



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, September 24, 2008

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

CALL TO ORDER

The Planning Commission meeting of September 24, 2008, was called to order at 7:00 p.m. by Chair Blank.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Planning and Community Development; Donna Decker, Principal Planner; Larissa Seto, Assistant City Attorney; Steve Otto, Associate Planner; Jenny Soo, Associate Planner; Rosalind Rondash, Assistant Planner; Natalie Amos, Assistant Planner; and Maria L. Hoey, Recording Secretary

Commissioners Present: Commissioners Phil Blank, Anne Fox, Kathy Narum, Greg O'Connor, and Jennifer Pearce

Commissioners Absent: Commissioner Arne Olson

2. APPROVAL OF MINUTES

a. September 10, 2008

Commissioner Fox noted that the first sentence of the last paragraph on page 10 indicates that Commissioner Olson stated that the on-site slope banks needed to be cleaned and vegetated. She noted that she thought Commissioner Olson mentioned that the drainage channel needed to be cleaned and slope banks vegetated. Chair Blank requested staff to check the tape to clarify the statement.

Commissioner Fox requested clarification on the Commission's direction to staff with respect to the Johnston appeal. She inquired whether staff was asked to meet with both parties or whether the applicant was supposed to approach the City with a plan.

Chair Blank referred the inquiry to staff.

Mr. Dolan clarified that based on the Commission's discussion, staff was to contact the parties and try to get a resolution.

Commissioner Pearce requested that the sixth sentence of the third paragraph on page 26 be modified to read as follows: "She stated that she would like to make the parties whole ~~and~~ but that her initial inclination is to allow the wall up to four feet high...."

Commissioner O'Connor noted that the Roll Call Vote on page 3 should list his name under the "Ayes" vote.

Chair Blank stated that with respect to the Call to Order, the Commission generally wants to start the meetings promptly at 7:00 p.m. He noted that he would like the Minutes to reflect that he had announced that evening that the meeting would start later to allow the Commissioners additional time to review some documents that they had just received.

Chair Blank requested that the fourth sentence of the second paragraph on page 26 be modified to read as follows: "...but he had mentioned that he had purchased ~~many, many~~ three homes in the past."

Commissioner Pearce moved to approve the Minutes of September 10, 2008, as amended.

Commissioner Narum seconded the motion.

ROLL CALL VOTE:

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Olson.

The motion passed, and the Minutes of September 10, 2008 were approved, as amended.

Chair Blank advised that the Commission meetings are now available in pod cast and asked the Commissioners to be attentive with the on and off switch of their microphones.

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

John Pfund, Tri-Valley Martial Arts Academy, stated that the last time he was before the Commission and presented his case, the Commission acted to deny the permit without prejudice. He noted that the Commission had indicated then that he had a great program but that he needed a childcare license. He stated that he has since taken all the necessary steps and has completed his childcare license; the State Licensing Office has visited and approved his site, including not only the building but also the alternative to the outside play yard. He added that he also gave the State Licensing Office representative a tour of the other youth centers in the business park, and the only thing he is waiting for is the completion of his background clearance, which should come any time.

Mr. Pfund noted that this item has been continuously continued because of an enormous number of questions. He stated that he met with Brian Dolan and Natalie Amos this morning and was told that the City Manager will review the answers to the questions, after which the item should be ready to go before the Commission. He added that the matter was supposed to be heard at tonight's meeting but was again continued. He requested the Planning Commission to allow the project to move forward and stated that he would appreciate anything they could do to have it heard as quickly as possible.

Jack Balch, owner of the Tri-Valley Martial Arts Academy site, spoke on behalf of Mr. Pfund's application. He asked the Commission not to continue the item and noted that he understands it is within the Commission's power to hold the hearing. He pointed out that Mr. Pfund's prior application was denied without prejudice, but Mr. Pfund has since revised his narrative and obtained his license.

Mr. Balch stated that the initial date scheduled for the application was August 13, 2008 and noted that the City's Code states, under Conditional Use Permits Section 18.124.040, that a hearing shall be held within 40 days and that continuance beyond the 40 days is allowed only at the consent of the applicant. He pointed out that tonight's meeting is the 42nd day. He stated that if no one enforces the City Code, this could also happen to him or anyone else. He asked that Mr. Pfund be treated with respect and requested the Commission to hear the item tonight if possible and try to resolve the matter as soon as possible. He noted that Mr. Pfund's rent costs \$100 per day and that it is only out of principle that he [Mr. Balch] has not evicted Mr. Pfund to date because he [Mr. Balch] does not think the City has treated Mr. Pfund right.

Mr. Balch stated that he does not blame the Commission or staff, but he believes that no one has taken responsibility for the set of circumstances leading to this delay, which may increase to 56 days at a cost to him of an additional \$1,400. He noted that Mr. Pfund's current bill is at \$32,000 from his initial application with the

City. He added that he did not want Mr. Pfund's livelihood to end around Christmas time with an answer that would be the same as if his item were heard today. He requested that should the Commission be unable to hear him tonight, Mr. Pfund be allowed to open his business under the approval he received in November of 2007 and to remain open until the item is heard by the City Council, assuming the Planning Commission's decision will be appealed.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Ms. Decker advised that Item 6.a., PCUP-229, John Pfund, Tri-Valley Martial Arts Academy has been continued to a future meeting, noting that in her September 17, 2008 memo to the Planning Commission, she had indicated that staff has received numerous questions that staff has been attempting to answer, and, therefore, the item has been continued and will be placed on the agenda at the soonest possible date.

Chair Blank inquired what that date might be, and Ms. Decker replied that this item is being reviewed in terms of the timing conflicts with other projects that are taking precedence within the City.

Commissioner Pearce asked Ms. Seto for clarification regarding Mr. Balch's reference to the 40-day limit in the Municipal Code. Ms. Seto replied that to the extent that staff is still gathering responses to questions which have been posed, staff is recommending a continuance. She noted that in theory, the Commission could hear the matter tonight and make a decision, or the Commission could open the hearing and continue it to get the information that has been requested, or the Commission could proceed and deny the application absent the information the Commission may need to make an informed decision. She stated that staff believes continuing the matter to get all the information requested would be the most appropriate way to handle the matter. She noted that as was mentioned earlier, staff has not been delaying bringing the matter forward because of a simple delay to get information, but that staff has been receiving more questions subsequent to scheduling the item, which has caused the need to gather more information in response.

Chair Blank inquired if it would take a 4/5 or a simple majority to schedule the matter this evening. Ms. Seto replied that it would be a simple majority vote because the item has already been scheduled and would meet the Brown Act requirements. She added that the Commission would need to consider the fact that the public has been informed that the item was to be continued, and people who might have wanted to attend the meeting are not present.

Commissioner Fox added that the City Manager had indicated that he wanted to review the staff report as well as the questions and responses before the hearing.

Chair Blank stated that he was personally uncomfortable with an indefinite postponement and that it did not feel right. He noted that when the Commission had its first hearing on this item, the Commission unanimously agreed to put it on a special hearing date, to which staff had responded that was not possible but that it could make the next meeting, and it is now September 24th. He added that regardless of the merits of the case, he was uncomfortable in postponing the item to a date unknown and notifying Mr. Pfund that staff would get back to him.

In response to the suggestion to consider the item at this time, Mr. Dolan stated that Ms. Seto raised a valid point that staff recommends continuance. He strongly advised that the Commission not hear the item as this meeting and added that if the Commission did, it would be acting on the item without the benefit of a staff report. With respect to the hearing date, Mr. Dolan stated that staff is working as diligently as it can to answer the over 100 questions. He noted that staff is close to completing the answers and should be able to come up with hearing dates for the Commission. He added, however, that there is no guarantee that staff could be ready by then since he would not have control over the other parties who would be involved in reviewing the answers.

Chair Blank noted that he believes the Commissioner's handbook clearly states that when an item is continued, it would be scheduled on the next meeting date. He asked staff if this was correct.

Ms. Seto replied that items continued at the request of a Commissioner are to be scheduled for the next meeting. She added that in this case, staff is requesting the continuance to provide staff with the time necessary to gather the requested information.

Chair Blank asked staff what higher-priority projects preclude this item from being scheduled at the next available meeting date. Ms. Decker replied that the General Plan and General Plan Environmental Impact Report (EIR) are scheduled for the October 15, 2008 meeting; a special meeting has been scheduled on October 22nd which will have both the General Plan and Staples Ranch projects; and the October 29th meeting will be for Staples Ranch projects as well.

Commissioner Fox referred to the Draft EIR's and asked if the review period must be 45 days. Ms. Decker replied that the requirement for a 45-day period review is outlined in the CEQA guidelines. She added that the Commission had requested an extension of 15 days for other EIR's in the past.

Chair Blank inquired if there was no Commission meeting on October 8, 2008. Ms. Decker replied that was correct, as voted on by the Planning Commission at the December 2007 meeting approving the 2008 Planning Commission meeting calendar.

Mr. Dolan pointed out that it is not just the scheduling conflicts that prohibit staff from committing but also the quantity and complexity of information requested and the desire for internal review of how staff responds. Chair Blank stated that he would like the item to be heard before November. Mr. Dolan stated that all staff can commit to at this time is its best efforts to bring it back to the Commission and noted that he has told Mr. Pfund and Mr. Balch the same thing.

Chair Blank expressed concern that if the perception is that this will not be heard until November, then everyone would shoot for that November date, as opposed to getting the information as rapidly as possible and then perhaps getting the opportunity to schedule a special hearing just for this item, given the appropriate notice. He indicated that he was looking for some way to show good faith effort on everyone's part.

Mr. Dolan stated that he would be happy to explore interim special meeting dates when staff is ready with its responses.

Commissioner Narum agreed with Chair Blank and expressed concern that this project does not experience a never-ending list of questions. She inquired if there is a cut-off date to ask questions so staff can get the answers to the questions and move forward. Mr. Dolan replied that he does not have the ability to stop accepting questions submitted to staff but that he could stop answering them.

Commissioner Pearce stated that she is aware that staff is making its best efforts but that she finds it really disappointing that this item cannot come to a decision. She added that she has been on the Planning Commission for a few years now and that she has never heard an item, after having a hearing and then being rescheduled, to have over 100 supplemental questions. She indicated that she finds this punitive and that she hopes the Commission can get this heard as soon as possible and move it on its way.

5. CONSENT CALENDAR

a. PCUP-230, Keshore Vummarao, Ranch India

Application for a conditional use permit to operate a specialty grocery store at 1991 Santa Rita Road, Suite B in Mission Plaza. Zoning for the property is C-C (Central Commercial) District

Commissioner Fox noted that the Conditions of Approval refer to a shared parking agreement with 1811 Santa Rita Road and that the agreement becomes null and void in the future. She stated that typically, when reference is made in the staff report to a shared parking agreement, a signed copy of that agreement would be attached to the report. She asked staff for information on the agreement. Ms. Seto replied that staff did not provide a copy of the agreement because it is a pre-existing agreement, dating back to the original center date. She noted that the report

indicates how many spaces the agreement relates to and that the agreement shows how the parking need is met for the shopping center.

Commissioner Fox questioned if there was any way to attach the agreement as a condition to the condition of approval at a later date. Ms. Seto replied that the agreement typically runs with the land and that as part of the process for the shopping center, everyone in the Center would be notified, and staff would also be aware of it. She added that the condition, as written, addresses the issue that if that parking agreement were to somehow be voided or the agreements between the parties no longer existed, the shopping center that had relied on those off-site parking would be required to come back in and have a discussion about the intensity and hours of its use as well as other things that address any parking demands.

Commissioner Narum inquired if Conditions of Approval Nos. 4 and 5 were boiler-plate conditions and requested clarification about the payment of school impact fees as well as connection and water meter fees.

Ms. Rondash replied that Condition No. 4 is a standard condition and that Condition No. 5 relates to the use. She explained that a grocery store precludes the use of a retail store and that the applicant is aware of what those exact fees are.

Commissioner Narum inquired if there is a no water meter hooked up to that unit in the building. Ms. Rondash replied that there is a water hook up but that the supply is charged at a different rate than the original use.

**Commissioner Pearce moved to make the required findings and to approve Case PCUP-230 as recommended by staff, subject to the Conditions of Approval listed in Exhibit B of the staff report.
Commissioner Narum seconded the motion.**

ROLL CALL VOTE:

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

Resolution No. PC-2008-45 approving PCUP-230 was entered and adopted, as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

a. PCUP-229, John Pfund, Tri-Valley Martial Arts Academy

Application for a conditional use permit to allow the operation of the following at 1262 Quarry Lane, Suite A, in the Valley Business Park: (1) a martial arts/childcare facility, Monday through Friday, from 11:30 a.m. to 6:15 p.m.; (2) full-time childcare program camps during school breaks and holidays; and (3) evening martial arts classes, Monday through Friday, from 6:45 p.m. to 9:00 p.m. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District

This item was continued to a future meeting.

b. PAP-123, Greg and Lisa Johnston, Appellants (PDR-715, SJ, Applicant)

Appeal of the Zoning Administrator's approval of an application for design review for rear yard improvements. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

Chair Blank noted that since this item was tabled, a motion is needed to take it off the table.

**Commissioner Narum moved to take PAP-123 (PDR-715) off the table.
Commissioner Pearce seconded the motion.**

ROLL CALL VOTE:

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

The motion passed, and the item was taken off the table.

Mr. Dolan presented the staff report and indicated that at the end of the last meeting, there was some Commission agreement with respect to the conditions of approval. He stated that staff offered to try and capture the discussion in a condition and has prepared some conditions with alternatives, which was included in the packet. He noted that one issue not included in the memo and which he had earlier discussed with Chair Blank is the height of the wall. He stated that the Commission had been interested in limiting the height of the wall to four feet, which he understood the Commission opted for as this would be the height limit that could be achieved without a building permit and having the plans reviewed. He noted that since there was a building permit granted, that the retaining wall had been inspected, and that the plans were approved, this issue would be a moot point and a condition on that

topic would not be necessary unless the extra six inches presented some visual problem.

Mr. Dolan further noted that some of the original conditions of the Zoning Administrator approval would still apply even if the Commission adopts the conditions provided in the memo. He added that staff has provided a copy of the original Zoning Administrator's conditions and suggested that if the Commission moves forward with the conditions provided in the memo, the Commission also adopt Zoning Administrator Conditions Nos. 2, 3, 5, 7, 8, 9, 11 and 12. He noted that the conditions he omitted are either no longer relevant or are addressed in the condition in the memo.

Finally, Mr. Dolan stated that the Commission was emailed directly and staff was copied on some suggestions from the Johnstons regarding substitute conditions they would like the Commission to consider. He noted that staff has reviewed these conditions and provided the following staff considerations on these conditions:

- Condition 1 refers to Exhibit A. Because the condition staff recommended requires new plans to be drawn, a reference back to Exhibit A is not relevant at this point.
- Their second condition asks that the planted berm be four to five feet tall, which would be problematic because only one of the options includes adding a berm. If the Commission opts for the alternative to return the grade to its original, adding a berm does not do anything; hence, this may not be relevant. If the Commission chooses the option where the retaining wall is maintained and the berm is added, the Zoning Administrator's decision requires a one-foot berm whereas the Commission had agreed on a three-foot berm. The Commission could consider this increase in height to four to five feet as requested by the Johnstons. Staff believes three feet is the appropriate height.
- The third item asks that the City's Landscape Architect, Mike Fulford, actually design the plan. This is not an appropriate role for the City's Landscape Architect. The plan needs to be designed by the applicant, and staff would review it and use the City's Landscape Architect's expertise, as necessary.

Commissioner Fox inquired if staff would be amenable to a condition where Mr. Fulford would review the plan or sign off on the plan. Mr. Dolan replied that staff generally consults with Mr. Fulford on a landscape plan when there is an issue that is beyond Planning staff's expertise and that he would be happy to consult with Mr. Fulford. He added that both Ms. Decker and he have landscape architecture backgrounds and that Ms. Decker and Mr. Fulford are licensed.

- The fifth item is that one alternative talks about a setback restricting the structures that would encourage active use. The Johnstons suggested

35 feet, and staff feels 30 feet is adequate. The Commission could consider the 35 feet.

- The last condition is a lighting issue, which staff could accommodate but might duplicate some other conditions.

Mr. Dolan stated that he contacted Mr. Jeffrey the day after the hearing about how he interpreted the Commission's dialogue and where he thought the Commission was going. He noted that Mr. Jeffrey had originally indicated that he would be willing to go along with a condition as summarized in his memo, after which he [Mr. Dolan] talked about how this would be presented to the Johnstons. Mr. Dolan stated that a few days later, Mr. Jeffrey stated that he was not willing to make those concessions. Mr. Dolan then notified the Johnstons via email, and Mr. Johnston came in to discuss the fact that Mr. Jeffrey was happy with the Zoning Administrator's conditions and that he would accept the Planning Commission's action and move on in the process if he had to.

Commissioner Fox referred to the draft conditions of approval based on the Zoning Administrator's approval versus what she thought the Commission talked about at the last meeting where four Commissioners had indicated that they wanted to uphold the appeal. She requested clarification on how the two could be blended together.

Mr. Dolan replied that he thinks the discussion was a question of semantics and that this was a revised set of conditions for Commission's approval or denial.

Commissioner Fox stated that she was confused because the conditions appear to be mutually exclusive in that the Commission could opt for an alternative that would allow the fill to stay, and one of the conditions is that the conditions for Tract 5835 shall remain in full force and effect, which includes Council approval for grading.

Ms. Decker clarified that the condition could be modified to read: "All conditions of approval of Tract 5835 shall remain in full force and effect except as modified by these conditions." She stated that the last phrase is usually added on so that the remainder of the Tract conditions remain applicable.

Chair Blank inquired exactly if the wall was four feet or less on its entire length. Mr. Dolan said no and explained that the height varied at different parts of the wall. Chair Blank further inquired if the installation of the wall went through the right process for being over four feet. Mr. Dolan said yes and added that it was reviewed by Building staff. He added, however, that he was unsure as to whether the building permit was approved over the counter.

Ms. Amos indicated that the permit was approved over the counter and a building permit applied for. She noted that all building permits are then reviewed, and final inspections are required by the Building and Safety Division in order to close the

permit. She stated that the building inspector had gone out to the site to verify that the work conforms to the plans approved at the counter.

THE PUBLIC HEARING WAS OPENED.

Lisa Johnston, Appellant, noted that she holds the same position as before, stating that she did not understand why staff says Condition No. 1 would not mean anything because new landscape plans are being required. She stated that their main point is that Mr. Jeffrey did not meet Condition No. 1 of the draft condition of approval. She noted that it might be a four-foot tall wall, except that Mr. Jeffrey was supposed to build the wall from the base of his yard and not where the bottom grade went 15 feet from the fence, which then raises the wall six feet up from their side of the wall. She added that Mr. Jeffrey did not conform to the plan and built the wall 50 percent higher than what she was first told the wall would be.

Regarding the landscape plan, Ms. Johnston pointed out that the area that would have been landscaped contains an intrusion with the extension of the lawn and does not conform to Condition No. 1 as well. She added that the reason they are requesting a four- to five-foot berm is because they feel the grade should be taken down to conform to Exhibit A. She stated that Mr. Jeffrey drew the plan and built it but did not build it right.

With respect to the third condition on the additional trees, Ms. Johnston stated that they wanted Mr. Fulford to design a plan that Mr. Jeffrey can agree to. She noted that they never wanted to tell Mr. Jeffrey what to plant in his yard; however, they were asked to come up with suggestions, which they did but which were not taken into account. She stated that vegetation was fine with them as long as they met the conditions in Exhibit A.

Ms. Johnston continued that they are requesting a rear yard setback of 35 feet because they feel this is at the point where the yard slopes down and he would not be able to use the yard for anything such as a play structure. She added that the lighting issue comes from the fact that there are some people in the neighborhood who have pools that have spotlights and not enough trees, and the light shines into their bedroom.

Ms. Johnston stated that they feel Mr. Jeffrey took advantage of the zoning Administrator's decision to allow the four-foot wall by not conforming to Exhibit A. She added that building a wall over 50 percent is not conforming, there is a lack of landscaping in the way he landscaped the southwest corner of the lot, and he should have over-planted for reasons of good faith. She inquired if anyone from the City reviewed what is on Mr. Jeffrey's property and if the wall and grade are really what staff thought would be in place. She further inquired why the Planning Division appears to believe it is fine to write a condition of approval and then not abide by it. She stated that staff should require Mr. Jeffrey to rebuild the wall and questioned why Mr. Jeffrey was allowed to proceed when the conditions were not being met.

She stated that the change in grading would be arguable in any lot in any neighborhood in the City and that she was surprised with Mr. Jeffrey's lack of willingness to compromise.

Mr. Jeffrey, applicant, stated that he received two building permits in December of last year to complete a pool and the retaining wall in his yard and that both permits were approved by the Planning Department and the Building and Safety Division. He added that to date he has not received any documentation revoking or suspending the permits. He noted that the permit outlines the actual grading that was to be completed and was signed off by the Planning and Building Permits Department. He stated that he completed the work stated on the permits to the satisfaction of the building inspector and noted that similar projects had occurred in the neighborhood: two in August 1991, one in September 1990, one in August 1990, and three in 1989. He noted that all were approved for grading of pools and patios in their rear yards.

Mr. Jeffrey stated that after several meetings with the Zoning Administrator and the neighbors, he redesigned his landscape plan several times to incorporate the Zoning Administrator's ideas and neighbors' comments. He added that he was required to complete the project within four weeks of the Zoning Administrator's ruling. He indicated that he constructed the back yard based on the direction of the Zoning Administrator and that this is how the yard looks today. He stated that grading can be permitted after review is done by the City of Pleasanton and that Exhibit A's bottom left hand corner indicates that the work is not drawn to scale but is just a representation of the wall. He noted that the wall also must be constructed 15 feet from the rear property line of his property and that no permanent structures are allowed in this area; this is the reason why it was moved toward the inside of the property.

Mr. Jeffrey stated that he has no plans to build any additional structures or to install outside lighting for the pool. He added that he has planted additional plants, trees, and bushes. With respect to the actual wall height, he noted that there are six blocks with each measuring 7.75 inches high, with one in the ground for the actual foundation, which has been signed off, and a two-inch cap on top. He stated that the total height is ½ inch over the 48-inch mark and that the height varies due to the property not being level.

Chair Blank noted that it appears Mr. Jeffrey is not willing to accept a condition where he would not be permitted to have an above-ground structure in a section of his backyard and asked Mr. Jeffrey for an explanation. Mr. Jeffrey replied that a restriction on the rear portion of his property was not acceptable because such a restriction would reduce the value of his property. He reiterated that he did not plan to put up any play structures in the area.

Nelson Lam stated that he lives directly behind the Jeffreys, and the Johnstons are kitty-corner to the Jeffreys' property. He stated that he did not have a chance to

read the memo regarding the summary of requirements imposed on the work. He noted that two places discuss having the landscaping screen replicated to the previous screen within five years. He stated that when he was at the hearing two weeks ago, he commented that he purchased his home six years ago, and the fact that he would not only lose his backyard privacy but would also have to wait five years is unreasonable. He added that he previously owned two other homes on zero-lot line properties and that the reason he purchased this home was the attraction of the backyard privacy. He therefore asked to have appropriate landscaping done that will allow the screen to be replicated in two to three years.

Lisa Johnston, Appellant, stated that Mr. Jeffrey claimed he redesigned his plans, but he basically modified them. She added that she believes that mediation could have been resolved the matter a long time ago and that there were better options but were never brought up. She invited Mr. Jeffrey to look out her window, as she is closer to his property than he is to his own home.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pearce stated that there is a concern that this project has not conformed to the original plans and inquired if there were a downside to having a condition stating it should conform substantially to Exhibit A and then adding that landscaping will be increased.

Mr. Dolan replied that the only downside is that the wall would have to be entirely reconstructed because it is accurate that the wall was shown in the sketch as being on the same elevation as the top of the V-ditch. He added, however, that, in fact, the wall could not have been installed without digging back to stay out of the 15-foot easement, thereby moving the wall up the slope. He noted that while the wall is higher than what is shown on Exhibit A, it is not much over four feet high. He noted that 95 percent of the cases where a retaining wall is moved are not typically an issue, but in this case, the move made it visible over the fence. He indicated that it is fair for the Commission to consider what moving it down does and added that it would possibly move the actual wall out of view. He questioned, however, if this is a visually offensive wall, which the Johnstons believe to be so. He stated that there may be other ways to address that issue, including adding vegetation below, but moving the wall down would make it more difficult to plant the vegetation that will provide the screen.

Commissioner Pearce noted that there are two Exhibit A's. Mr. Dolan explained that all of the design plans were part of Exhibit A. He explained that the reason the new condition asks for a detailed plan is that Mr. Jeffrey has not done this a lot and it has been difficult to relay to him that a conceptual plan like that in a situation this controversial is not working. He indicated that staff's preference would be to have a detailed drawing to be approved by the City and installed just as it is with very little change.

Chair Blank commented that the problem is that this is after the fact. He inquired what the impact would be if the Commission found for the appellant, noting that he was sure it would be appealed to the City Council. Mr. Dolan replied the decision would be the denial of the project. He added that the appellants have asked for specific items but have not asked that the Zoning Administrator's approval be vacated.

Chair Blank inquired what the impact would be should the Commission vacate the Zoning Administrator's approval.

Mr. Dolan indicated that he needed some time to confer with staff.

Commissioner Fox stated that at the last meeting, the Commission discussed upholding the appeal and not the Zoning Administrator's decision.

Ms. Decker requested the Commission to allow staff some time to discuss the issue.

Chair Blank called for a recess at 8:10 p.m. and thereafter, reconvened the regular meeting at 8:20 p.m.

Chair Blank noted that staff had handed the Commissioners the original appeal letter from the Johnstons. He asked staff to respond to the question of vacating the Zoning Administrator's decision independent of what the appeal letter stated.

Mr. Dolan reiterated that the appeal did not request that the Zoning Administrator's decision be thrown out but that some of the conditions be modified. He noted that the first request, Item 2, was to lower the wall, and Item 4 asks for a minimum height requirement on the screening plants, additional trees along with the Pittosporum plants, replacement of the plants if they were to die, and re-evaluation of the plant species and their growth in 6 to 12 months to provide adequate screening.

Chair Blank asked Mr. Dolan about Item 3. Mr. Dolan replied that he first thought this related to the height of the wall, but this is consistent with comments made suggesting that the fill be removed.

Chair Blank recalled that at the last meeting, Mr. Roush stated that if the Zoning Administrator's decision were vacated, the wall would have to be redone, the grading would have to be taken out, and the property would have to be put back in its original condition. He noted that Mr. Dolan's response sounds like a change from Mr. Roush's answer. Mr. Dolan stated that from a practical viewpoint, this would be the most difficult way to address the problem. He noted that the appellants have asked to change the conditions and that this would be an interesting, theoretical discussion point.

Chair Blank stated that from reading the Minutes of the last meeting, there appear to be three options: the Commission can uphold the Zoning Administrator's approval

without any changes; the Commission can uphold the Zoning Administrator's approval with modified conditions; or the Commission can vacate the Zoning Administrator's decision. He inquired if this is still the case.

Ms. Decker replied that if the appeal is upheld, the Commission would be overturning the Zoning Administrator's approval and therefore requiring that the property be returned to its former state, which would mean removing all grading, the retaining wall, the irrigation system, all plants which have been planted, and the screening trees which have been planted for the neighbors.

Ms. Seto stated that this could be one case, but there could also be other direction from the Commission or discussion regarding whether or not the Commission would ask that the applicant re-apply. She added that during that interim period, the Commission would not require something be simply torn out as long as the applicant diligently pursues the new application, whether it be for something new or for what is already existing.

Commissioner Fox stated that there are a couple of options on the table and inquired if it would be appropriate to conduct a poll among the Commissioners to determine what each one is thinking, given that there was a two-week break and the Commission believed that a compromise had been reached.

Chair Blank indicated that he was fine with that.

Commissioner Fox stated that she was leaning toward moving the wall back to where the original hand-drawn sketch states it should be and having it appear as what was approved. She added that she felt there should be a removal of the extra fill material made through the repositioning of the wall and that there should be a 35-foot setback where no above-ground structures should be allowed. She also noted that she believed the landscaping needs to be redone with Ms. Decker or Mr. Fulford reviewing the landscaping plans and that an engineered set of plans be submitted for this. She concluded that she does not believe it is a good policy for the Planning Commission, given the entire situation, to simply grandfather in what work was completed in the last six to nine months.

Commissioner Pearce commented that she was disappointed that the Commission was having the same discussion two weeks later, especially in light of the direction **the Commission is heading**. She noted that this is not necessarily something she would have approved had it come to the Commission before the work had been done. She indicated that she recognizes it is complicated and that mistakes were made, but she was extremely concerned with the appellants' lack of privacy. She noted that in this regard, she would like to do everything possible, short of returning the property to the state it was before, to assure the appellants' privacy. She stated that she believed a four- to five-foot tall berm is appropriate and that she is in favor of Commissioner Fox's and Mr. Dolan's suggestion of a very strictly followed landscape plan. She added that she would like to see incorporated in this new plan

a detailed sketch of the original theoretical landscape plan that was included in Exhibit A. She stated that she is amenable to a setback of 35 feet with a restriction on above-ground structures, noting that this is not land that the appellants would have been able to use had the property not been leveled. She noted that everyone appears to be amenable to the condition regarding pool lighting and added that a firm completion date would be appropriate. She indicated that in light of the circumstances, she feels the City should do everything it can to get the appellants' privacy back.

Commissioner Narum stated that she found this situation uncomfortable, but looking at the original landscaping plan in Exhibit A with a scale of 1 inch = 16 feet, the bushes that were planted where the wall would be back to the lawn is about 1 inch or 16 feet, which would place it about 31 feet off the property line. She stated that there should be some fairly heavy planting on the 16-foot area where there is no lawn and that the use of play structures, trampolines, etc., should be precluded. She agreed with Commissioner Pearce that had this come in originally, she probably would not have approved it. She noted that a lot would have been resolved had the original Exhibit A landscaping plan been followed and dense bush and shrubbery created in this area, which, in effect, was unusable for the kinds of things that are being restricted on it. She added that she felt there should be a detailed plan that shows the shrubbery at a substantial distance from the wall towards the house which would in effect limit the use of that area without actually putting restrictions on the house as well. She stated that she believed a three-foot tall berm could be incorporated as part of this heavy planting.

Commissioner O'Connor stated that he also believed that if this plan came in first, it would not have been something he would have approved. With respect to setbacks, he stated that 30-35 feet would be appropriate. He noted that in the Exhibit A from April 8th, the setback appears to be at least 30 feet back from the lawn in a couple of areas and a little shorter in one or two corners. He indicated that he would like to see heavy planting and the lawn retracted back to about 30 feet from the property line. He stated that a four-foot tall berm should be put in place in lieu of lowering the grade.

Commissioner O'Connor added that the Commission is considering placing conditions on an approval where the applicant has stated he does not want additional conditions on his property. He noted that if Mr. Jeffrey is telling the Commission he is not going to accept conditions or non-use of an area in his back yard, or he does not have the money to put in more plants, Commissioner O'Connor thinks it is a moot point to place conditions on the property.

Chair Blank stated that he feels the Commission must do the best job it can whether or not the applicant or the appellants accept its decision.

Commissioner O'Connor stated that at the last meeting, the Commission made it clear that it would go one of two ways: either put certain conditions on the property

or revert it back to its original state prior to grading. He noted that the applicant is now indicating that he does not want conditions on his property, which, by default, would mean telling us to put his property back to its original grade. He added that the Commission can present some suggestions tonight, but absent any desire to work with their neighbors on a compromise, the Commission is left with the option to require that it be returned to its original grade, with the wall remaining in place as a four-foot tall wall is permitted.

Commissioner Fox indicated her agreement with Commissioner O'Connor's statements.

Chair Blank indicated that his original inclination was to simply vacate the Zoning Administrator's decision and require the property to be returned to its original state. He stated that he thinks the applicant has shown a disregard for the conditions and the rules and that his lack of knowledge of the CC&R's, which was evident in the public testimony at the last meeting, is something that he [Chair Blank] has a hard time dealing with. He noted that should the Commission approve the project, he would be supportive of a four- to five-foot tall berm and a 35-foot setback, and the wall should be moved to where it is supposed to be. He added that if the applicant is not interested in having a 35-foot setback, then he should remove all the dirt and put the place back to its original grade. He noted that over the last three-and-a-half years, this Commission has taken an extraordinarily dim view of folks who either proceed and do things that are not according to the plans they had submitted or once something has been appealed, simply continue with their projects because they have not received a "stop order" notice. He stated that it just does not feel right and that the landscape plan has to be right.

Commissioner Narum stated that she tends to agree with what Chair Blank is saying but that she is struggling a bit with the fact that the applicant submitted an Exhibit A with a hand-written drawing, received a building permit, and approved by the Building Inspector, which basically means it was in conformance or close to what was submitted when he got the building permit. She noted that the applicant had to build the wall 15 feet off the property line to accommodate the easement and ended up with a wall that is a little higher than what he actually was approved for.

Chair Blank stated that the wall should have been installed on the plane where the bottom of the property was.

Commissioner Narum stated that the way she interpreted it was that the applicant was required to go back 15 feet from the property line, and the ground was already sloped at that point.

Chair Blank noted that the four-foot tall wall was actually a six-foot tall wall and was visible from the Johnstons' property. Commissioner Narum stated that it is a six-foot tall wall only because the grade was actually sloped. Chair Blank agreed with Commissioner Narum's observation but indicated that the height of the wall should

have taken into account the base of the property from where it was supposed to be measured.

Commissioner Fox noted that if Mr. Jeffrey had known that he needed to move the wall 15 feet back, his original submission should have shown a 15 foot gap.

Commissioner Narum stated that she assumed that it did and that the applicant went out and actually measured where the 15-foot setback was.

Commissioner O'Connor noted that there were three separate occasions when Mr. Jeffrey was put on notice that he needed permits that he did not have and was asked to stop work, but the work proceeded. He noted that the four-foot wall that did not need approval may have been put in, but the filling of the dirt and the grading of the lot needed an approval. He added that on January 25th, the applicant was advised by phone to stop work, and he was notified that a design review permit from the Zoning Administrator was required. He continued that the approved permit was appealed on July 18th, and on August 8th, the applicant was given another stop work letter and informed that if he proceeded with the work, it would be at his own risk.

Commissioner Fox inquired if there was a way to make a motion where the Commission would give the applicant 60 days or some arbitrary date to complete certain things and if these were not completed within that time period, the whole project would need to be put back to its original grade.

Chair Blank suggested that the Commission come up with a motion. He noted that he believes that no matter what the Commission decides, the action would be appealed to the City Council by either the appellants or the applicant. He stated that the Commission should try and do its best to come up with conditions it thinks are the most reasonable, and the applicant and the appellants would have 15 days to appeal that decision.

Commissioner Pearce stated that she agrees with Chair Blank that the Commission needs to try and get the best conditions. She indicated that this is different than those situations where somebody has no permits and does all the work just the same in the sense that this project got a little more complicated because there were mistakes made and there were errors in judgment.

Commissioner Pearce moved to uphold the appeal of PAP-123 (PDR-715), thereby vacating the Zoning Administrator's approval of PDR-715, subject to the conditions listed in Exhibit B, as modified by staff's memo dated September 18, 2008.

Mr. Dolan stated that if the Commission opts to uphold the appeal, it should not be followed by vacating the Zoning Administrator's approval because that would mean throwing away all the conditions of the Zoning Administrator's approval. He

suggested that the Commission follows its decision to uphold the appeal with amending the conditions of the Zoning Administrator's approval.

Commissioner Pearce indicated that she would also like to require a detailed specific landscape drawing that is drawn to scale and in substantial conformance to the Exhibit A landscape picture dated April 8, 2008, maintain the conditions of Tract 5835 except as modified by these conditions, and to amend Condition No. 3 to enable a faster growth of plantings.

Mr. Dolan stated that the Commission could put a performance statement in the condition similar to the way staff wrote in its memo and include whatever year the Commission would like. He added that staff would review those species to ensure they have a growth rate that would accomplish the purpose within the desired timeframe.

Commissioner Pearce indicated that she would like to include a 35-foot setback in the rear yard on which above-ground structures would be prohibited and that a four-foot high berm be installed.

Commissioner Fox requested the addition of a condition that the applicant be required to submit engineered drawings to ensure the stability, safety, and proper drainage of the berm, subject to City review and approval; that no lighting be placed on the pool that are directed toward the neighbors' houses; and that all conditions of PDR-715 stay in force provided they are not in conflict with these conditions.

Mr. Dolan indicated that Conditions Nos. 4, 6, and 10 of PDR-715 would be deleted.

Commissioner Narum asked Commissioner Pearce whether she wanted to keep the wall in the same place or remove it. Commissioner Pearce replied that she was concerned about the impact of moving the wall and that she would like to add a condition to potentially vegetate the wall to soften its appearance.

Chair Blank agreed with adding vegetation to the wall, which he felt is a compromise.

Commissioner Pearce revised her motion to include the proposed amendments as follows: (1) the applicant shall provide a detailed landscape drawing drawn to scale by a landscape architect and approved by staff which conforms substantially to the Exhibit A landscape plan dated April 8, 2008; (2) all conditions of approval of Tract 5835 shall remain in full force and effect except as modified by these conditions; (3) a performance statement shall be included in which staff would review the plant species to ensure they have a growth rate which accomplishes the landscaping screening goal within a three-year time period; (4) the installation of any above-ground permanent structures, such as play structures, sports courts, gazebos, decks, etc. is prohibited within the rear 35 feet of the yard; (5) a landscaped, four-foot tall

berm shall be installed between the retaining wall and the lawn to create a visual sound buffer; (6) the applicant shall submit engineered drawings to ensure the stability, safety, and proper drainage of the berm, to be reviewed by the City; (7) no lighting shall be placed on the pool that are directed toward the neighbors' houses; (8) a condition shall be added to vegetate the wall; and (9) Conditions Nos. 4, 6, and 10 of PDR-715 shall be deleted. Commissioner Fox seconded the motion.

Commissioner O'Connor requested an amendment to the motion that the vegetation of the wall should accomplish the same type of privacy screening as that of the original vegetation.

Commissioners Pearce and Fox stated that they were amenable to the proposed amendments.

Commissioner Fox indicated that if the item is not appealed, she wanted a time limit with respect to when the conditions need to be completed. Commissioner Pearce stated that Item 7 indicated a four-week period. Commissioner Fox agreed that the landscape screening should be completed in 4 weeks. She expressed concern about the berm and the 35-foot setback and suggested that this be included as a deed restriction, as she wanted to make sure that a future owner does not build accessory structures in the back.

Chair Blank noted that a conditional use permit runs with the land. Commissioner Fox inquired whether there is a need for a deed restriction for the 35-foot setback as this is a design review rather than a conditional use permit.

Ms. Seto replied that by law, anyone who sells the property must make a disclosure to the next buyer. She added that to actually and technically record a deed restriction, one would provide a different kind of legal notice that would be carried in the County record so that any future buyer could be notified.

Commissioner Fox stated that she would like to have a deed restriction that records the 35-foot setback because this is a design review and because there have been issues with some of the records for properties in the City.

Mr. Dolan suggested the Commission reconsider the timeframe. He noted that four weeks is not sufficient time for hiring a landscape architect, getting things drawn, and having it reviewed.

Chair Blank stated that he did not want to be punitive to the applicant and inquired what a reasonable amount of time might be.

Commissioner O'Connor suggested 90 days; the other Commissioners agreed.

Commissioner Pearce stated that she would like an additional condition that requires the recordation of a deed restriction.

Mr. Dolan stated that he is not comfortable with the language that a four-foot tall berm needs to be engineered and a four-foot tall berm is typically not engineered.

Commissioner Fox stated that she would like to ensure stability, safety, and proper drainage. Commissioner O'Connor indicated that should have already been done with the wall.

Mr. Dolan noted that it would suffice to say that it would be subject to the review of the City Engineer.

Commissioner Narum inquired what the distance would have been if the measurement from the back of the property line was taken from where the property line originally was to the point of where the lot became useable. Mr. Dolan replied that this is difficult to obtain but that he thought it was in the 30- to 35- foot range. He indicated that he did not think this was a universal condition and that there might have been some points where it might have gone farther back.

Commissioners Pearce and Fox accepted the additional amendments to the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2008-46 upholding PAP-123 and amending the conditions of the Zoning Administrator approval was entered and adopted as motioned.

Chair Blank informed the applicant and appellants that they have 15 days to appeal the item to the City Council and that staff will be available to assist in the process of the appeal.

c. PAP-125, Anne Fox, Appellant (PDR-725, Jessica Hoshen, AIA, Reel Grobman & Associates, for Comerica Bank

Appeal of the Zoning Administrator's approval for design review to install an automated teller machine (ATM), night deposit box, and wall-mounted light on the south wall facing Division Street for Comerica Bank located at 600 Main Street. Zoning for the property is C-C (Central Commercial), Downtown Revitalization, and Core Area Overlay District.

Mr. Otto presented the staff report and discussed the background, scope, and key components of the project.

Commissioner Fox noted that the Downtown Specific Plan states that Division Street will become a two-way street and inquired if any parking spaces would be eliminated. Mr. Otto replied that the Specific Plan indicated that potentially the on-street parking spaces could be lost. He added that the street is about 28 feet wide and that theoretically, it could be possible to maintain the spaces, but it would need to be studied as part of the project to modify the street.

Commissioner Fox inquired if, in the event the parking spaces were removed, it would make more sense to have the teller machine be a kiosk in the parking lot behind the building as opposed to along a street that has a potential of losing its parking space. Mr. Otto replied that the site does not have a parking lot and that the buildings basically occupy the entire site. Commissioner Fox stated that she believed there was some space in the back, and Mr. Otto pointed out that there is a trash enclosure in the corner at the back and that the only area of the site that does not have a structure on it is in the very back, well hidden from any public access.

THE PUBLIC HEARING WAS OPENED.

Steve Polcyn, Principal at Comerica, stated that they are excited and were given the assignment to work on this branch bank. He discussed his background as Chair of the Historic Landmark Commission and a member of the California Preservation Foundation. He noted that he and his colleague, Jessica Hoshen, are very much aware of the importance of the Kolln Hardware's heritage for the City. He indicated that they were initially instructed to locate the ATM and night drop-off along Division Street. They agreed the walkup services would be less intrusive, and they located it as far back as physically possible. He added that they considered design options with staff and ultimately ended up with an approach that utilized the minimum amount of trim. He described the materials and distributed samples to the Commission. He noted that they had just completed a similar proposal for a Comerica branch in downtown Oakland at the Old Bank Building which is listed in the National Register of Historic Places.

Mr. Polcyn discussed the original fabric which has been kept intact and indicated that they are removing one new window and some of the replacement siding along Division Street. He added that the window and siding would be re-installed should

Comerica vacate the building or uninstall the ATM. He indicated that they were very careful that the project comply with the Secretary of the Interior's standards and guidelines for rehabilitation and that they spent a great deal of effort for a non-standard interior in order to ensure it closely matched the original building design. He acknowledged how important the building is to Pleasanton and wanted to make the situation a win-win for the community. He noted that the plan was designed based on the given location of the ATM and business drop along Division Street.

Eric Cahn, Comerica, introduced the company and discussed its many locations throughout the United States. He discussed its contributions and partnerships, its dedication to supporting local organizations and groups, and its volunteer events. He also talked about its Standard and Poor's rating and the recent bank mergers and subprime lending issues currently in the news. He stated that he hoped efforts that Mr. Cornett has put into the building are known and appreciated and noted that Comerica willingly cooperated and compromised on the issues because it recognizes the needs and wishes of its landlord as well as those of the City and its residents. He stated that he felt there should be no reason to object to an ATM and that they look forward to a long and prosperous future with the community.

Norman Cornett, Property Owner, stated that he is excited to have Comerica in his building and thinks the City is very fortunate to have the bank venture in town. He noted that the time and care he and Comerica placed in the process are significant and that they want the bank to represent the building it is in. He indicated that he could not ask for a better tenant and described the historic materials and details of the project that they wished to bring to the bank. He stated that he felt there should be no reason to deny an application to put up an ATM in a location on the side street.

Commissioner Fox referred to the photograph on the second page of Exhibit E, taken September 5, 2008. She inquired whether there would be a way to make the ATM less intrusive by putting it on the left hand side of the alcove. Mr. Cahn replied that the alcove enters directly into what is now the exit stairway from the second floor and cannot be modified at this point. He noted that the little room next to it is an elevator machine room and that both are tied to the core of the building. He added that they moved the ATM as far back as they could down the street and up against the building.

Commissioner Fox identified an area of the building closer to Main Street and inquired why the ATM could not be placed there. Mr. Cahn replied that the ATM has to be secured, and putting it in that location would require building a room around it, and there is not enough room behind the area to do that. He noted that a lot of room is also necessary for loading and unloading, and similar to a vault, the door must open 180 degrees. He added that the area also blocks the machine room and would require modifying the machine room and the area around the stairs.

Commissioner Fox inquired if the building had been modified to have the room with the ATM. Mr. Cahn replied that the lobby was already completed, and the elevator and stairway, which are part of the base building, were likewise already built. He noted that Comerica only occupies tenant space.

In response to Commissioner Fox's inquiry regarding whether the secured room behind the ATM had already been built as well, Mr. Cahn said yes. Mr. Otto then pointed out on the display slide the entire tenant space that Comerica will occupy. He noted that a square area has been installed as the required access for the second-floor offices, and includes the stairway, the elevator, and the machine room for the elevator. He indicated that this entire area was part of the common lobby area and is not part of Comerica's tenant space.

In response to Commissioner Fox's inquiry regarding the room behind the ATM, Mr. Otto replied that Comerica has not done any of its tenant improvements.

Commissioner Pearce stated that she has seen banks with a double set of doors so a person can go into a secured area and then through another set of doors which leads to the ATM. She inquired if this option was considered.

Mr. Polcyn replied that this is dictated by Comerica and that it does not like to implement those types of scenarios. Mr. Cahn indicated that the double-door setup creates a theft-prone area which the police do not like because they want ATMs to be accessible and close to the streets with as much traffic and visibility as possible.

Commissioner O'Connor noted that he understands why Comerica is replacing a window and inquired why the ATM room was not moved closer to the front of the building if the police want the ATM to be as visible as possible.

Mr. Otto noted that the proposed location of the ATM is fine with the Police Department. He added that there will be a lot of visibility from Main Street and Division Street, it will have the lighting required by Federal laws, and staff did not want it moved farther to the west to have it so close to Main Street in order to preserve as much of the historic character of the building as possible.

Chair Blank stated having the night depository and ATM in the same area gives a mass effect and that there appears to be a lot of bronze sticking out of a building that one would not normally see. He inquired whether it would be outrageously expensive to locate the night depository along Main Street on the farthest east corner of the building and leave the ATM at its proposed location.

Mr. Cahn replied that this is possible but that typically, the ATM and night depository are kept together for security reasons and are kept in one locked room on the inside of the bank. He noted that at one point, they looked at putting the ATM and bank drop in the corner, but they did not follow that through because that would result in

some intrusiveness on the sidewalk. He added that the corner location would have a low impact on the building as all that will be done is replacing a piece of glass.

Chair Blank inquired if a fair amount of room was needed for the night drop. Mr. Cahn replied that there are certain ADA requirements for the opening. He noted that locating the night depository on Division Street as proposed would require less space while having it up front would be disruptive to the floor plan, the staff offices, and access to the self-service vaults; it would also require the elimination of the conference room in order to create a door and secured room. He explained that the present plan creates a flow with access to the conference room and visibility from the sight lines and doors. He added that they try to keep the two together for convenience to merchants and because some people withdraw money after they make deposits.

Mr. Polcyn noted that this space is also a little smaller than what they would prefer.

Kimberly Smith, Construction Project Manager for Comerica Bank, noted that the amount of bronze framing the ATM can be easily minimized.

Commissioner Fox inquired whether or not there will be security cameras off or attached to the wall. Ms. Smith replied that they do not have exterior cameras and noted that there would be one on the upper corner of the ATM. She noted the location for trash and indicated that eliminating that would require them to place a trash receptacle next to the ATM. Mr. Otto confirmed that there is a policy for a trash receptacle.

Ms. Hoshen noted that this ATM is different and has a reduced profile.

Mr. Polcyn noted that the ATM seen on the slide screen has been slightly modified and held up an updated picture with the trash receptacle at the bottom.

THE PUBLIC HEARING WAS CLOSED.

Commissioner O'Connor stated that he supported the location as proposed. He added that he preferred the design on the board rather than what was shown on the screen. He noted that the actual material is a much darker bronze and more antique-looking as opposed to the more gold look.

Commissioner Narum stated that she initially was considering appealing this item but noted that the staff report addressed all her concerns, including replacing the window when Comerica leaves and making the siding split-staggered as opposed to all on one line. She expressed concern about the parking but realized that there is no ordinance for parking. She indicated that she felt the proposal has been tastefully done and that she would support denying the appeal.

Commissioner Pearce agreed with Commissioner Narum. She indicated that the proposed location is fine, and the discussion in the staff report regarding the Department of Interior's Rehabilitation was useful. She noted that she likes having the trash receptacle on the bottom and that she appreciates everyone's willingness to make it fit in a little bit better.

Commissioner Fox stated that because she appealed it, she is not going to support its approval. She noted that Division Street is currently a one-way street and that the representation on Exhibit A is not accurate, noting that the one-way direction of the street goes to the left rather than to the right. Mr. Otto agreed and indicated that this was noted in the staff report.

Commissioner Fox stated that she has some issues with putting an ATM into a historic building in a visible location. She added that with respect to circulation, someone who would actually go to the ATM more than likely would not park on Main Street but would have to go and circle through the neighborhood and come back down Division Street to park. She indicated that she was not in favor of the proposed location because if Division Street becomes a two-way street as indicated in the Downtown Specific Plan, parking would possibly be eliminated. She noted that with the addition of the Firehouse Arts Center in the future, the City will become very pedestrian-oriented, and she was doubtful that having the ATM would be in keeping with that. She stated that she has some reservations about this project but appreciates the ways the company has tried to make it look historical.

Chair Blank stated that he felt this was a tough project and that the Commission has to exclude the conditional use of the bank from tonight's decision. He noted that some of the present Commissioners were on the Commission when the Kolln Hardware building was first considered in 2005. He commended Comerica for its efforts to make this as pleasing as possible. He added that seeing the actual material was also very helpful and thanked whoever came up with that idea.

Chair Blank stated that he was sensitive to the presence of the ATM and night depository but that he could not imagine a bank without an ATM and understands the need for a night drop. He agreed with Commissioner Fox that there will be a lot more pedestrian traffic on Division Street, but he saw this as a positive for the ATM rather than a negative. He stated that after going through the process of understanding why they cannot be relocated and knowing the challenges of the site, he is prepared to support this proposal.

Commissioner O'Connor stated that while he is supporting the project, he is concerned that when Division Street becomes more pedestrian-friendly with additional shops going in and the Firehouse Arts Center opening, the narrow sidewalk might be problematic for persons using the ATM and with someone walking right behind them. He indicated that would support the project the way it is but believes this would be an issue down the road.

Commissioner Pearce moved to deny the appeal, Case PAP-125, thereby upholding the Zoning Administrator's approval of PDR-725, subject to the Conditions of Approval listed in Exhibit B of the staff report.

Commission Pearce inquired if Exhibit A under Condition of Approval No. 1 includes the display board showing the revised ATM machine design. Mr. Otto replied that the board was just submitted at tonight's hearing.

Commissioner Pearce indicated that she definitely likes the design, material, and trash drop. Mr. Otto confirmed that this was the same materials presented in the original application and that the design with the trash receptacle on the bottom is shown on the elevations.

Commissioner O'Connor seconded the motion.

Commissioner Fox inquired if the ATM would need an overhang to keep the rain out. Mr. Otto replied that the building has an awning that projects out a couple of feet. He noted that the applicants are not proposing an additional overhang, such as a canvas awning, and that any new proposals would return to the Zoning Administrator for review, which could then be appealed.

Chair Blank noted the high degree of sensitivity here because of its historic aspect. Mr. Otto agreed and added that staff would probably not support adding an awning over the ATM. He noted that staff was pleased that the old aluminum awning was removed.

Commissioner Fox inquired if any new changes could come before the Planning Commission because of the former Kolln Hardware building is important to the City. Ms. Decker replied that this can be added as a condition of approval to the Planning Commission's action. She added that it is not on the original conditions of approval under Phases I or II.

Commissioner Fox indicated that she was proposing this as an amendment to the motion and that she would vote in favor of the project if changes to the building would not go through the Zoning Administrator but directly to the Planning Commission.

Commissioners Pearce and O'Connor accepted the amendment.

Commissioner Fox proposed another amendment related to banks and window signs. She stated that there are some windows on Main Street which use a lot of window signage and huge paintings advertising interest rates. She requested that a condition be added to prohibit that at this location.

Commissioner Pearce stated that she felt this was beyond the scope of the appeal and noted that she was not prepared to have a further discussion on windows. She indicated that she wanted to limit the motion to the items contained in the appeal.

Commissioner O'Connor stated that he believed the Commission has already limited the amount of window displays to 25 percent of the window area. Mr. Otto agreed.

Commissioner Narum stated that she felt that, in fairness, the building owner should be allowed to comment on this added condition. Commissioner Fox stated that when the Commission originally looked at the Kolln Hardware renovation, it discussed that any changes made to the building would come before the Planning Commission. She noted that it may not have been included in the conditions of approval for the actual modifications but thought that it was discussed at that time under Matters Initiated by Commission Members.

Chair Blank said he was willing to re-open the public hearing to allow the building owner to make any comments.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Cornett noted that, as he had stated earlier, he restored that building to the nth degree of what was originally there. He stated that on the Division Street side, there is a drop in siding which had all fallen off, and there was nothing left; at the cupola, there was only one piece left of that decorative design on the corner piece. He stated that he had a man from England with a local office re-manufacture all of these materials to the detail. He added that the bay window on Main Street to the left going north has a large ornamental treatment inside that was reproduced by the same consultant. He noted that they did the same Division Street side. He indicated that everything that needs to be done to the exterior of the building has been done, except the ATM. He stated that there are no exterior improvements left and that he does not expect to return because he will never have anything changed on the building.

Ms. Kimberly Smith assured Commissioner Fox that Comerica does not use glow in the dark orange, pink, or green neon in their window signs.

THE PUBLIC HEARING WAS CLOSED.

ROLL CALL VOTE:

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Olson.

Resolution No. PC-2008-47 denying the appeal, Case PAP-125, thereby upholding the Zoning Administrator's decision approving PDR-725 was approved and entered as motioned.

d. PAP-126, Phil Blank, Appellant (PDRW-6, Kelly Pepper/Town Consulting, for T-Mobile, Applicant)

Appeal of the Zoning Administrator's approval for design review to redesign the existing tower to house a wireless facility for T-Mobile to be located at the existing McDonald's building located at 3001 Bernal Avenue. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

Ms. Soo presented the staff report and discussed the background, scope, and key components of the project.

Commissioner Fox stated that she was going to appeal this project as well and had forwarded questions to Ms. Soo regarding the Trails Master Plan and the distance of the Iron Horse Trail right-of-way. She inquired if, given the provision of the Wireless Facility Ordinance prohibiting the location of wireless facilities within 300 feet of parks, the East Bay Regional Park District (EBRPD) Iron Horse Trail right-of-way was considered a park. Ms. Soo clarified that the Trail is not considered a park, and trails are not specified in the City's requirement as such.

Commissioner Fox inquired how far the Iron Horse Trail right-of-way was from the existing McDonald's building. Ms. Soo replied that the applicant's engineers had looked into this.

Commissioner Fox the inquired how far the Beth Emek Childcare Center was, and Ms. Soo indicated that based on the aerial map, it is over 400 feet and, therefore, beyond the 300-foot radius.

In response to Commissioner Fox's inquiry regarding whether 3P Party Place along Bernal Avenue is a childcare center, Ms. Soo replied that the business has relocated to Springdale Avenue.

In response to Commissioner Fox's inquiry regarding how far the BMX Park is from the project site, Ms. Soo replied that she did not know the exact distance but that it was much farther east and believed it was over 300 feet.

Commissioner Fox noted that when she drove to the corner from the BMX Park, her car odometer did not turn over .1 of a mile. She stated that based on that, she thought the park was less than 520 feet away and inquired this was considered a community park.

Ms. Decker noted as reference points that roadway width is 48-50 feet, the intersection at Stanley Boulevard and Bernal Avenue is approximately 75 feet, and

the cul-de-sac on Nevada Court is 55 feet. She stated that based on these distances, the BMX Park would be over 300 feet away from the site.

Chair Blank stated that he believed the BMX Park was closer to the site than Beth Emet. Commissioner Narum stated that there was a vacant area between the EBRPD property and the PG&E transformer. She indicated that she was Chair of the Parks and Recreation Commission when the BMX Park opened and that there was a greater concern then about having the Park next to that PG&E transformer station than to a cell phone tower.

Commissioner O'Connor inquired if a setback was implemented, and Commissioner Narum stated that there is a little bit of setback but farther to the east. Commissioner Fox stated that this is park land, and the Wireless Facility Ordinance requires a setback of 300 feet from any park.

Ms. Decker stated that she believed the term is "City" parks. She noted on the site plan for McDonald's that the building is 119 feet, and from the southerly side of the drive-through to beyond the building is 136 feet. She pointed out that based on that information, the distance to the BMX Park is actually greater than 300 feet and probably greater than 400 feet to Beth Emet.

Mr. Dolan left the room to get accurate measurements from the City's base map.

Commissioner Fox stated that the McDonald's tower is visible from the EBRPD Shadow Cliffs hiking trails around what used to be the loop road that was planned to be California Splash and inquired if EBRPD was notified of this project. She added that there was a project a few years ago for houses that were visible from the Shadow Cliffs walking trails, and EBRPD had some problems with those buildings, which led to the modification of the project.

Ms. Decker stated that those are the homes off of Yolanda Court by Vineyard Avenue. She added that this project was noticed 1,000 feet around the project site and that it appears EBRPD did not consider the increase in height of the existing tower by nine feet to be substantive enough or of interest as staff did not hear from its representatives.

In response to Commissioner Fox's inquiry if staff did a walk-through of the EBRPD area to see if the increased tower would be visible, Ms. Decker said no.

Mr. Dolan returned to the room and stated that on the City's base map, the BMX Park appears to be way over 400 feet, farther away than Nevada Court.

Commissioner O'Connor noted that there is an existing flagpole on the site but that he could not see it in any of the drawings. He inquired where exactly the flagpole was located on the site.

Commissioner Fox stated that she has driven past McDonald's several times and it does not tend to have a flag flying from its flagpole.

Ms. Decker referred to the site plan and noted that the flagpole is represented by the small circle located at the exit point of the drive-through at the southwest corner.

Commissioner O'Connor noted that the flagpole on that front corner would be very obvious from a main thoroughfare. Ms. Decker agreed and added that staff has considered flag poles as well as monopole trees and considers that context of the surrounding area. She indicated that the City has taken exception to flagpoles because they look more like big power poles than a flag pole. She noted that the diameter at the base stays consistent all throughout the pole at approximately 18 inches as opposed to a regular flag pole which has a base of approximately six inches and tapers off to the top. He added that staff has had a couple of incidents with proposals in the City where exceptions have taken place, and staff is very cautious with flagpoles to ensure that the size of the flag that would be flown is not larger than what is depicted on the design.

Commissioner O'Connor stated that the flagpole would not be so visible if it were located back into the parking lot areas or between the buildings.

Chair Blank stated that the picture shown on page 2 of the staff report are not drawn to scale as the buildings themselves are not of the same size, which makes the proposal appear to have less impact.

Ms. Soo noted that the building itself is about 24 feet tall, and the existing tower is about 36 feet tall.

Chair Blank noted that there is the existing tower element plus a second tower element on top of it. He inquired if there would be any changes to the base tower elements in terms of diameter, height, and area. Ms. Soo stated that the base tower elements would remain the same. She then showed the cross section of the towers on the screen.

Commissioner Narum noted that the tower has an arch design.

Ms. Decker stated that this design is on all four sides to provide a little bit more relief. She added that as earlier pointed out, the height of the tower does not change in terms of height; a smaller nine-foot tall cupola was added which would house all of the panels while the equipment is located within the existing tower. She noted that staff believed this was a good compromise to having the tower continue upward in its same dimension and provides some visual relief.

Chair Blank inquired if the golden arch logo would be reproduced on all four sides whereas it is currently only on the front side. Ms. Decker replied that the additional

signage is not a part of this particular approval and that the logo will not be on all four sides.

In response to Commissioner O'Connor's inquiry regarding the use of the original tower, Ms. Soo replied that it was decorative.

Commissioner Fox noted that the picture of the existing tower looks bigger than that of the proposed tower and that it appears the picture of the proposed tower was taken a few steps back than that of the existing tower. She inquired if these were accurate visuals or photo simulations that seem to be minimizing what the tower would look like. Chair Blank agreed and stated that it seems odd that the applicant would not use the same picture in both cases.

Commissioner O'Connor noted that all the elements look identical and dimensionally the same except for the tower, which looks narrower in the proposed picture.

THE PUBLIC HEARING WAS OPENED.

Jacob Reeves, T-Mobile, thanked staff for its presentation of the proposal and stated that T-Mobile originally looked back in 2006 to put coverage in the area and acknowledged that they were trying to raise the original design to 11 feet to get coverage. He pointed out that there is an issue with coverage between Stanley Boulevard and two miles in both directions toward the residential area. He indicated that they are here because of the public's need and that the proposed tower can house eight antennas. He added that if they only have two or three antennas at this time, they would need to come back in the future and ask for another site to make up for the capacity issue.

Regarding the photo simulations, Mr. Reeves stated that it is the exact same picture and that the same person took all the pictures. He indicated that he understood the Commission's concern and that they have gone back and forth with the plan, re-submitting three or four times. He noted that an 11-foot tall pillar did not look good, and McDonald's showed them the proposed smaller tower design from another site.

Commissioner O'Connor said from a reception standpoint, he does not know of any antenna that is enclosed. He questioned if this would impact the reception. Mr. Reeves said no. He indicated that the material used is fiberglass with stucco to match the building and that the signal goes right through it.

Commissioner Narum inquired if this design with a capability for eight antennas would basically take care of T-Mobile's needs in Pleasanton. Mr. Reeves said no. He noted that this site covers only a specific range and that T-Mobile has another site in Pleasanton. He added that they reuse signals so they do not shoot up everywhere and interfere with one another. He noted that many companies are now

using 4th generation antennas and that they should be expected to eventually return to the City for more antennas.

Commissioner Fox inquired if a warning needs to be posted for employees working in structures that house cell phone towers. Mr. Reeves replied that they do post warnings, as governed by the Federal Communications Commission (FCC). He added that a radio frequency report is also submitted and that their eight antennas are .03 percent of what is allowed by FCC standards.

Commissioner Fox inquired if the posting notice must be at the McDonald's site or just going up to the tower. Mr. Reeves replied that it was just going up on the tower.

Chair Blank said he was on the Planning Commission when the McDonald's site was being put together, and they had all sorts of challenges as it is considered a high visual impact site. He inquired what the impact might be if the cupola was not built and the antennas were lowered by six feet. He noted that he understood there would be less reception.

Mr. Reeves replied that T-Mobile initially wanted 11 feet but agreed to lower it to nine feet.

Chair Blank inquired if T-Mobile will not put the antennas in if the Commission denies the building of the cupola. Mr. Reeves replied that they would not put the antenna in at that site, and there would simply be no coverage in that area. He noted that they have already looked around for sites to get coverage for that residential area and found that this site was the best for the antennas.

Chair Blank stated that the staff report indicates that two other locations were considered for the wireless antennas but that the coverage would be less than 70 percent. He noted that neither sight would be able to carry the capacity that the McDonald's site is capable of but that 70 percent is better than nothing. He inquired if T-Mobile would simply let the south end go.

Mr. Reeves said this would be a decision to be made by T-Mobile, but if it is below that coverage threshold, they would rather put their money somewhere else where the coverage would be better. He noted that T-Mobile has tried all of its alternatives, and this site is by far the best one for now and the future in that it eliminates the other towers going into that area and having multiple sites to cover what this one would cover.

Chair Blank asked if Mr. Reeves if he works for T-Mobile, and Mr. Reeves said he is a contractor. Mr. Reeves also stated that they would not have gone through this process for two years if they thought they could go somewhere else and get it done in one year.

Commissioner O'Connor referred to the existing tower on the site and inquired if it would house the Base Transceiver Station (BTS) cabinet. Mr. Reeves said yes. He added that they did a structural test and determined that it would hold their equipment.

Commissioner O'Connor inquired if the antennas need to be a certain distance away from the cabinets to prevent interference, and Mr. Reeves replied that it would not necessarily be so horizontally, but possibly vertically. Commissioner O'Connor stated that he felt the antennas would not fit within the existing tower and that even if the Commission wanted it lowered, there would be interference from the cabinets themselves.

Chair Blank stated that the cabinets would have to be placed on the ground. Mr. Reeves noted that the space in the existing tower is very limited and would not accommodate all of the equipment. He added that they also tried the 15-foot tall flagpole, and their capacity dropped significantly.

Chair Blank inquired whether there was any change to the current dimensions of the current tower other than the cupola in terms of height and width. Mr. Reeves said there were none.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Fox noted that the Auf der Maur property, where the Home Depot was being proposed, is located across the street from McDonald's. She inquired if, in the event the T-Mobile wireless facility is approved, a church with a childcare center and/or a senior care facility would never be able to be approved on that property.

Ms. Decker replied that it would not necessarily be the case, but it would need to be sited 300 feet from this antenna.

Commissioner Fox noted that if the Commission approves the antenna, there will be a situation then where at least a portion of the Auf der Maur property close to the antenna would be limited with respect to what could go there forever or for as long as the antennas are there.

Chair Blank stated that it might be helpful in the future for cases like this for the Commission to get a 300-foot radius circle on a map to assist the Commission in making its decision. He noted that this is a major entryway into the City and that the design does not look appealing to him. He indicated that he wished there were some way to work this one out but that he cannot think of one without having to put more mass on that tower.

Commissioner Fox stated that he felt there were alternatives for places to locate the antennas. She indicated that if trails go up in the Oak Grove location, one of the

most prominent buildings from the hillside would be the McDonald's building. She noted that morphing the building to put a cell phone tower is not appropriate for that gateway location, particularly since there may be alternate locations close by that could meet the same requirements, such as at some of the self-storage locations. She added that there could also be flagpoles or stealth trees at the back of some of the self-storage units that would not be visible to the public. So stated that she would not support the project.

Commissioner Pearce expressed concern about the visuals and agreed that the two pictures do not look like they are from the same photo. She stated that she agreed with Commissioner Fox's concern that this project adds a fairly significant limitation to the property across the street, noting that uses related to children or seniors cannot be put on that property within 300 feet of the antenna.

Commissioner Narum noted that this proposal, with the articulation on the lower tower, appears better than what is there now. She inquired what the zoning was for the Auf der Maur property as she thought it was for commercial and not necessarily for a church.

Commissioner Fox stated that the property is zoned PUD and that a church is allowed in a PUD.

Commissioner Narum noted that if the antennas are located in the area of the storage units as proposed by Commissioner Fox, they would run into the same problem with the Presbyterian Church at Ironwood and some parks in that area. Commissioner Fox stated that she believed the Church is located farther up the road on Busch Road and would be more than 300 feet away.

Commissioner O'Connor inquired if the area where the storage units are located are within 300 feet of the vacant parcel. Commissioner Pearce stated that it would probably depend on where it is located on the site.

Commissioner Fox stated that the antennas could also be placed on the Kaiser or Hansen property and Utility Vault on the left side of Valley, which are all industrial and far from residential property.

Commissioner O'Connor noted that this also takes a willing landlord or owner. Chair Blank noted that the owners also get revenue from this and are not doing it for philanthropy.

Commissioner Narum inquired if the other locations mentioned by Commissioner Fox would be viable.

Ms. Decker replied that the applicant had stated earlier that they had considered these sites and found that they do not optimize the reception. She added that those discussions are really not within the purview of how planning staff evaluates the

sites, noting that they are more of a discussion with the applicant in terms of service area and providing service. She stated that staff evaluates a proposal in terms of design and compatibility with the structures.

Commissioner Fox inquired if T-Mobile might be able to talk to the Economic Development Director and get a list of sites that might be more appropriate. Ms. Decker replied that staff has been working with T-Mobile for two years to locate alternative sites that would serve this particular area and reiterated that as indicated by the applicant, moving away from the McDonald site does not address their needs.

Commissioner Narum inquired if the application was noticed 1,000 feet around the site and if the notification area included the vacant parcel. Ms. Decker answered yes to both questions. Commissioner Narum further inquired if staff had heard from the property owner of that parcel. Ms. Soo said no. Commissioner Narum noted that this would have been the property owners' opportunity to voice out any concerns they might have had or if they saw this as limiting them in a negative way.

Chair Blank stated that he suspected that very few people are aware of the Wireless Ordinance that precludes certain activities within 300 feet of a wireless antenna within the City.

Commissioner Fox noted that it is not mentioned in staff report either and that she did not think there was any way of knowing this except if they did some research on the Municipal Code.

Commissioner Narum noted that the property owner of the vacant lot is savvy and would have known about it.

Mr. Dolan offered to put some of the distances into perspective and referred to Exhibit C of the staff report. He stated that the BMX Park is about 1,350 feet away and that 300 feet into the vacant property would take some of the property in the vicinity of the corner.

Chair Blank noted that he believed the 300 feet would go almost halfway into the property and that he did not believe even a savvy owner would have thought about the potential impact on the property.

Commissioner Fox stated that she does not want to limit the uses on the vacant property. She noted that the former Mayor Pico had mentioned that it would be an excellent site for churches. She added that had this proposal come before the Commission a few years ago, she believed it would not be approved.

Commissioner O'Connor stated that his comments were similar to those of Commissioner Narum. He noted that when he first looked at this proposal, he thought the redesign of the tower actually looked better and less massing. He noted that he did not have a problem with the design or appearance but that he is now

concerned about its proximity to the vacant lot. He inquired whether the 300 feet regulation is a City or a State Code, if it applies to children and seniors, if it applies to children who come in for an hour's class in a Tai Kwon Do studio, or if it applies only if they are there for about six hours.

Ms. Seto replied that it is a city ordinance. She added that she believed the buffer from City parks was 150 feet.

Commissioner Fox stated that it refers to a licensed childcare facility. She noted that it would apply to a church with a pre-school or childcare center as well as to centers for seniors.

Ms. Seto stated that under Federal law, cities cannot set their own regulations about radio frequency emissions. She noted that at the time the ordinance was developed, the City had decided that because there were concerns about sensitive populations and perceptions of exposure levels, the 300-foot setback would be reasonable. She added that at that time staff had met with the various wireless carriers, and they were agreeable to that 300 feet for just those particular types of uses.

Commissioner O'Connor questioned what kind of senior use was referred to. Ms. Seto replied that typical uses would be where people might be there for long periods of time. She noted that even if the area is zoned commercial, an assisted living center where people are living would be considered the type of use affected.

Commissioner O'Connor inquired if a senior day care would apply as well. Ms. Seto, said yes, in the same way that a children's daycare center would be. Commissioner Narum inquired if a senior center would fall under that category; Ms. Seto said yes. She added that it is also typically a City park because of the park area around it.

Commissioner Fox moved to uphold the appeal PAP-126, thereby overturning the Zoning Administrator's decision and denying Case PDRW-6. Commissioner Pearce seconded the motion.

The applicant made a gesture that he wanted to speak.

Commissioner Narum noted that the applicant has been at the meeting for 3½ hours and suggested that out of courtesy he be allowed to speak.

THE PUBLIC HEARING WAS RE-OPENED.

With respect to the alternatives of going to the storage units, Mr. Reeves stated that they had looked at those sites and that they would be facing the same issue. He noted that the only thing that will be allowed in a slim line model is the PP Alternative, which gives them less coverage than the capacity issues there. He inquired if there were a better way to compromise and indicate that if someone does

build in the vacant property, they can file for an exception and be have them decide if they want to be within the 300 feet.

Chair Blank stated that the Commission must uphold the Municipal Code and this is part of what the Commission will be voting on. He added that he does not believe anyone would be able to get an exception to that.

Mr. Reeves showed a picture of the other McDonald's site with the same tower element housing a wireless antenna facility. Chair Blank inquired where this is located, and Ms. Hoshen replied that it is in Moreno Valley east of Riverside. Mr. Reeves stated that it would be the same archway design with a top and would have a low impact visually compared to having another pole up in the air. He presented an aerial view of the poles in the storage facility area; one at 20 feet and the other at 18 feet.

Commissioner O'Connor inquired if the poles were located north of the storage units. Mr. Reeves said they were. He noted that these were the alternative they looked at and that they do not provide the coverage needed for capacity issues.

Commissioner O'Connor inquired if those were three antenna capacities as opposed to the eight at McDonald's. Mr. Reeves said yes. He explained that the antennas would be staggered so there would be three antennas on top of one other. He added that they would then come back in a year and try to put another wireless site on the other side of the road somewhere in order to cover the capacity and provide coverage on the south side of the road.

Chair Blank indicated that he appreciated Mr. Reeves' input.

Commissioner O'Connor expressed concern that a developer who comes in and builds out his property would be limited. He added that when a tenant leaves, the property owner will have to deny a tenant who wants to run a daycare or senior center because of the restriction, and the owner will have to live with a vacancy.

THE PUBLIC HEARING WAS CLOSED.

ROLL CALL VOTE:

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

Resolution No. PC-2008-48 upholding the appeal, thereby overturning the Zoning Administrator's decision and denying PDRW-6 was entered and adopted as motioned.

Chair Blank informed the applicant that he had 15 days to appeal the decision to the City Council.

Commissioner Fox left the meeting at this point.

7. MATTERS INITIATED BY COMMISSION MEMBERS

- a. Discussion of the types of projects to be placed on the Consent Calendar.

No discussion was held or action taken.

725 Main Street

Commissioner Pearce noted that there had been no movement on the vacant lot at 725 Main Street and requested an update. She noted that the applicant had been granted extended hours and days to work.

Ms. Decker stated that staff had seen the plans and that they are very close to completion. She noted that what the Planning Commission approved were conceptual and requested that staff ensure that its intent for that design be fulfilled. She added that in that respect, staff has made decisions and provided direction to the applicant in order to meet the comments and direction provided. She stated that there have been some structural issues in terms of relocating columns for support of the upper floors but that the actual look is still the same. She noted that some of these modifications have taken a little longer, including the replacement of the concrete block wall with the more original slump stone. She indicated that staff would follow up and provide more information at the next meeting.

Commissioner Pearce thanked staff for the update and suggested that the applicant take down the sign that says there will be a building there in the next two months. She noted that people have started to decorate the fence, and it does not look good.

5000 Pleasanton Avenue

Commissioner Narum stated that the signs have been placed on the dental building at 5000 Pleasanton Avenue and that they do not look bad. She indicated that she feels the Commission did the right thing in taking the word "Institute" from the sign.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

- a. Future Planning Calendar

Ms. Decker noted that as pointed out earlier in the meeting, the October 15th meeting would be for the review and consideration of the Draft Environmental Impact Report; the review and consideration of the draft General Plan was scheduled for

October 22nd, and the Stoneridge Drive Specific Plan Amendment/Staples Ranch Project is anticipated to be scheduled for October 29th and into November. She indicated that staff did not have a specific date with respect to the other Staples Ranch projects.

Chair Blank moved that the Planning Commission agree to expedite the PFund application and support the scheduling of a special meeting for that purpose. Commissioner Narum seconded the motion.

Commissioner Pearce inquired what “expedite” meant. Chair Blank replied that he was willing to hold a special meeting sometime before November.

Ms. Decker stated that staff would look at available dates and would send an email to the Commissioners to check on their availability,

Commissioner O’Connor inquired if having only three or four Commissioners present would be acceptable; the Commissioners agreed.

ROLL CALL VOTE:

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

The motion passed.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

Commissioner O’Connor referred to an item on the Supplemental Actions Report, PADR-1935, and stated that he did not realize residential solar panels needed approval. He inquired if the reason was because they were tilted or if all solar panels need to come through the Zoning Administrator.

Ms. Decker replied that this particular application required an administrative design review because the solar panels are tilted. She added that the Code allows over-the-counter approvals for panels that are flush on the roof.

Commissioner O’Connor inquired if neighbors need to be notified for the tilted solar panels, and Ms. Decker said yes.

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

Commissioner Pearce reported that the Bicycle and Pedestrian Advisory Committee held another good meeting last week and that the Committee is moving closer to a public workshop for the Draft Master Plan.

12. ADJOURNMENT

Chair Blank adjourned the Planning Commission meeting at 10:58 p.m.

Respectfully,

DONNA DECKER
Secretary