

Commissioner Fox agreed to forward to staff proposed typographical errors or word changes and suggested that staff return with a cleaned-up document addressing these inconsistent terms for Commission review and comment.

Mr. Dolan confirmed with the Commission that it would recommend prioritizing two items and that Commissioner Fox would forward suggested clean-up language to staff, who would forward the proposed changes to the full Commission.

Commissioner Fox suggested having the permitted use for 20 children or less as a separate bullet for the City Council to look at reversing PRZ-37 as part of PRZ-25, even though it was off the list. Mr. Dolan stated that staff could commit to raising the issue when it came forward. He noted that he was certain the Council would appreciate the brevity of the Commission's list.

Commissioner Narum suggested the Chair attend the City Council's priority setting session.



**Commissioner Blank moved that the Planning Commission Chair or Vice Chair represent the Commission and its views behind its two high priority items at the City Council work priority-setting session.**

**Commissioner Narum seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Blank, Fox, Narum, O'Connor, and Olson.**

**NOES: None.**

**ABSTAIN: None.**

**RECUSED: None.**

**ABSENT: Chair Pearce.**

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

**a. Future Planning Calendar**

Commissioner Narum inquired if the Commission would discuss the Planner's Institute and Expo in Anaheim and who would attend. Acting Chair Olson and Commissioners Fox, O'Connor, and Narum stated that they would not be attending.

**b. Actions of the City Council**

Mr. Dolan reported that the City Council took action on the Segundo appeal and approved an amendment to the Planning Commission's decision, which facilitated an agreement between the parties. He stated that the tank will be moved about 75 feet to behind the garage and that it will be paid for by the neighbor.

**c. Actions of the Zoning Administrator**

Commissioner Blank noted that a wireless appeal was continued at a past meeting and inquired if this would be heard at the next meeting. Mr. Dolan replied that it would.

**9. COMMUNICATIONS**

No discussion was held or action taken.

**10. REFERRALS**

No discussion was held or action taken.

**11. MATTERS FOR COMMISSION'S INFORMATION**

a. **Brief report on conferences, seminars, and meetings attended by Commission Members**

No discussion was held or action taken.

**12. ADJOURNMENT**

Acting Chair Olson adjourned the Planning Commission meeting at 7:55 p.m.

Respectfully,

DONNA DECKER  
Secretary