



## PLANNING COMMISSION MINUTES

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

**APPROVED**

### **Special Meeting** **Wednesday, May 21, 2008**

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

#### **CALL TO ORDER**

The Planning Commission special meeting of May 21, 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; Julie Harryman, Assistant City Attorney; Jenny Soo, Associate Planner; and Cory Emberson, Recording Secretary.

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

Commissioners Absent: Commissioner Jennifer Pearce.

#### **2. PUBLIC COMMENTS.**

There were none.

### **3. CONSENT CALENDAR**

#### **a. PCUP-217, Michael Hughes, Baci Café**

Application for a conditional use permit to allow alcohol to be served after 10:00 p.m. at Baci Café located at 500 Main Street. Zoning for the property is C-C (Central Commercial), Downtown Revitalization District, and Core Area Overlay District.

Ms. Decker stated that staff is requesting continuation of this item to June 11, 2008. She noted that staff had new information and needed additional time to review the information and confirm that the conditions were appropriate. She added that she had spoken with the applicant, who was agreeable to the continuation.

### **4. PUBLIC HEARINGS AND OTHER MATTERS**

#### **a. PREV-695, Dave DiDonato, Donato Builders, Inc.**

Work session to review and provide comment for a proposal for a PUD rezoning and development plan to construct 14 two-story single-family detached homes on an approximately 1.2-acre site located at 4189 Stanley Boulevard.

Ms. Soo summarized the staff report and presented the background, scope, and layout of the proposed project.

Commissioner Fox inquired about the layout of the project, particularly about the fire turnaround. She noticed that between Lots 4 and 5, and Lots 6 and 7, there was an extension of landscaping that came out on either side into the fire turnaround area. She inquired whether there was a particular reason why it came out so far. She stated that she believed that if it were to be reduced, the fire turnaround area would be a bit larger.

Ms. Soo replied that the layout of the turnaround met the requirements of the Fire Department.

Commissioner Fox noted that the layout was unusual and that it did not appear to be a typical cul-de-sac configuration. She inquired whether the Pleasanton Heritage Association (PHA) was given notice on this item and whether it had any comments. Ms. Soo noted that the PHA had not been noticed. She added that staff was interested in the Commission's comments and that it was not a project that would need to go to the PHA for comments.

Ms. Decker noted that the fire turnaround evolved from the original application. She stated that the site plan originally came in for review with almost completely paved drive and common area with no landscaping. An effort had been made to provide additional landscaped area, and this particular proposal provided more landscaped areas. She noted that the hammerhead turnaround fit within it, and the amount of green space was optimized up to that turnaround. She noted that this proposal could be modified accordingly.

Commissioner Fox noted that the floor area ratio (FAR) was approximately 70 percent and inquired whether there were other 70-percent FAR's in the Downtown area. She further inquired whether that would push the envelope. Ms. Soo stated that she did not recall any 70-percent FAR's Downtown but that she had not performed the research to verify that information.

Commissioner Narum noted that this was a private road and inquired what criteria were used to determine what constituted a private road and a public road.

Ms. Decker replied that the determination of whether a road was public or private was based on how the structural section may be developed and whether or not the City or the applicant may request to have it be public or private. She stated that there may be subdivisions with 28-foot or 32-foot road widths that comply with the structural section, but the development may request that it be private. She noted that in this case, the width of the road was less than any of the City's standards, and, thus, it was considered more of a driveway than a street. She added that from the City's viewpoint, it would be preferable to have it be a private road and to serve more as an access drive than an actual street.

With regard to the lot on the east side, Commissioner Narum inquired about the setbacks of the townhouses (Lots 9-11) from the property line. Ms. Decker believed that the rear yard setback was three feet. Commissioner Narum inquired about the setback on the adjoining property and inquired whether there were six to seven feet between the houses to the rear and what lay behind them. Ms. Decker noted that staff would confirm those dimensions when the project returns to the Planning Commission. She noted that it appeared from the aerial that it looked to be approximately 15 to 20 feet to the property line but that it was not necessarily an accurate representation.

Commissioner Olson inquired about the rough distance from the railroad tracks to Units 6, 7, and 8. Ms. Decker noted that it was approximately three feet to the property line but was approximately 53 feet to the centerline of the railroad tracks.

Commissioner Olson inquired whether that was roughly equivalent to the property just to the east. Ms. Decker confirmed that was the case and that there was uniformity in terms of the distance between the tracks and the developments.

Commissioner O'Connor noted that he saw two floor plans and had thought there were three floor plans. He noted that they were listed as Residence 1 and Residence 2 twice but with different square footages and different layouts. Chair Blank noted that the Commission could check with the applicant for clarification on the architecture.

Commissioner Fox noted that in looking at Concept C, the plan view of the landscaping, it appeared to look different than the actual DR-2 site plan. She noted that it appeared that the fingers were tapered back and inquired whether Concept C was meant to be the same as the DR-2 site plan or whether it was the original concept. Chair Blank noted that the dates on the plans were 10/07 and 3/08 and suggested that the Commission ask that question of the applicant.

Commissioner Fox noted that it appeared to her that there were no sidewalks since this was a private road. She inquired about the width of the proposed private road versus the width of a normal public street. Ms. Decker replied that a normal street with one side available for parking would be 28 feet and that typically, most developments were 32 to 36 feet in width. The applicant proposed a width of 20 feet, which was the same dimension used for EVAs; this road had no sidewalks and potentially would have a curb.

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

Dave DiDonato, applicant, noted that he had created responses to the staff report and added that there were some inconsistencies that were lost in the translation. He distributed those responses and believed that the information would clarify some of the confusion. He noted that his architect and landscape architect would address the technical questions and that he would address the questions of density. He noted that the initial staff comments, dated November 9, 2007, indicated that the densities of the 14-unit development were consistent with the land use designations. At that time, staff asked whether the applicant would be able to increase the densities for the site, which he took under consideration. He noted that after review, he returned with his findings and had determined that it was not feasible for this site for economic and environmental reasons, including the additional cost and liability associated with multifamily attached housing. He stated that he felt the 14-unit layout with the mixture of the existing greenery, the houses, and the layout created a good blend of a high-density site in that area. He noted that he believed that to go any higher would require more concrete, congestion, and roofs; those were the reasons they proceeded with this project. He noted that there was some conversation about setbacks and the heights of buildings and that the document he distributed should clarify some of those concerns.

Terry Camp, Camp + Camp Associates, Landscape Architect, complimented staff on being extremely helpful. He added that he had a long-term relationship with Mike Fulford, City Landscape Architect, who had been very helpful in identifying the streetscape on an otherwise nondescript street tree theme. He displayed a PowerPoint presentation and noted that they were able to attempt to unify the streetscape. He added they had received the improvement section for the right-of-way from George Farrell of the Engineering Department so they could see how they would interface with the public right-of-way, and how the private access drive has its own character. He noted that Commissioner Fox was correct in that his site plan was different. He noted that there were some descriptions of the fire apparatus turnaround on the slide, which was the defining criterion for the amount of space. He noted that they pierced the perimeter of the turnaround with the planting islands and described a grass ring product within the island. He noted that it was built similar to turf stone, built on a road base that was built on a fiberglass mat, backfilled with soil, and had a compressive strength to handle the 40,000-pound apparatus. He noted that the cities and Fire Departments buy off on this material, which enables them to get away from a three-point turn quasi-cul-de-sac design just for the purpose of the apparatus. He added that it would also enable them to get more greenery.

Mr. Camp noted that they included private courtyard entries with three different examples of Mediterranean motifs in the vernacular of the architectural characters and materials, including a flagstone, a pattern tile, and an impressed concrete product. He stated that a visitor into the

courtyard would see a deep outdoor living environment in addition to the private open space. He noted that the private open space ranged anywhere from 500 to 800 square feet, which was slightly under one-quarter acre or 9,800 square feet of usable private open space. He added that they examined the potential sociology of the units and carefully crafted the outdoor living environments to work with the indoor space plan. He noted that while there was a fair amount of hardscape, they had outdoor living areas associated with family rooms, outdoor kitchens, dining rooms, a wall fountain, and a pathway connecting the two outdoor living areas. He noted that in effect, a garden environment could be imported into the dining room, a design which, in his opinion, reflected an appropriate indoor and outdoor spatial relationship.

Michael Paulza, Hunt, Hill, Jones Architects, addressed the discussion points brought up by the Commission. With respect to Point 3 (parking), he stated that he understood they were required to provide two parking spaces per home enclosed in a garage, plus, the layout provided two on-site spaces on the unit driveways for guests. They also provided four off-site spaces on Stanley Boulevard, creating 32 parking spaces for the complex, which brought 30 spaces overall in addition to what was required for the project. He stated that with respect to the setbacks, the Pleasanton Municipal Code dictates five-foot setbacks, which were provided and in conformance. He added that the rear setback for the units was five feet and pointed out the setbacks on the screen, noting that the media center and fireplace encroached into the setback, as allowed by the Pleasanton Municipal Code. He noted that the City suggested that there be 18-foot parking aprons, potentially bringing the rear to seven feet rather than three feet. He noted that there were no rear setbacks less than five feet in the complex.

Mr. Paulza noted the open space provided for the units and displayed the two plans on the screen. He noted that each plan was designed to act together, and each one was provided with a maintenance easement which essentially created a zero lot line development. The combination of the easements provided open space not less than 10 feet in any direction, creating the private open space. He noted that in the entire complex, there was an average of 421 square feet of private open space as defined under the 10-foot width, 150-square-foot minimums in the Code. He noted that their handout included a list of all the open spaces provided on-site. He noted that they came up with a 62-percent FAR rather than 70 percent and that they would be glad to demonstrate how they arrived at that figure. He noted that they had three plans, not two, with two elevations per plan, for a total of six elevations. He noted that there was a repetition of two to three elevations throughout the entire complex, which they believed was a good variety for 14 homes. He clarified that the heights were not 39 feet to the ridge. The highest point was 27 feet. He noted that most of the homes are gabled back at the front, and the highest point is always at the back and at the center of the home.

Commissioner Olson noted that the site plan included a sound wall along the northern section, presumably to mitigate the sound of the trains. Mr. DiDonato confirmed that was correct. Commissioner Olson inquired whether, in addition to the soundwall, they planned to include any special materials in Units 5 through 8 with a wall that would face the railroad. Mr. DiDonato confirmed they would do that. He added that they did not believe the wall itself would be sufficient and that they were examining window systems and wall systems that will give the proper mitigation for the units in relation to the railroad noise. They were also considering buffering that edge with landscaping.

Chair Blank inquired whether vibration from the trains would be an issue for the units and whether they planned to have any mitigation strategies for that. Mr. DiDonato replied that they had not yet addressed that but they were aware of that issue and would design to address it. Chair Blank noted that he would look for that solution when the application came back to the Commission.

In response to an inquiry by Commissioner O'Connor about the sound wall, Mr. DiDonato replied that it would be a minimum of 10 to 12 feet but that it had not been designed yet.

Commissioner Fox noted that the rear yard setback was three feet and inquired whether all the buildings were three feet from the fence. Mr. DiDonato noted that the setback to the buildings was five feet and that the three-foot dimension was to the media center, which was an encroachment into the setback as allowed by the City. Commissioner Fox inquired about the notation on page 3 of the staff report. Mr. DiDonato replied that technically, that was not correct because the setback for the project was five feet to the building; the distance from the property line to the media center or fireplace was three feet. He suggested that the City clarify its definition as to what the setback would be.

Commissioner O'Connor requested that staff clarify that item.

Ms. Decker stated that encroachments into setback areas do not include media centers. She indicated that the Code allowed for bay windows and fireplaces to encroach, which were generally found in sideyard setback areas. She noted that the rear yard area did not meet the current standards and that the media center could not be considered an allowable encroachment. The setback was per the staff report, which was three feet.

Commissioner Fox noted that the applicant indicated there was a difference in height between 39.5 feet per staff and 29.7 feet per the applicant. She inquired whether there was a difference in the way the applicant measured the height. Ms. Soo noted that the height was measured based upon the distance from the lowest point to the peak of the building.

Mr. DiDonato noted that the drawings were scaleable and that the height was up to 27 feet.

Chair Blank noted that should be clarified.

Ms. Decker noted that as the plans are developed more fully, staff will confirm what the dimension is and whether it would be based on the midpoint or the ridge. She added that staff will return with the appropriate information.

Commissioner Fox noted that the landscaping plan did not appear to show landscaping in the back or the side yards and asked if that was accurate. She inquired whether there would be landscaping or if it would be finalized when the houses were bought.

Mr. Camp replied that they showed landscaped entry courtyards and streetscapes, front yards by the builder, and side yards to the side yard fencing. He added that they would develop typical techniques for buyers to landscape their own side and rear yards, which would be offered as an option if the buyer decided to do that.

Commissioner Fox noted that since there was no guest parking and assuming that it would be striped red, she inquired what the service vehicles would do if there were no parking allowed. Mr. Paulza noted that four parking stalls would be provided on Stanley Boulevard and that the homes would face the interior road rather than Stanley Boulevard. Commissioner Fox inquired whether Comcast would have to park on Stanley Boulevard if it had to service the house on Lot 9. Mr. Paulza noted that they would be able to drive in and coordinate parking with the owners. Commissioner Fox inquired whether trucks would have to use the driveways since no guest parking was allowed. Mr. Paulza replied that depending on the kind of trucks, they may be able to come in, but they would generally park on Stanley Boulevard.

In response to an inquiry by Commissioner O'Connor regarding whether the paving on the drive would be standard asphalt, Mr. Paulza replied that the program was to have textured paving at the front of the project. He added that as drivers continued through the private access drive, they would show an AC paved area, and the driveway aprons would be textured, colored, and scored with a design concrete. The driveways would be parking stalls, so workmen and vans coming to work on specific homes would be able to park in the driveway.

Commissioner O'Connor asked whether there would be weight limitations for either the private drive or the driveway. Mr. Paulza replied that the live loads accommodate a fire apparatus so they would be able to accommodate most vehicles.

Commissioner O'Connor inquired whether the developers would be amenable to condition the project in the Homeowners Association (HOA) documents to prohibit storage within the garage. Mr. Paulza replied that they would look into that.

Chair Blank requested that the applicant display where the parking on Stanley Boulevard would be. Mr. Paulza pointed out the four spaces on the overhead screen. Chair Blank requested verification that there would be two spaces within the garage and that the driveway would be wide enough to accommodate two additional vehicles. Mr. Paulza confirmed that was correct. Chair Blank inquired whether they would be completely off the private road. Mr. Paulza replied that was correct. He noted that the aprons were currently 20 feet deep to accommodate a car. He added that they may become 18 feet deep in order to accommodate a better rear setback, which would still accommodate a parked car.

In response to Chair Blank's request, the applicant displayed a slide showing Units 3 and 4 and pointed out the main entry to the units. Chair Blank inquired whether the area between Units 3 and 4 would be a joint use area for both units. Mr. DiDonato replied that it was for Unit 3, with a use easement and a solid wall; Unit 4 would get the space on the other side. Mr. Paulza noted that it would maximize the private open space for each unit by utilizing five additional feet.

Commissioner O'Connor inquired whether the parking spaces that would be created on Stanley Boulevard existed today. Mr. Paulza replied that there was currently a home there with parking curb cuts. He added that they proposed having one entry with room for potentially two cars on each side of that entry. Mr. DiDonato noted that the City has engineered street improvements that allow for a travel lane, a bicycle lane, and eight feet of on-street parallel parking.

Chair Blank inquired whether this would be classified as affordable housing. Mr. Paulza replied that he did not believe it would be. Chair Blank inquired about the approximate selling price of the homes. Mr. DiDonato noted that the project would take about a year to 18 months to entitle and that there would be a lot of economic concerns for the project. He estimated that the home prices may be in the \$750,000-800,000 range.

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

Barbara Adams noted that she was impressed by what was being proposed for the new homeowners: one-quarter acre of open space, appropriate outdoor living space, open space for units not less than ten feet in every direction. She noted that she lived in a townhome that bordered this property. She submitted a petition with 65 signatures obtained in a short period of time and read the language into the record:

“We the undersigned hereby request the Planning Commission to adhere to the City’s current General Plan, which was in place when all of us bought our property, and not rezone the approximately 1.2 acre site at 4198 Stanley Boulevard from Medium to High Density. We respect the right of the property owner to develop his property and make a profit on his investment. We ask that the City, the property owner, and the builder take into consideration the quality of life of current residents, many of whom have lived on Stanley over 10 to 20 years, as well as the new development homebuyers.

“In an effort to consider our as well as our new neighbors’ quality of life, we ask that the project setbacks be a minimum of 15 feet from existing property lines and that as many trees as possible be retained for the sake of wildlife habitat, as well as privacy and their native beauty.”

Ms. Adams noted that at this time, they have had the good fortune of being able to see as far as to the ridge from their property. She noted that that ability contributed to their own quality of life. She hoped that whatever decision was made for the new homebuyers, the current residents should be given equal consideration and that some of the trees should be retained for privacy and for the habitat they provide. She hoped that when the location of the new homes is determined, they will consider the potential blockage of views for the existing homes and move them slightly to avoid that blockage. She noted that they requested that the density not be changed from Medium to High Density Residential and inquired whether staff had asked for the increase to High Density Residential. Chair Blank noted that the public hearing was intended for members of the public to make statements, and that the questions by the Commission would occur later. At Chair Blank’s request, Ms. Adams pointed out the location of her property on the overhead screen, bordering Lots 8, 9, 10, and 11. She noted that “Windowology” was located on the west



side and did not believe they cared about setbacks as much as the residents of her townhome community because that side of the property did not have any windows.

Don Adams pointed out the location of their property on the overhead screen and agreed with his wife's request to adhere to the current zoning and not allow a higher density. He noted that there would be parking, traffic, and other issues to contend with if a higher density were to be approved. He noted that there were 36 units in their complex, with 18 guest parking spots and two-car garages. He noted that even if the use of the garage were conditioned to not allow storage, in reality, the garage was their domain and they can do what they want with it. He noted that it was very difficult to obtain compliance even though it was spelled out in the CC&R's. He noted that their CC&R's have the same no-storage provision and that some owners do not comply. He noted that parking would be an issue and that people would have to move parked cars to allow neighbors to back out of their garages. He stated that he believed that it would be very difficult logistically and that eight homes would be an appropriate number of homes. He added that there may be noise issues as well and that this development would be too close to their complex. He noted that if the developers were to aim for maximum profit, then they would want a larger number of units or go three stories up. However, he stated that he believed that quality of life was very important.

Commissioner O'Connor asked Mr. Adams how many units were in his development. Mr. Adams replied that there were 36 units on approximately 2.3 acres; they had a 15-foot setback. He noted that some of his neighbors had three cars, and they were working on a placard system for extended parking to accommodate those neighbors. He noted that anybody can park on Stanley Boulevard and that the four parking places on Stanley Boulevard would be available to anyone and not just the proposed development. He noted that they could not guarantee those parking places and added that there were often ten cars parked in front of his complex.

Darell Walterson pointed out the location of his home on the overhead screen and noted that it was built in 1914 and was built on the property line. He stated that he had a detached garage in the back left-hand side of the lot and that the backyard of a potential neighbor would have a demising wall adjacent to their lot. He noted that he had a backyard shop and that he uses power tools, as well as creating metal sculpture, which was sometimes noisy. He noted that he would be installing solar panels on his garage and that there would be a sunlight easement, both of which may be a concern. He noted that the house on 4189 Stanley Boulevard was an older house and inquired whether the Pleasanton Heritage Association should look at it. He noted that there were some very large trees at that location as well. He stated that he believed a winery would be a good addition to Downtown Pleasanton and provide a connection at this site. He noted that Old Stanley Boulevard may be realigned, that sidewalks may be placed on the north side, and that they would lose an eight-foot gravel swale with natural percolation. He noted that they did not have any natural drainage and that the percolation kept the water from going into the arroyo. He stated that he believed impervious surfaces with accelerated runoff would put more pollutants into the arroyo. With respect to the realignment of Stanley Boulevard, he stated that he understood they wanted to put the parking on the north side and leave the south side of Stanley Boulevard in a natural state with the older homes.

In response to an inquiry by Chair Blank regarding whether he had a recorded view easement, Mr. Walteson replied that he did not yet have a recorded view easement. He noted that he had been looking into it for the last two months and was worried about it.

David Walker agreed with the previous speakers and was concerned about density-related issues, particularly parking, residents with more than two cars, and those who fill their garages with things other than cars. He noted that he believed it would be very difficult to control that and encouraged the Commission to not compromise the parking requirements for this area.

Wilona Perry noted that she had lived in the neighborhood since 1964 and had seen many changes in the neighborhood. She believed the density of the proposed project would be too high for the neighborhood and expressed concern about the height limit. She was concerned about the parking for 14 homes, which would bring in at least 28 more cars to the neighborhood. She noted that the homes would be 2,000 square feet, with teenage drivers, which would potentially allow for 35 to 40 cars. She believed there should be one guest parking space per person, per house. She believed that there should be a maximum of ten homes if the development were to proceed and that 14 homes was too many. She was concerned about the ability of the Fire Department to access the development and about the safety of people coming off of Main Street or Santa Rita Road, making a left-hand turn to go down Stanley Boulevard, and then making another quick left turn to get into the property, especially during the afternoon drive time. She noted that the traffic on Stanley Boulevard has worsened and that it was especially bad during rush hour. She was concerned that there would be accidents and that it did not make any sense to have so many homes. With respect to the garage, she stated that some of her neighbors with teenage drivers had four cars and a two-car garage. She stated that she did not believe it was feasible to tell someone that they could not have three cars when they only had two parking spaces. She expressed concern that their guests would not have room to park. She stated that she understood that the south side of the street was part of the Historic Downtown area and that the historic homes should be maintained. She stated that she did not believe the modern, high buildings fit into the area at all. She opposed this project as proposed and believed the density was too high.

Paul Martin noted that he lived in one of the historic houses on Foothill Road and that he and his family moved to Pleasanton for the quality of life. He noted that developments like this were created to meet the housing needs. He was concerned about the ability of his children to be able to afford to live in Pleasanton. He noted that he worked in real estate and believed the median home price in Pleasanton was almost a million dollars. He noted that everyone had to have a quality of life but that housing must also be provided for the residents. He noted that the 2002 Specific Plan was the reason for this property being high density and did not know why the General Plan was not in compliance; he trusted that staff was working on that issue. He stated that he believed the applicant did a good job and that the houses were attractive. He noted that some adjustment could be made to the elevations so they would be more in keeping with the existing homes on that side of the road, and he stated that he believed the applicant would be able to do that. He stated that he liked the landscaping plan and noted that pervious areas affected everyone. He indicated that he believed that the landscape architect had tried to address that issue and that he understood this would be a tough decision. He stated that he believed the

applicants had thought the issues through and had worked with staff and that a project like this would taken advantage of the land that was available to house Pleasanton's residents.

In response to an inquiry by Commissioner Fox regarding whether he was affiliated with the applicant, Mr. Martin replied that he was not affiliated with the applicant, was not a realtor for the applicant, and did commercial property management. He noted that he had an interest in what was going on in the community.

Mr. DiDonato noted that the staff report stated that he was applying for a General Plan Amendment, which he stated he thought to be incorrect. He noted that they were following the guidelines in the Downtown Specific Plan and that they were not requesting increased density; they intended to fit into the density set forth in that Plan. He noted that they wished to rezone the property from R-1-6,500 to the current density. He noted that they came up with the development and design based on the guidelines set forth by the City for this particular site. He stated that he did not believe they were too far from what was proposed in the Specific Plan. He noted that they were a local builder that they were conscious of the area, and tried to create quality products. He noted that he had just completed a project in Livermore, on the corner of Chestnut and L Street, which was a redevelopment project. He noted that they turned that blighted property into eight nice homes. He noted that was their main focus and added that creating infill housing was challenging. He noted that there were developers who would not do infill housing. He noted that they had a strong background in construction for over 30 years and that they started the company in 2005. He noted that they focused on quality of life issues and that they intended to provide a high-quality product. He noted that they tried to put a product forward that worked both with the community and were economically feasible to go forward. He noted that they will be happy to work with Pleasanton staff to move forward on this project.

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

Commissioner Fox noted that it seemed that the applicant disagreed with whether they needed to do a rezoning.

Ms. Decker clarified that the staff report identified one of the entitlements as required was a General Plan Amendment, and the correction was that they did not need to do so. She noted that the current General Plan land use designation was High Density Residential, in conformity with the Specific Plan land use designation. She noted that with respect to density for this particular designation, High Density Residential was eight-plus units per acre. At a density of eight units per acre, there would be a net of 9.6 or 10 units on that site. She noted that there was no midpoint or maximum for High Density Residential and that this particular calculation for the 1.2-acre site was approximately 11.6, which was approximately 12 units per acre, which was the density being proposed at this time. She noted that the Stanley reconstruction would remove parking on the south side of the street. She stated that currently, there was parking on both sides of the street and that only the parking on the south side would be removed with those street improvements.

Ms. Decker noted that with respect to the discussion about homeowner associations, there was no real common open space area; the lots were divided to the street frontage, which was the 20-foot access way. She noted that a maintenance agreement would be provided because there was no landscaping or other common area to manage. She noted that a maintenance association would probably be the preferred method for this site, which led to the question of parking and storage in garages. She noted that the Planning Commission and staff have discussed the issue numerous times with developments and that particular requirement was generally placed in CC&R's because the City did not want to act as garage policemen. She noted that was an issue with many developments and that this particular project, like many others, would not be conditioned where the City would be responsible for insuring that garages did not have storage. She noted that would be an instrument or disclosure and that the residents in this particular PUD would be self-managing in terms of storage of materials or ensuring that the garages remained clear to provide parking.

With respect to the lack of common open space area, Commissioner Fox inquired if staff would recommend a common open space area as was done in similar types of developments of this size, such as the one on Vineyard Avenue with a tot lot. She noted that some of the statistics provided by the applicant stated that the community park was a ten-minute walk. She indicated that she was confused by that as the Dolores Bengtson Aquatic Park was a five-minute walk, which was in the Amador Valley Community Park. She noted that Main Street Green was a five-minute walk but that it did not have a tot lot. She noted that Kottinger Village Community Park may be more than a ten-minute walk. She inquired whether staff ideally would like to see a common open area with a tot lot.

Ms. Decker replied that when this project originally came in, staff was concerned that this particular development did not provide any open space area for a common area, even if the units were to be moved together. She noted that they had discussed attaching the units, having duets, and several different alternatives, thinking it would be appropriate to have a common open space area. She noted that the argument for the Silverstone project was that there was a park across the street. Although the Kottinger Park was across the street from Silverstone, the Planning Commission and City Council felt that there should be some open space for the families there, and a very small tot lot was created for the residents on that site. She noted that this project would not be required to have open space on-site because of the proximity of existing parks. She noted that staff requested direction from the Planning Commission for area, particularly with respect to revisiting the site plan in some manner.

Commissioner Fox inquired whether the closest tot lot play structure was at Amador Valley Community Park, which was a ten-minute walk.

Commissioner Narum noted that she had not walked it, but believed it was less than ten minutes.

Chair Blank noted that staff had posed seven questions for this workshop.

1. Will the proposed density be acceptable?

Commissioner Narum noted that this was a difficult question and that she liked the idea of creating infill housing. She stated that she believed that the density was too high and was one or two houses too many and that the space should be used for some parking and some kind of tot lot/climbing apparatus.

Commissioner Olson noted that when he looked down Stanley Boulevard, he was surprised that the density was as low as it was on this project. He believed that the project next door to the east had a much higher density. He noted that the project at Rachel Place appeared to have a much higher density as well. He stated that he believed the proposed density was fine.

Commissioner Fox did not believe the proposed density was acceptable. She would like to see ten units, ten guest spaces, and a common area with a tot lot.

Commissioner O'Connor stated that he believed that the adjacent development to the east had about 12 units. Like Commissioner Olson, he was not sure that the density was a big issue and that more parking should be created if it fit on the lot. He indicated that he would also like to see one or two units less but did not believe density was the big issue. He was more concerned about the size of the homes and the FAR and suggested that if 14 units were to be retained in the development, the square footage should be examined.

Chair Blank indicated that he believed that part of the problem was the order in which the questions were posed. He noted that the FAR, open space, and setbacks would all drive density. He agreed with Commissioners Narum and O'Connor that given the current proposal, a one- to two-unit reduction would be appropriate. He noted that if the FAR or the layout were different, it might be a different issue. He noted that as Commissioner Olson pointed out, there were other areas that appeared to be just as dense but the architect did something else to make them more acceptable.

2. Would the proposed site plan be acceptable?

Commissioner O'Connor noted that he did not have a problem with the site plan specifically. He noted that if the size of the house remained, the setback should be bigger and that with the site plan and house size, the three- to five-foot rear setback may become a problem. He stated that he did not have a problem with the tot lot or open space issues and added that this was a court of houses. He noted that he lived in a court of houses in a much larger development and the closest tot lot was a 15-minute walk. He stated that he did not believe every development needed a tot lot or a big open space. He was more concerned about how much space there was between the homes and especially with the rear setbacks.

Chair Blank suggested handling site plans and setbacks together.

Commissioner O'Connor did not have a problem with the site layout, but was concerned with the proximity to the property line.

Commissioner Fox stated that she did not like the site plan and believed there should be a tot lot because these were smaller houses. She added that in an infill development, the houses themselves did not have enough open space, with the exception of a dining table and a grill. She indicated that if there were no tot lot or open space, the children would play in the cul-de-sac, which served as a fire turnaround, and she did not want to see the kids playing in the street. She would like to see a common open space on the site. She was concerned that there was no sidewalk within the development and noted that there should be a sidewalk, even if it may not be a standard sidewalk, so people would not walk on the road. She was concerned about the number of houses as well as the proposed site plan with the fingers. She noted that the situation could obscure visibility of pedestrians and that she would like to see them scaled back so that when the pedestrians were walking, there would not be any visibility problems with no sidewalks or any hazards with the constructs near the cul-de-sac.

Commissioner Olson noted that the site plan was acceptable and that with respect to density, it was the number of units that would drive the number of vehicles on this property. He noted that the development just east would have more vehicles associated with it than this one would. He stated that he believed this development could sell out to older people who have decided to downsize; in this case, he agreed with Commissioner O'Connor that a tot lot may not be necessary in a development like this. He indicated that he liked the proposed site plan.

Commissioner Narum noted that she liked the site plan as well and believed it was creative. She stated that the rear yard setback should be larger on the east side and that she thought it was not fair to the neighbors on the east side, who bought their home with an open lot, to have houses right up against their lot line. She noted that the setback should be at least ten feet. She indicated that she liked the layout and concurred with Commissioner Olson's point that if the development were to be made smaller, the house size could be the same. She noted that was a market-driven question for the builder, as opposed to the Planning Commission dictating that the houses should be smaller. She noted that was a decision for the developer and that the Commission should not tell him what that should be. She noted, however, that there was some give-and-take, that either the houses should be smaller or the number of units should be reduced. She noted that she tended to favor tot lots or places for children to play, but she did see children playing in the court and she did not object to that. She noted that her own children had done the same.

Chair Blank noted that as proposed, the site plan was fine, but that the site plan and density were somewhat related. He recalled his earlier comment that the homes should be smaller or that there should be fewer units. He did not object to the setbacks between the houses and noted that he had lived six feet from a neighbor for many years which worked out fine for him. He shared Commissioner Narum's concern about the rear yard setbacks that they were too tight. Regarding the tot lot, he noted that it was a companion question to the open space consideration. He added that the rear yard setbacks were more critical than the side yard setbacks.

Commissioner Narum wished to confirm that the Commissioners had referred to the rear setbacks on the east side. Commissioner O'Connor noted that he was concerned about all of the rear setbacks.

3. Guest Parking

Commissioner Narum noted that this was a difficult issue and that in her neighborhood, all four houses in the cul-de-sac had teenagers who drive. She believed that if the size of the houses were to be reduced or if one or two houses were removed, she would like to see several parking spots specifically for guest parking. She noted that many of the neighbors in the houses fronting Stanley Boulevard had "no parking" signs in front of them and that the parking on the south side of Stanley Boulevard that will be eliminated will further exacerbate the current parking problem.

Commissioner Olson believed that guest parking was an issue and that the Comcast truck, for instance, could park in the driveway on a service call. He noted that visitors would not be able to find a place to park if the homeowner's garage was filled with stored items. He stated that he believed there should be some spaces available in the development for guest parking but was unsure how that would be accomplished.

Commissioner Fox stated that she did not believe the guest parking situation was very good and suggested that there be at least one guest parking place per unit. She noted that staff had requested in another high density development that guest parking spaces in the driveway area be provided. She stated that it was important to have consistency in the planning process and that guest parking consistent with other projects should be included.

Commissioner O'Connor stated that he did not believe there was enough on-site guest parking but was unsure about the appropriate number. He noted that if there were fewer units, there would be more room for guest parking and more space between units. He added that he did not believe parking would be an issue for this development before he found out that half of the parking on Stanley Boulevard would be taken away, which exacerbated the problem.

Chair Blank stated that parking was a major issue and that he also lived on a cul-de-sac. He noted that most houses had teenagers who drove, that many of the houses could fit only one car in the garage, and that most people parked in the driveway. He noted that the homes with teenagers parked two cars in the driveway and two cars in the street. He stated that there should be guest parking.

5. Would the proposed open space for the development and for each home be acceptable?

Commissioner O'Connor did not have a problem with having private lots with no common open space. He would like to see the larger setback, specifically in the rear yard. He noted that there should be a bigger setback, particularly near the townhome development and against the railroad track.

Commissioner Fox noted that she had discussed the open space, but not the setbacks. She would like to see a bigger rear yard setback than the three feet, and stated that there should be a front yard setback but did not know the exact measurement. She did not want the front of the house to be right on the road. She liked the idea of a common open space area and a tot lot. With respect to the small private courtyards for each home, she noted that there should be some standards for what they could contain and not contain in a high-density residential development or upper medium-density residential development. She noted that she has seen water features and fireplaces and would like to see the CC&R's specifically address what would be allowed or not allowed in the private open space, particularly since some of the areas were right next to each other.

Commissioner Olson noted that he had already addressed the tot lot. He stated that he believed the current design provided enough open space. He was concerned that if the Planning Commission wanted fewer units on this property, the price per unit would be driven up, which would reduce the developer's reasonable profit. He suggested that reducing the size of the units and freeing up some ground for parking may work for the developer. He further suggested keeping the same number of units with a slightly smaller square footage per unit and freeing up land for parking that way. He was conscious of the fact that if there are too few units on the property, it would no longer be high-density or economically viable. He found the proposed open space area for each home acceptable as presented.

Commissioner Narum noted that she could accept the proposed open space as presented but would like to see some open space such as you see when turning into Del Valle Court. She noted that some of these decisions should be market-driven and that she supported housing at a better price. She noted that she could support the project without a tot lot if some of the other items were addressed. She considered the east side setbacks to be more of a priority than a tot lot. She stated that having a couple of dedicated parking spaces for guests would be a higher priority than common open space.

Chair Blank stated that in terms of priority, the setbacks were important as was the guest parking. He would like to see some common open space as well as a tot lot, but he did not think that was as important as parking and setbacks. He noted that his priorities were parking, setbacks, open space, and tot lot. He respectfully disagreed with Commissioner Fox that there should be any limitation as to what went into the backyards. He noted that when he first purchased a home, they were six feet from one neighbor and six feet from another. He noted that the front yard was landscaped and the back yard was up to them. He noted that they lived in a community with 35 to 40 homes, and there was never any problems in that respect. He was not keen on having such conditions on what went into someone's backyard and added that there were no CC&R's because there would be a homeowners association.

6. Will the proposed Floor Area Ratios be acceptable?

Commissioner Narum noted that she had not done the math, but that 70 percent was not acceptable to her. She stated that she believed it needs to be adjusted either by removing a house or scaling down some of the houses to get more room in the rear, as well as parking. She would like to see the 70-percent FAR reduced.



Commissioner Olson stated that to improve the FAR and maintain the same number of units, the square footage of the units should be reduced. He noted that given the parking problem, the current FAR was probably too high.

Commissioner Fox would like to see the size of the houses be 1,200 to 1,800 square feet instead of 1,650 to 2,050 square feet, which would lower the 70-percent FAR. She noted that instead of making the smaller lots 2,300 square feet, they should be smaller to go with the smaller-sized houses. She would like to see some of the units be single-story to accommodate seniors who did not want to have two stories.

Chair Blank noted that the Planning Commission was not addressing architecture at this point.

Commissioner O'Connor noted that rather than discussing averages and because the information was not included on the staff report, he would rather use the applicant's list of square footages. He noted that the FAR seemed to range from 52 percent to 71 percent and that he believed those FAR's were still too high. He noted that there were several ways of dealing with that and that if several lots were eliminated and the size of the homes was to be reduced, space could be freed to decrease the FAR. He noted that these were fairly sizable units and that a smaller square footage may cost less to build and would be more affordable. He indicated that he would like to see the square footages come down to allow for increased setbacks and guest parking and for the FAR's to come down.

Chair Blank agreed that the FAR was too high, given the parking and other issues the Commission had discussed; however, he stated that he did not want to dictate how the applicant would accomplish lowering it.

7. Will the proposed architecture be acceptable?

Commissioner Narum believed that the proposed architecture was acceptable.

Commissioner Olson believed that the proposed architecture was acceptable.

Commissioner Fox noted that on the elevations, there were several styles of garages, some with and some without windows. She noted that she would like all of the garages to have windows to be able to monitor that two cars could be parked in the garage, because otherwise, people would fill their garages up with a lot of extra stuff. She noted that these elevations looked similar to the Standard Pacific homes near Trenery Drive. She further noted that the front elevation on page DR-4 had a small window that appeared to be barred. She inquired whether it was a decorative window or whether that would prevent someone from crawling out of a window in an emergency. Ms. Decker replied that those windows were decorative only and that the actual egress windows would be larger to meet the Building Code.

Commissioner Fox noted that on the other elevations, she noted that some of the elevations appeared to be bright white such as on DR-6. She added that they did not have color samples at this point. She would like to see some one-story homes.

Commissioner O'Connor liked the architecture and believed there was enough variation between them. He noted that each plan had a porch over the garage door and cautioned against having too many of them, perhaps no more than 50 percent.

Chair Blank would not want windows in his garage from a security perspective, and he did not believe that windows would prevent anyone from piling things up in their garage. He believed that the overall architecture was generally good; however, he would like to see more articulation. They appeared to him to appear stamped out or tract housing. He indicated that it may be clearer when they have the visuals.

Commissioner Narum noted that when the item comes back, she would like to ensure that the Commission was clear on the height. She believed that 39 feet was too tall and would like to see it reduced to a more reasonable height. She inquired whether this item would come back in another workshop or as a hearing item. Ms. Decker replied that would be at the direction of the Planning Commission in terms of what kinds of comments had been received. Commissioner Narum noted that if it did come back for approval, she would like to have some conditions about sound and vibration on the back side of the tracks.

With respect to another workshop, Mr. Dolan suggested that it be left to staff's discretion and to determine how close the applicant has come to the Commission's desires. If the applicant was not ready, it would be worth that effort; however, if he is responsive or able to respond, a workshop may not be necessary.

Commissioner Narum noted that would be fine with her.

Chair Blank noted that in the past, Commissions have been partial to HOAs versus maintenance associations because HOAs could also officially represent the residents of the development, whereas maintenance associations cannot. He did not know whether that would be feasible in such a small environment.

Chair Blank did not believe that a single-story home would be workable here, but if it could be accomplished, that would be fine.

Ms. Decker wished to revisit what she heard as consensus:

- In general, the Planning Commission feels that the site plan is good and would like increased setbacks.
- There is a desire to see greater setbacks at least on the east side, next to the townhomes
- The sizes of the homes need to be reduced in order to reduce the FAR.

Ms. Decker stated that in terms of the example of a high FAR in the Downtown area, there have been variances up to 56 percent on a 50-foot by 100-foot lot on Second Street, which came before the Zoning Administrator, not the Planning Commission.

Chair Blank wished to clarify that the FAR may be reduced by reducing the size of the individual units and maintaining density or by removing units.

Ms. Decker commented that the Commission agreed that the FAR should be reduced and that staff will verify that calculation. Staff was unsure how staff's calculation differed in terms of the applicant's calculation with respect to whether or not the road was considered part of the calculation, which would make a tremendous difference. She noted that they may have counted the road, which would lead to a 52-percent to 71-percent FAR instead of an overall average of 70 percent. Staff will return with that information. She added that the parking requirement was noted as well.

Commissioner Fox inquired whether the Pleasanton Heritage Association would see this item before it returned to the Planning Commission. Ms. Decker replied that she did not believe that staff has made a determination on whether or not the PHA would look at this particular project because it was not that close to Downtown. She noted that could be revisited if the Planning Commission would like that to be considered.

Chair Blank suggested that it be left to the discretion of staff.

Commissioner Fox inquired whether the PHA was concerned with everything within the Pleasanton Downtown area or just in the Heritage part of town. Chair Blank believed that was something that staff could research. Ms. Decker noted that it was on a case-by-case basis and that if the Commission wished, staff could revisit that issue to determine whether it should go to the PHA. She noted that sometimes the PHA was interested in projects, and staff understood that this project was not necessarily one of those projects.

Commissioner O'Connor requested further clarification of the PHA's role and whether it was sanctioned by the City.

Chair Blank noted that was a discussion for another time. He then thanked the applicant and the public speakers.

No action was taken.

A recess was called at 8:53 p.m.

Chair Blank reconvened the meeting at 9:03 p.m.

**b. PUD-99-01-07M, Jun Kim**

Application for a major modification to an approved Planned Unit Development (PUD) development plan to reduce the rear and side yard setbacks for a water feature at the property located at 8024 Oak Creek Drive. Zoning for the property is PUD-R/LDR (Planned Unit Development – Rural/Low Density Residential) District.

Ms. Decker noted that the applicant had not been present at the originally scheduled hearing on May 7, 2008, although he had been informed of the hearing. She noted that staff had been informed that he had been out of the country for some time. She stated that staff sent notification of this hearing to the applicant and requested that he sign the notification, indicating that he

would be present, or that if he were unable to attend, the project could move forward as planned. Staff received the signed document from the applicant and noted that the applicant had called several days ago, indicating that they would probably arriving into San Francisco Airport at about 5:30 p.m. the day of this hearing. Staff placed this item later in the agenda with every intention of the applicants being able to attend for this item. She did not know where the applicant was at this time. She noted that the Planning Commission could vote on whether to hear this item or to request that staff continue this item until further communication with the applicant to ensure they could attend.

Commissioner Fox inquired whether there was any legal ramification if the Planning Commission chose to move forward and whether this item would go to City Council. Ms. Decker stated that this is a PUD major modification and that the Commission would not be approving this item but would make a recommendation to the City Council. She added that if there were a majority vote to recommend approval to the City Council, the applicants would have an opportunity to attend the City Council hearing as well; however, should the Planning Commission determine and recommend to the City Council to deny this request, the applicant would need to appeal the decision to the City Council.

Chair Blank inquired whether it was the will of the Commission to proceed. There was a consensus among the Commissioners to proceed with the item.

Ms. Decker presented the staff report and summarized the background, scope, and layout of the proposed project.

Commissioner Fox requested confirmation that staff recommended Option 2, requiring the pond to be moved to the original setbacks. Ms. Decker noted that staff intended to provide options to the Planning Commission, and then provide a recommendation. She noted that this particular item was sensitive in that staff recognized that a great deal of investment had been made in this project. The applicants originally valued the project at \$12,000 and permits were obtained, based on that estimate; however, the project cost them \$32,000. She added that the City was sensitive to the request that someone remove constructed improvements and that City staff tried to work with people to make their projects work.

Ms. Decker noted that in this particular situation, staff would recommend that the applicant meet the setbacks because of the concern; there was a 4- to 4.5-foot-depth for the Engeo Geotechnical Report. She noted that in retrospect, it was too close to the side yard setback of five feet; staff believed it should be moved back to 10 feet and that the 20-foot setback should be held as well. Staff's recommendation was that the applicant meet the setbacks.

Chair Blank believed that already with evidence of leaking, the Commission in the past has taken a dim view of people who start projects without any contact with the City. It was clear to him from the record that the City went overboard in trying to help the applicant and to educate them. He noted that the evidence trail was very clear, given that there now appeared to be a safety issue and that in order to meet the Technical Report, it would have to be torn out anyway. He stated that he believed that there was no other option but to adopt the staff recommendation.

Commissioner O'Connor was more disturbed by events after the City got involved and laid out the rules for the applicant. He noted that the licensed contractor did not seem to follow anything the City asked. He believed that as a minimum, the water should be removed from the pond until the problems are further identified. He noted that there was a safety issue, as well as leakage.

Commissioner Fox agreed with Commissioner O'Connor's comments and noted that the leakage and the slope may not be stable enough for a retrofit to be performed successfully.

Chair Blank noted that there was a fault near that area and that even a small temblor on that fault could cause damage in this area.

Commissioner Narum agreed that the project should meet the engineering requirements as spelled out in the report. She noted that she struggled with the setback and noted that a swimming pool had just been allowed across the street with a 10-foot setback, even though the pool could have fit within the 20-foot setback.

Chair Blank noted that in that case, the conditions were different and that there was no leakage at that location and that this was not up against the hazard boundary.

Commissioner Narum noted that the Planning Commission had been striving for consistency and that she believed that with the correct engineering, it could be accomplished and the reduction of the rear yard setback from the required 20 feet to 10 feet could be allowed.

Ms. Decker noted that the Spencers had requested that the rear yard setback be reduced from the required 20 feet to 5 feet. She stated that the Planning Commission agreed with staff's recommendation to at least have 10 feet because they wanted some distance from the downslope property as a rear yard setback. She added that the Planning Commission did agree with staff that the side yard setback could be reduced from ten feet to five feet, but there was no elevation difference as great as that to the rear yard neighbor, nor in this particular instance, either.

Commissioner Narum understood staff's rationale for the side yard setback, but with respect to the 20-foot setback, she believed the City should be consistent with its determinations. She noted that in effect, a ten-foot variance had been given across the street from this applicant.

Chair Blank suggested that if Option 2 were to be chosen, the applicant could remove the pond and then return to request a variance for a 10-foot setback once the pond was properly removed and engineered.

Commissioner Fox noted that even if the applicant were to retrofit this project, she was concerned about the overall slope stability. She agreed with Chair Blank that this was a different situation because of the safety issue.

Commissioner Olson agreed with that assessment. He added that given what the Commission knew, he believed it would be irresponsible to choose Option 1. He stated that he believed the applicant should properly construct this pool, which would require tearing it out and starting over.

Commissioner Narum agreed with that assessment and noted that the Commission agreed that the applicant should tear the pool out and get the engineering done. She noted that the second issue was determining what the correct setbacks were. She stated that she believed there was a third option and would be more inclined to allow a 10-foot setback instead of a 20-foot setback. She noted that she would go with the 10-foot setback on the side yard.

Commissioner Fox inquired where the leakage was coming from.

Commissioner Narum noted that this was a design issue; the pool was not designed properly.

Commissioner O'Connor noted that if the City had the engineering report stating that this pool could be built safely by following certain steps and following the proper engineering, he would not object to having a 20-foot setback on the rear. He emphasized that it must be done safely.

Chair Blank suggested going with Option 2, but informed the applicant that he could return to the Planning Commission once the pool/pond has been torn out, and the engineering reports support the setback reductions before they start reconstruction. He noted that the engineering report may conclude that a ten-foot setback may not be possible.

Commissioner Narum did not read the engineering report that way.

Chair Blank noted that the report may have been written to cover themselves professionally, because they had not inspected the pool through the process.

Commissioner Fox suggested a motion to follow staff's recommendation of Option 2, with the caveat that after Option 2 occurs and the existing pool was removed, an engineering study would be done to say that there was a possibility of a reduced setback, or they could return with a PUD modification.

Ms. Decker clarified several points. She noted that the recommendations referenced in Condition of Approval No. 3 were not those of the applicant's GHAD engineer but of the City's engineer. She added that the applicant's engineer did nothing but take the correlated information provided by staff and the unknowns that were identified and provided their best guess. She stated that she wished this condition because staff did not necessarily want the applicant to comply with the recommendations made by Engeo, but rather, the applicant needed to have a geotechnical report prepared that clearly identified what the section of the pool was, what the ground would actually bear, and what the issues were for the design of the pool. She noted that they were based on what would could have been built, which was unknown because no inspections took place. She noted that there were some rough sketches, but that was all. With respect to the discussion of setbacks, she requested that the Commission consider a condition of approval that would indicate that the interest to reduce the rear yard setback from 20 to 10 feet was not necessarily supportable; that particular setback would be at 10 feet. She noted, however, that if the geotechnical report and structural detailing came forward and identified that a different/greater setback would be required based on the report, the location of the pool would have to conform to that report. She noted that could be a consideration in terms of conditioning

the project so that the applicant did not need to wait for an additional geotechnical report, tearing out their pond, and returning to the Planning Commission. She added that the project could then move forward, and if the issues were resolved before going to the City Council, that could be brought before the Council as additional information.

In response to an inquiry by Chair Blank regarding whether the existence of the pool would depend upon the recommendations of the geotechnical report, Ms. Decker confirmed that would be the case. She further stated that if the geotechnical report stated that there was no structural methodology that would support the placement of a pool at a 10-foot rear yard setback, the pool would not be able to be constructed there. She suspected that there may be some way it could be built, but that was a correct statement.

Commissioner Olson asked whether the Commission agreed that the present pool had to be removed. He did not agree with that.

Ms. Decker believed that from her discussions with the Engineering Department that there were portions of the pool that must be removed, that it must be drained, and that core sampling must be done to determine how it was constructed.

Chair Blank believed the entire pool must be removed if the setback were to be moved to 10 feet.

**Commissioner Fox moved to recommend Option 2 to the City Council, subject to the Conditions of Approval as listed in Exhibit B of the staff report, with the modifications that: (1) Condition No. 3 would be modified to require a geotechnical report to determine the construction detailing of the pool, subject to the review and approval of the Director of Planning and Community Development and the City Engineer; and (2) once the pool has been repositioned and the geotechnical report results that setback reductions would not present a safety hazard, the Director of Planning and Community Development may evaluate and make a determination as to such reductions.**

Ms. Harryman clarified that if the geotechnical report and the Planning Commission stated that a 10-foot minimum rear yard setback was acceptable, and the City Council agreed, it would not need to be returned to the Planning Commission.

**Commissioner Olson seconded the motion.**

Chair Blank was very concerned about the apparent lack of compliance by this applicant to any of the City's processes and procedures and inquired what should be done about it.

Ms. Decker replied that the Commission may discuss what kinds of mitigations or suggestions they would consider. She stated that staff was concerned that the first building permit that was issued was based on a valuation of \$12,000, while the actual cost was \$32,000. She suggested that the applicant be required to pay the difference between the fees that had been based on a valuation of \$12,000 and the actual cost of construction of \$32,000, resulting in additional fees assessed for \$20,000. No additional fees for reconstruction of the pond would be requested

because of the potential financial impact to the applicant. She noted that inspections still needed to be done.

In response to an inquiry by Commissioner O'Connor about the valuation, Ms. Decker replied that generally, the Building and Safety Division asked the applicant what it thought the valuation of the project might be, and unless the valuation was severely understated by the applicant, the Building and Safety Division generally relied on the applicant's statement. She noted that the value and cost were generally close.

**Commissioner Fox suggested an amendment that the applicant be required to convey to the City difference between the total cost of the building permit fee and actual payment made to date.**

Chair Blank believed it was fair to ask the applicant to pay the fee which would have been paid in the first place.

**Commissioner Olson seconded the amendment.**

Commissioner Fox suggested a sixth condition to address the code enforcement issue.

Commissioner Narum suggested that a condition be added to address timing of the project.

Commissioner Fox noted that the applicant could sit on this project for years without applying for a building permit. She suggested an amendment to require the applicant to apply for a permit within 90 days.

Chair Blank suggested that the pool be drained within 10 days as it was a safety issue.

Ms. Decker noted that the applicant currently has expensive koi fish in the pond, which would need to be relocated. She noted that the Public Works Director suggested that instead of draining the entire pond, that the water level be reduced from four feet to two feet, which would likely be sufficient for the koi, but would reduce the pressure of the pool and mitigate the likelihood of leaking until the pond could be reconstructed in accordance with the geotechnical information.

Commissioner Narum inquired what would keep the applicants from leaving the pond at two feet indefinitely. Ms. Decker noted that if after the action by the City Council, the applicants do nothing related to the conditions after having been adopted by City Council, it would become a Code Enforcement matter.

Chair Blank noted that the condition would require the applicants to relocate the pond and that the setback would also be reset.

Commissioner Fox noted that the Commission did not generally require timeframes.

Ms. Harryman confirmed that it would become a Code Enforcement issue.



Commissioner Narum noted that the house on Whitehall Court had a timeframe imposed. Ms. Harryman replied that was the only example she could think of. Ms. Decker noted that applicant was required to obtain the necessary building permits within 30 days, and the construction would be completed within six months.

Commissioner Fox inquired whether that kind of condition could be added.

Chair Blank suggested that the applicant be required to get a building permit within 30 days, but he did not believe the applicant could be compelled to complete the required construction, although they may be compelled to remove the pool.

Ms. Decker noted that it would not be desirable to condition the applicant to get a building permit; they currently have an open building permit that has not been finalized because there have been no inspections. She stated that in conditioning the project, the Planning Commission would want to chart out a timeline with respect to inspection processes and required inspections based upon the geotechnical report.

Commissioner Fox suggested adding a condition stating that the applicant will be required to schedule inspections within six months.

Commissioner Olson suggested conditioning the relocation of the pool.

Chair Blank inquired whether it was reasonable to require the relocation of the pool to take place within six calendar months. Ms. Decker noted that the Planning Commission may make that recommendation. She noted that while the building permit had already been obtained, it would be reasonable to condition the project that the difference between the original value and the actual construction cost of the cost be paid within 30 days.

**Commissioner Fox proposed an amendment to add a condition that the applicant will pay the difference between the original value and the actual construction cost of the project be paid within 30 days and a second condition that the applicant will relocate the pool within six calendar months.**

Commissioner Narum noted that she could not support that amendment.

Commissioner O'Connor noted that the requirement to drain to pool to two feet should be addressed.

Commissioner Narum was concerned that the pool be drained.

Commissioner Olson was concerned that the pool be relocated.

**Commissioner Fox modified the amendment to add a condition stating that the applicant will pay the delta of the building permit fees within 30 days, a second condition that the applicant will drain the pool to a depth of two feet within 30 days, and a third that the applicant will relocate the pool within six calendar months.**

**Commissioner Olson seconded the amendment.**

Commissioner Narum noted that she was not comfortable with relocating the pool within six months.

**ROLL CALL VOTE:**

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

**NOES: Commissioner Narum.**

**ABSTAIN: None.**

**RECUSED: None.**

**ABSENT: Commissioner Pearce.**

**Resolution No. PC-2008-22 recommending approval of PUD-99-01-07M was entered and adopted as motioned.**

**c. PDRW-6, Jacob Reeves, T-Mobile**

Application for design review approval to modify the existing McDonald's restaurant to increase the height of the tower element by 10 feet, 9 inches in order to establish a telecommunication facility for T-Mobile at 3001 Bernal Avenue. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

This item was withdrawn from the agenda.

Other Matters:

Commissioner Olson noted that at the previous City Council meeting, Mr. Iserson gave a PowerPoint presentation that addressed aspects of the General Plan that applied to keeping the hillsides pristine. He noted that it was an outstanding presentation and requested a copy of the presentation. Chair Blank would like a copy of the presentation as well and suggested that it be made available on the FTP server. Ms. Decker noted that would be possible.

**5. ADJOURNMENT**

Chair Blank adjourned the Planning Commission special meeting at 9:46 p.m.

Respectfully,

DONNA DECKER  
Secretary