



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, April 23, 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 April 23, 2008, was called to order at 7:02 p.m. by Chair Blank.

1. ROLL CALL

Staff Members Present: Brian Dolan, Planning & Community Development Director; Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Steve Otto, Associate Planner; Natalie Amos, Assistant Planner; and Cory Emberson, 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. March 12, 2008

Commissioner O'Connor noted that the sentence of the eighth paragraph on page 7 should be modified to read as follows: "Commissioner O'Connor noted that as the house placement was moved away from the fenceline, it would move closer to the house at 815 Clara Lane *and negatively affect the view at 815 Clara Lane.*"

Commissioner Narum noted that the first sentence of the first paragraph on page 7 should be modified to read as follows: "~~Mr. Nguyen~~ *Mr. Chen* expressed concern that their home's value...."

Commissioner Pearce moved to approve the minutes of March 12, 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 minutes of March 12, 2008, were approved as amended.

b. April 9, 2008.

Ms. Decker advised that the minutes of April 9, 2008 would be considered at the next meeting. She added that both audio recorders did not operate at the March 19, 2008 meeting, and that the minutes would be created from notes.

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

Sports Courts

James Frost stated that he would like to provide a follow-up to his previous statements about sports courts. He noted that there had been tasks given to staff and was unsure whether any progress had been made since he had not seen anything come forward to the Planning Commission over the past several months since he was last before the Commission. He noted that he was involved in a legal action concerning sports courts. He noted that a five-week trial was held in Oakland and that they prevailed inasmuch as the defendant was found to be negligent for the acts that they committed. He stated that the use of the sports court was also found to be a nuisance. He added that they felt they had the expert evidence and the trial information and that he now had valid information stating that in the minds of the 12 jurors, a sports court opposite another person's property, specifically their house, was a nuisance that should be regulated. He stated that the City had the ability to do so, but chose not to act upon it at this time. He noted that the neighbor was enjoined from using the sports court, but has not acted to remove it. He stated that if the neighbor chose to use the court, causing noise exceeding the City noise ordinance, they were enjoined from doing so. He added that he would be able to call the police to come to the property, and write an order. He noted that at that point, they would have to go back to court. He noted that this placed him in a predicament because the City did not regulate the use of sports court, but he had a court order enforcing his ability to come to the City. He stated that he could inform the City then that the court enjoined the neighbor from using the sports court in a way that exceeded the City's noise ordinance. He noted that the City was now involved in this issue, whether through the Planning Commission, Planning staff, or the Police Department. He emphasized that a judgment was in place and that he planned to move forward

and act upon the judgment. He believed there was sufficient information and opinion on the facts of the case that the Planning Commission and staff could clearly take a position on this issue. He hoped that the City would also be able to stop another citizen in Pleasanton from experiencing the problems he encountered. He noted that Pleasanton would not be the first City to put rules in place which govern the location and use of sports courts. He was aware of one development in the Vineyard Corridor that specifically precludes the ability to install sports courts on the properties and added that was a CC&R approved by the City. He stated that he did not believe his request was unreasonable and asked that the City follow through on the work discussed in 2007 and make sure the proposals were in place. He asked that the City recognize the decision of the Court that a sports court placed as closely to the property as this example would be a nuisance that should be regulated.

Chair Blank noted that the Planning Commission would not be permitted to discuss an item that is not on the agenda, but suggested that it be discussed under Matters Initiated by Commission Members.

RVs on Private Property

Douglas Farmer inquired whether there was any future plan to address the parking of RVs on private property and residential lots. He noted that the minutes from a meeting nearly a year ago addressed this issue regarding a conditional use permit, with the possibility of updating the law. He recalled that Commissioner Narum noted that there were many inconsistencies in the existing Code. He stated that he would like to see a discussion on that issue.

Chair Blank noted that if the Commission wished to agendaize an item, it would be done under Matters Initiated by Commission Members.

In response to an inquiry by Chair Blank regarding whether staff could respond to the status of the sports court or the RV parking ordinances, Ms. Harryman replied that she was not aware of the status of either ordinance.

Chair Blank noted that the Commission could not debate or discuss those items because they had not been publicly noticed. If the Commission wished to agendaize an item under Matters Initiated by Commission Members, it would then be publicly noticed.

Mr. Farmer wished to urge the Commission to place that item on the agenda.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Ms. Decker advised that staff would like to request that Item 5.a., PUD-73, Steve Maestas and Mike Carey, be pulled from the Consent Calendar and that it be the last item heard. She noted that the applicant was aware of staff's request to do so and was agreeable to this change. She noted that there may be individuals who wished to speak and may not be able to wait until then. She noted that a request was being made in order to allow the staff planner to present the staff report but was unable to be present until later in the evening.

Ms. Decker then advised that Item 6.c., PSPA-02/PUD-02-07M/PCUP-210, Scott Trobbe, Pleasanton Gateway, LLC, would be continued to a future meeting at the request of the applicant.

Chair Blank noted that three speakers were present for Item 5.a. He asked Ms. Decker if she would be able to present the project. She replied in the affirmative.

Commissioner Fox noted that she would like Item 5.a. to be moved to the beginning of the meeting so the speakers could be heard and then hear the outcome. She stated that she did not wish to wait until later.

Commissioner Pearce stated that she would like to hear the staff report presented by the staff planner. She added that the public comments could be taken first.

Commissioner Narum agreed with Commissioner Pearce's comments and noted that she had questions as well. She added that she would have pulled the item if staff had not done so already.

Commissioner O'Connor noted that he was agreeable to either option.

In response to an inquiry by Chair Blank regarding whether any Commissioners had questions, Commissioner Fox replied that she had asked her questions of the planner by phone the previous day.

Commissioner Fox moved to remove Item 5.a. from the Consent Calendar and to hear it first under Public Hearings and Other Matters, with Ms. Decker presenting the staff report.

Commissioner O'Connor seconded the motion.

ROLL CALL VOTE:

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

NOES: Commissioners Narum and Pearce.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Olson.

The motion passed.

5. CONSENT CALENDAR

Item 5.a. was pulled from the Consent Calendar and was heard as the first item under Public Hearing and Other Matters.

6. PUBLIC HEARINGS AND OTHER MATTERS

Item 5.a., PUD-73, Steve Maestas and Mike Carey

Application for a Planned Unit Development (PUD) rezoning of an approximately .22-acre parcel from the RM-4,000 (Multiple-Family Residential) District to the PUD-HDR (Planned Unit Development – High Density Residential) District located at 204 Kottinger Drive.

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

Commissioner O'Connor noted the presence of the corrected memo on the lot sizes and stated that he believed what Ms. Decker displayed on the screen was the same as the original staff report.

Ms. Decker noted that the corrected lot sizes were not related to the project being considered. She added that the revisions were provided as a clarification to the staff report for PUD-91-9. She stated that staff wished to make the correction if there was a question with respect to the addition.

In response to an inquiry by Commissioner Fox regarding whether the table that was shown on the previous slide was correct, Ms. Decker confirmed that they were correct. She noted that they were the square footages of Parcel A and Parcel B which is under consideration by the Planning Commission.

Commissioner Fox noted that she called Rosalind Rondash, Assistant Planner, and Julie Harryman the previous day about this project. She noted that there were two addresses contained within the memo as well as two County Assessor numbers. She inquired whether the two units were counted as one or two housing units in the housing cap.

Ms. Decker inquired whether Ms. Rondash had responded to that question. Commissioner Fox replied that she stated that she was not sure at that point, and during her conversation with Ms. Harryman, she noted that the applicant had indicated that they wanted to split the lot so the units would be counted as two units under the housing cap.

Ms. Decker noted that she did not discuss this particular issue with Ms. Rondash and stated that it would be considered under the housing cap because neither unit was considered a second residential unit, which was exempt under the housing cap. She noted that they had been in existence for some time and were counted as two units.

Commissioner Narum requested clarification of the floor area ratios (FAR)s for PUD-91-09 and PUD-95-01, and noted that she believed she heard different numbers than were cited in the staff report. Ms. Decker replied that she drew a comparison of the historical information for PUD-91-09 and PUD-95-01, where the FARs were less than the 40 percent proposed on this site.

In response to an inquiry by Commissioner Pearce regarding the definition of “architecturally significant” versus “architecturally insignificant,” Ms. Decker replied that an architecturally significant structure would be considered to have components that are unique, that identify a certain architectural style, and that have an age or historical component that would be considered important. She added that was a subjective opinion by many.

Chair Blank noted that with respect to fire sprinklers, Condition No. 14 on page 3 of Exhibit B, Conditions of Approval, read: “The future renovations and/or new buildings shall be equipped with automatic fire suppression sprinklers as required by the Fire Department.” He read from another project the standard condition: “The buildings covered by this approval shall be equipped with an automatic fire sprinkler system. Plans and specifications of the automatic fire sprinkler system shall be submitted to the Pleasanton Building Department for review and approval....” He believed that past conditions contained more specificity about the fire sprinklers and wanted to ensure that essential language had not been left out.

Ms. Decker responded that staff could include the condition of approval to the one they were accustomed to.

Chair Blank wished to ensure that every applicant was being treated the same way.

Ms. Decker noted that the language could be modified to read “as required” rather than “as required by the Fire Department.” Chair Blank agreed with that change.

With respect to the FAR question, Ms. Decker replied that the staff report for PUD-95-01 stated that Lot A and Lot B were 4,366 square feet, and the FAR was 27 percent, as proposed. Lot B had a FAR of 24.4 percent; lot coverage was a different calculation of 33.9 percent and 31.7 percent. She noted that lot coverage was the actual building footprint area within an area or a lot; the FAR was the total square footage that included all stories and all areas of the building itself.

Commissioner Narum noted that she was satisfied with those numbers and that they matched what she had pulled out of the report.

In response to an inquiry by Commissioner O’Connor regarding the resulting lot sizes of the two neighboring PUDs after the lot split, Ms. Decker replied that the lot sizes on the memo (PUD-95-1) was 4,132 square feet, and 6,246 square feet. She noted that they were comparable in terms of Parcel A being 4,085 square feet and Parcel B being 5,161 square feet. The total overall site area was 10,378 square feet, and the existing parcel was approximately 9,246 square feet. She added that in PUD-91-9, the square footage of the site was 7,359 square feet, with the resulting two parcels of approximately 4,000 and 3,000 square feet. She noted that this particular development was consistent.

Commissioner Fox inquired whether, in the light of the new FARs, each parcel could theoretically have a detached second unit allowed by law, thus having four houses on the lot. Ms. Decker replied that Table 2.1 stated that with a 40-percent FAR, a total square footage of 1,634 and 1,900 square feet. If the lot could be sited and developed in such a way as meet the

requirements of the second unit ordinance. The total FAR or the square footage that could be developed would be limited to 40 percent as shown on the table.

In response to an inquiry by Commissioner Fox regarding whether the existing second parcel could have a 1,100-square-foot second unit, Ms. Harryman indicated that would not be the case. She noted that the Second Unit Ordinance would be used as the standard, which had its own requirements regarding setbacks and maximums. She noted that it would be unlikely given the size of the lot. It would be possible to meet the setbacks and size requirements. In response to an inquiry by Commissioner Fox's suggestion that a variance may be applicable, Ms. Harryman replied that would be a separate application.

THE PUBLIC HEARING WAS OPENED.

Mike Carey, applicant, noted that the property had contained two units for a long time; the front house was built around the year 1890, and the back house was built between 1948 and 1950. He noted that they had been separate units for a long time and that they had separate water meters. He stated that the second house was never built as a second unit and was always existing. He displayed the site plan and pointed out the location of the homes. He noted that two families purchased the property approximately seven years ago with the ultimate intent to have a house for each family rather than owning a rental property with two units. He displayed and described the neighboring properties, including a five-unit PUD. He emphasized that this was a straight application with no other projects such as a conversion or a second unit being planned. He distributed the County tax roll, which identified the land use per the County, prior to the City taking over was [1,100-multi-2-4 single-family homes], with two units. He noted that a neighboring project was also between five and seven years old, with four brand-new attached homes, set up duplex style. He noted that they were larger units with two-car garages and a brick paver driveway. He noted that those units were not for sale. He added that they planned on having continued ownership of the subject site at this time.

Mr. Carey noted that with respect to the property to the right (216 and 220), that applicant had come in with a complete project. He noted that these units were already maxed out. He displayed the existing homes on his site on the overhead screen. He noted that due to the 11-foot ceilings, dormers could be added. He noted that the existing home was tall by design, farmhouse-style, and believed that adding dormers would improve the appearance. He noted that there were old and new two-story homes along First and Second Streets on Kottinger Drive, handled in a reasonable way through the design guidelines and was sensitive to the neighbors. He added that the Downtown was not a one-story district. He stated that he believed the house next door was maxed out on the site, using the [7,100]-square-foot lot. Their proposed new lots were approximately the same size as the lots on First and Second Streets, which were all approximately 5,000 square feet.

Commissioner Fox noted that with respect to the existing front home, the existing development standard identified a maximum building height of 30 feet, with an asterisk that read, "Measured from the lowest finished grade to the highest ridge point, including all chimney projections." She inquired what the existing building height would be if dormers were added. Mr. Carey replied that it would be the same height of 21-22 feet.

In response to an inquiry by Commissioner Pearce regarding whether staff recommended a staff-level design review, Ms. Decker confirmed that was correct.

Steve Roberts noted that his wife Rebecca had filled out a speaker card, but was unable to stay. He noted that they had lived in their current home for 15 years and had seen the construction of the buildings to their right. He noted that those homes created a huge wall, but they had been able to live with it. He supported the proposed split of the property as well as the improvements being proposed. He opposed the possibility of a future owner building a two-story home, which would make him feel as if he lived in a tunnel with two two-story homes on either side. He indicated that he would like to maintain some feeling of space and would like to maintain one-story homes on that lot.

Murray Dixon noted that he lived within PUD-91-9 and, while he was not opposed to a lot split *per se*, he stated that he believed this was the appropriate time to limit the height of the structures. He had also experienced the four two-story structures next door, which he stated were nice but were also well above 30 feet in height. He noted that he installed trees along the property line to block their view and protect their privacy. He noted that their light was also diminished and that they were very concerned about two stories on the other side, creating an inability to go to solar heating. He noted that the street in front of 216 and 204 was a red no-parking zone and that developing substantially larger structures would create a larger family size and more automobiles in the area. He noted that they already experienced parking difficulties on Second Street and Kottinger Drive due to the large two-story structure to their right, which were actually apartments with two-car garages used for storage. He noted that the tenants parked their cars on Second Street, eliminating parking for those residents. He noted that the intersection was very busy because of the very long light at Kottinger Drive and First Street. He stated that he believed any increase in population would become a safety issue at that intersection. He stated that he believed a lot split was appropriate but that this was the time to stipulate that additional expansion be allowed at 25 percent and not 40 percent. He understood that the tree at 216 was considered to be a heritage tree and that a large part of the tree overhangs the property line of 204. He noted that he believed that would become an issue and that he felt that the best result would be to limit the PUD to a one-story development.

Judy Dixon spoke in support of many renovation projects done by the applicants throughout the City. She believed the homes should remain one-story and cited the parking congestion, heritage trees, and sunshine and air flow issues, which would be affected by a two-story home. She expressed concern about the trees. She noted that the two-story homes in the area were built on larger lots, which made them fit in better than on a smaller lot. She expressed concern about a tunnel effect with two two-story homes on either side of their home. She noted that the adjacent lots would allow only a one-story home and that the neighbors were very concerned about the possibility of two-story homes being built.

Mr. Carey noted that the residents of 216 Kottinger Drive had requested the City to remove a parking space by painting the curb red in front of their house at 216 Kottinger Drive because it was difficult to back out onto Kottinger Drive. He noted that there was a turnaround on their lot as required. He noted that the previous neighbors had requested that a parking spot in front be

removed, although residents of Second Street did not want it removed. The City agreed to the request. He stated that he wished to clarify that all parking was on-site and that they did not support a one-story restriction. He noted that there were two-story homes on First and Second Streets, on 50-foot by 100-foot lots, except the corner lots, and that they were approximately the same size as the subject sites. He noted that they had no plans to expand on the site at this time. He requested that the Planning Commission ask the owners of the adjacent lot if it would be acceptable to build out in a one-story fashion with the same setbacks that they must adhere to on their lot. He noted that the house at 216 Kottinger Drive had been expanded to the maximum one-story footprint with nearly zero setback, which explained the one-story restriction at that time to him. He noted that all of the windows were one foot off the fenceline and that they looked into his property. He added that the tree touched the gutter and cantilevered over his property. He noted that they were prepared to work with the City and the neighbors. He noted that there were no restrictions on two-story construction on Downtown lots and that every applicant must work through the process with respect to screening, setbacks, dormers, and heights. He added that he believed it was still appropriate to allow a second story in order to maintain greater setbacks between the properties.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Fox inquired what kind of maximum building height would exist if there were to be a hypothetical one-story restriction. Ms. Decker replied that the maximum height would be between 22 and 25 feet in ridge height. She noted that there were many examples within the City, with some single-story residences taller than that.

Chair Blank stated that he would like to fix the sprinkler language and that he did not feel comfortable imposing a one-story restriction at this time. He noted that may be addressed at the design review stage and that a public hearing would be ensured. He suggested that in the future, there may be more tolerance for an attractive two-story home or that the neighbors would never want a two-story home. He did not wish to limit it to one-story, which may handcuff a future Planning Commission.

Commissioner Fox noted that when taller buildings in Downtown were being considered, the Commission requested a visual of the streetscape. She added that in this instance, a streetscape was not available.

Chair Blank stated that he believed that would be displayed in a design review.

Commissioner Fox noted that if the Planning Commission were to theoretically restrict the homes to a single-story building height, the applicants could return with a PUD modification and a design review to give the public an opportunity to examine it.

Ms. Decker clarified that the Planning Commission was not taking action but was making a recommendation to the City Council. The Commission's recommendation may vary from staff's recommendation, and its recommendation would be described and discussed within the staff report to the City Council and would be considered then. With respect to the issue of a PUD modification, she noted that anyone within a PUD may apply for a modification.

Commissioner Narum noted that her initial thought was to restrict the building height to one story, but she would be comfortable with an attic at 21 feet for the house in front. She indicated that she was not comfortable with allowing heights higher than what already existed and with the lots on either side being conditioned that no additions could be made. She noted that PUD-95-01 had FARs of 20.7 percent and 24.4 percent and that she was not comfortable with the possibility that a 40 percent FAR would open the door to a second story. She noted that any of the lots may come back for a modification, with photos and other visuals, and that she would rather restrict the building to the existing height rather than restricting the number of stories. She stated that she would like to see the FARs lower and more in line than what was on either side of the two parcels. She indicated her support for the lot split and stated that she believed creating two covered spaces would be helpful and would not cause parking problems. She noted that Condition No. 7 in PUD-95-01 stated that boats, campers, and trailers shall be prohibited from being parked on-site and inquired whether that could be included as a condition to ensure that the parking was used for auto parking. Ms. Decker confirmed that was possible.

Commissioner O'Connor stated that he did not necessarily believe that the Commission should discuss what happened on the two other lot splits next door to this project. He noted that there had been more dialogue about the adjacent properties than about the project itself. He noted that he looked at the neighborhood as a whole and would not want to restrict this project to a single story or existing height limits. He noted that restrictions did not exist for the rest of the historic area, although this was outside the historic area by one lot. He noted that when he visited the site with the applicant, he noticed that they maximized the lot from side to side. He stated that he would rather utilize space going up rather than consuming the side-to-side land on a lot, resulting in no visual open space between the homes. He noted that the existence of space between the homes was better than having one-story homes built right to the lot line. He indicated that he would rather not impose the restrictions and leave that question for a future design review. He noted that there were many homes on Second Street with 5,000-square-foot lots with 2,000-square-foot homes and a FAR of more than 40 percent. He stated that he did not want to impose those restrictions at this time and would rather leave it to a design review.

Chair Blank noted that he was torn because he was reluctant to put a restriction on a project where the same restriction did not apply elsewhere. He added that he also understood the desire to see the restrictions and noted that his goal was to see whatever came forward on this lot come before the Planning Commission. He wanted to ensure that the process would be vetted and that there would be visuals and streetscapes as well as an analysis of other impacts discussed. He indicated that he would like the standard sprinkler language to be included in the conditions of approval. He added that he supported the lot split.

Commissioner Pearce noted that she supported the lot split and had more faith in the present Planning Commission that she knew than in the future, unknown Planning Commissioners. She indicated that she would prefer that this Commission tighten the reins on this project with respect to the stories and that she did not want any opinion that two stories were acceptable to be taken as acceptance of any two-story home, regardless of the design. She preferred to limit the homes to their current heights and have any applicants come forward with a major or minor PUD modification. She stated that this was a very visible area of town and that she would like design

review to return to the Planning Commission, regardless of the number of stories. She inquired whether it would be possible to add a condition requiring people to park on-site.

Ms. Harryman replied that a certain number of parking spaces could be required on-site, garaged or otherwise. She noted that the Commission may require that the garages not be used as storage and that they did not park RVs on-site.

Commissioner Pearce stated that she believed those restrictions would be workable.

Commissioner Pearce moved to make the finding that the PUD development plan is covered by CEQA Class 32, Section 15332 (a-e) and is consistent with the General Plan for the purposes of the PUD Ordinance; to make the PUD findings listed in the staff report; and to recommend approval to the City Council of Case PUD-73 as recommended by staff, subject to the development plan shown in Exhibit A and the conditions of approval listed in Exhibit B, with the following modifications that: (1) the height of the buildings for both Parcel A and Parcel B be limited to their existing heights; (2) the maximum allowed FAR be 30 percent; (3) Condition No. 5 be modified to indicate that garages may not be used for storage, that RVs and other large recreational equipment may not be parked on-site, and that these conditions be disclosed to future homeowners; (4) Condition No. 7 be modified to require a Planning Commission-level design review for any future modifications; and (5) The phrase in Condition No. 14 “as required by the Fire Department” be deleted and the standard sprinkler language shall be inserted.

Commissioner Fox seconded the motion.

Ms. Harryman clarified that with two lots, there will be no CC&Rs and that conditions of approval will apply.

Commissioner O'Connor noted that he would not support the height limit/story condition because he did not believe the Commission should put conditions on height limits that were not imposed on the rest of the neighborhood.

ROLL CALL VOTE:

AYES: Commissioners Blank, Fox, Narum, and Pearce.

NOES: Commissioner O'Connor.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Olson.

Resolution No. PC-2008-18 recommending approval to the City Council of PUD-73 was entered and adopted as motioned.

A recess was called at 8:27 p.m.

Chair Blank reconvened the meeting at 8:34 p.m.

a. **PUD-62/PGPA-13, Windstar Communities, Inc.**

Applications for General Plan Amendment and Planned Unit Development (PUD) rezoning and development plan approval to construct a mixed-use, high-density residential/commercial development located at 6110 Stoneridge Mall Road. The current zoning for the property is PUD-C-O (Planned Unit Development – Commercial-Office) District.

Mr. Otto presented the staff report and summarized the background, scope, and layout of the proposed project.

Commissioner O'Connor requested clarification of the totals in the parking summary, indicating a total of 581 stalls, including 222 surface parking spaces, which is shown as a total of 682 spaces. He requested clarification of the parking counts. Mr. Otto noted that 581 was the City's Code requirement; 682 was the number proposed by the applicant. The total of 682 stalls is an addition of 460 provided in the parking garage, plus an additional 222 surface parking spaces located on the north side of the project.

Commissioner Narum pointed out the turn into the driveway and requested that Mr. Otto describe the ingress into the lot as well as how BART riders would be prevented from parking in the residents' parking spaces. Mr. Otto displayed the route and described the unrestricted access area as well as the private area accessed by key card.

Commissioner Narum inquired whether parking would be provided for the Pleasanton police and BART police. Mr. Otto replied that a condition was included stating that police staff would work with the applicant regarding its needs for that space. He added that the Police Department indicated that it would like two spaces in the parking lot and that BART police would like a couple of spaces as well. Staff noted that parking spaces in the back would be preferable, but it could be negotiated to have them in the garage as well.

Commissioner Pearce noted that Condition No. 15 and Condition No. 16 indicated that 71 of the 222 guest parking spaces would be designated for use by apartment residents. She added that there was language stating that in the event there is not enough retail parking, they could designate some of that parking for the 222 spaces as well. She inquired whether there was a hard number for the required guest parking spaces. Mr. Otto replied that the Code required 50 guest parking spaces, or one guest space per seven spaces, and that this was not designated in the conditions of approval. He added that the Planning and Community Development Director would ultimately decide how many could be allocated if needed. He noted that it could be added as a condition.

Commissioner O'Connor noted that if that were to be considered, the City requirement should be taken into account because the applicant has proposed fewer parking spaces per unit and more guest parking than required by the City.

Mr. Otto noted that staff included a condition that although it was a transit-oriented development (TOD), the parking study stated that fewer parking spaces would be required. He added that the

excess parking in the back would allow 71 additional spaces to be designated for residents rather than guest parking.

Commissioner O'Connor inquired whether the guest parking could be taken away by CalTrans. Mr. Otto confirmed that would be the case if CalTrans decided it needed that right-of-way along the north side. He added that there was a condition stating that if that were to happen, the applicant must work with staff to develop alternatives to ensure the parking would work on the site, either by reducing tenant parking demand or finding off-site agreements such as at the office buildings after business hours.

Commissioner Fox stated that she believed that with respect to the Growth Management Plan, the City could only approve 300 units per year. Mr. Otto noted that the City had a 350-unit-per-year maximum until the buildout of the General Plan.

Commissioner Fox inquired whether that meant that no new units could be approved within 12 months of that date. Mr. Otto replied that the 350 units were broken up into different types of projects, 50 units of which were allocated for affordable housing projects, for which this project would qualify. He added that there were other possibilities for an affordable housing project, and the 50 units per year for the project could be allocated over four years in the future, with any leftover from prior years carried forward. He stated that staff would work with the applicant to find ways to make the project work from a growth management standpoint. He noted that the applicants desired to pull all the permits at once, and staff was looking for ways to accommodate the applicant's desires. He added that the General Plan stated that it was desirable not to impede affordable housing projects from being built, which could include possible amendments to the Growth Management Ordinance to facilitate that.

In response to an inquiry by Commissioner Fox regarding whether that would be discussed by the Council when the project came before it, Mr. Otto confirmed that it would.

Commissioner Fox noted that the discussion on page 31 of the Negative Declaration stated that schools have less than a significant impact and noted that a school was not located near the proposed development. She inquired what elementary, middle, and high schools would be nearest for this development. She further inquired about the number of potential students that would attend those school according to School District demographic data, and how the City would know whether the schools would not have a significant impact with 350 units. Mr. Otto replied that the School District would decide where the children would attend school and that it had its own figures for calculating how many students would attend the schools. He added that staff referred residential projects to the School District to see if there were any special information needed for the project beyond the standard requirements for paying the school impact fees. He noted that the School District did not indicate that there would be any special needs beyond payment of the school fees.

In response to an inquiry by Commissioner Fox regarding whether the School District requested a bus or shuttle service, Mr. Otto replied that it did not.

In response to an inquiry by Commissioner Fox regarding the number of potential students generated from this project, Ms. Decker replied that staff did not have that information and that the School District calculated that figure based on the number of children per unit.

In response to an inquiry by Commissioner Fox regarding whether the traffic study included theoretical trips to school sites, or whether the traffic data excluded the school trips, Mr. Otto replied that the traffic study included all trips from a residential unit. He noted that it would include trips to the school, to the store, and to work, as calculated in the traffic figures.

In response to an inquiry by Commissioner Fox regarding whether ten trips per unit were assumed, Mr. Otto replied that a different calculation was used for an apartment complex than for a single-family home.

Commissioner Fox noted that on page 28 of the Negative Declaration, it is stated that there is less than significant impacts with mitigation incorporated for exposure of persons to or generation of noise levels in excess of the standard established in the local General Plan or noise ordinance or applicable standards of other agencies. She added that the staff report discussed the private open space for the units facing the freeway had been eliminated. She inquired whether this assumption meant that the freeway-facing units would have all the windows closed at all times to make that less than significant, with mitigation incorporated. Mr. Otto replied that was correct, and that was a typical noise mitigation, whether it be for a freeway, train tracks or aircraft. He noted that the interior noise level of 45 dB must be met, assuming that the doors and windows would be closed, that may also have a special noise rating for the windows to meet the General Plan requirement.

Commissioner Fox inquired whether the affordable units would be spread across the complex or grouped in one area. Mr. Otto replied that the administrative hearing agreement requires that the affordable units be randomly distributed throughout the project site; the applicant would work with the City's housing specialist with respect to the specific placement of the units.

Commissioner Fox noted that the staff report discussed the urban grocery store as an allowed use. She inquired whether it would be possible to make it a mandatory component of the project as opposed to an allowable use. She believed that without a grocery store, there would be more traffic generated from this development because the needed on-site services would not be available to support the project. Mr. Otto replied that the desire was to have a grocery store on-site in order to minimize trips and added that staff did not wish to limit this project to that use only, should they be unable to have a grocery tenant, resulting in vacant retail space. He confirmed that the City would not require the presence of a grocery store.

THE PUBLIC HEARING WAS OPENED.

Eric Heffner, Windstar Communities, Inc., applicant, noted that they were ready to move forward with the conditions of approval. He introduced the team of consultants and noted that they were prepared to answer any questions posed by the Planning Commission. He acknowledged John Reynolds from BART, who had been involved with the project for the last seven years and who also acted as the landlord on this property. He noted that they had a close

working relationship with BART. He noted that they had heard many comments regarding the desired “look” of Pleasanton. He displayed a PowerPoint presentation describing the landscaping and emergency vehicle access (EVA). He noted that this was a gateway project for Pleasanton and that it was important to make an impact statement to the BART patrons. Therefore, they increased the EVA access width over the existing access at the BART garage. He noted that Windstar was very conscious of the City’s Green Building Ordinance requirements and had exceeded the minimum 50 points that are required. He added that they were currently in the mid-70s in LEED points and that they intended to increase that number substantially as the design was finalized.

Mr. Heffner noted that they increased the affordability on this project from the City’s mandated 15 percent to 20 percent for 50 percent of the AMI, very low income wage earners. He noted that this project held a 95-year ground lease with BART, with 93 years remaining. He stated that all the units would remain as rental units throughout the term of the lease and would not be converted to condominiums. He added that they intended to provide office space for both the Pleasanton Police Department and BART Police Department on the promenade, which would add security for the residents as well as for the BART patrons. He indicated that the BART police would park in its own parking garage, and the Pleasanton police were free to park wherever they wished.

Mr. Heffner advised that they had received a letter of intent from the grocer for the space, although he was not at liberty to divulge the identity of the grocer. He noted that it was a well-known name and that this project fit its urban concept. He added that they were extremely excited to put the deal together with the grocer. He noted that this was a public/private partnership as a TOD project. He noted that he believed that a TOD project would be timely and that it was even more important as gas pushed through the \$4.00-per-gallon level. He noted that they had provided parking spaces above and beyond the ratio recommended by the parking study. He added that while they recognized that the automobile was heavily used in California, he believed a good quality of life could be attained in the TOD without the use of the automobile.

Mr. Heffner did not know whether CalTrans would ever take the space behind the project and that although he did not anticipate it, they could do it. He noted that if there was demand for the flyover space in 20 to 25 years, the gas price level may be much higher. He believed that public transit would become more heavily used by that time. He stated that he hoped that people would be able to live by the green principles that they supported and that by that time, many cars would be removed from the road and that there would be less carbon dioxide in the air. He noted that this project was sustainable not only by using green building standards, use of mass transit, but also by the fact that 20 percent of the residents would not need an automobile if they had a job in San Francisco as they would be able to take BART to San Francisco and back. He stated that the time had come for a premier TOD project. He noted that having a BART station less than 150 feet away from the development was an important aspect of the project.

Commissioner Pearce stated that she would like to speak to a consultant about the tot lot and inquired who the appropriate person might be. Mr. Heffner replied that the project landscape

architect would be able to address that issue. He noted that with respect to guest access, a call box would be placed at the gate to call the resident to let them in the gate.

In response to an inquiry by Commissioner Pearce regarding whether the tot lot would consist of two boulders, as shown on the display, Morgan Davies, project architect, noted that the design of the tot lot had not yet been determined and that it would not consist of two boulders. He added that was more of a schematic representation.

Commissioner Pearce recalled that the Commission had contemplated play structures for the tot lot. Mr. Heffner added that they intended the tot lot to be an active lot and would not be a standard tot lot. He noted that seven percent of the units would have three bedrooms and that the others were split 50-50 between one- and two-bedroom units. He indicated that he was confident that there would be children on the site; however, the project was not designed as a family-oriented type of community, such as what would be found in the suburbs. He noted that in that case, 20 percent of the units would be three-bedroom units. He had requested that Mr. Davies design an interactive tot lot above and beyond the standard merry-go-round and slide that was innovative in design.

In response to an inquiry by Commissioner Fox regarding whether the tot lot must be ADA-compliant, Mr. Heffner replied that it would be. She stated that she did not believe a rock would be ADA-compliant.

Commissioner Pearce noted that she had recently attended a planning discussion panel of experts on Transit-Oriented Development (TOD) and Transit Adjacent Developments (TAD), and although they believed it would be primarily two adults commuting to the city, these developments tended to attract children. She stated her belief that all kinds of families should be accommodated.

In response to an inquiry by Commissioner Fox regarding whether the building would be four or five stories, Mr. Chek Tang, Architect, noted that the building has remained the same bulk and mass and that the configuration of the building was the same. He noted that the Stoneridge side of the building had five stories.

Commissioner Fox inquired whether, if CalTrans took the I-580/680 flyover, there would be a possibility to put parking underneath the building in a retrofit manner, or if there would be the need to go off-site for parking. Mr. Heffner replied that if CalTrans were to take that, it would have to pay for and mitigate the loss of parking in that location. He added that the parking could be structured or mechanical parking, or a retrofit of the existing parking with stacked mechanical parking. He noted that the parking ratio within the building itself was equal to other TODs in the area, with 1.3 parking spaces per resident, not including the 222 surface parking spaces.

Commissioner Fox inquired whether it would be feasible to retrofit the parking underneath the existing structure if CalTrans were to take the land.

Mr. Heffner noted that if CalTrans were to take the space, it would have to bargain with BART because there was a structural bridge in the way of the right-of-way in addition to the substation

that was in place, servicing the BART station itself. He noted there was considerable infrastructure work to be done.

Commissioner Fox noted that Mr. Heffner had not directly addressed her question and asked once more whether, if CalTrans took the spaces, it would be technically feasible to go underneath the buildings to be constructed and put one or two levels of parking under the building after the fact. Mr. Tang replied that it would not be feasible to dig under the existing building and that one of the mitigations was to put parking underneath the portion of the freeway so there would not be a net loss of parking.

Commissioner Pearce inquired whether they anticipated making any arrangement with Stoneridge Mall for use of its parking lot in that event. Mr. Heffner replied that they did not anticipate that situation.

Commissioner Narum stated that she believed the “elephant in the room” was the parking and suggested that if everything went as planned, there was still not enough parking. She inquired what the contingency plan would be in that event. She recalled the Dublin situation where the residents complained that there was not enough parking. She noted that the numbers looked good but that the result did not meet the demands.

Commissioner Narum asked what their plan would be in the absolute worst-case scenario.

Mr. Heffner noted that the mechanical parking would be the mitigating factor if more parking would be needed. He stated that they would install that equipment on the surface parking lot up against the freeway and that it would be the worst-case scenario. He stated that they would have professional property management on-site with the managers living on-site 24/7 and that there will be 24/7 security. He noted that the managers would be aware of what the parking impacts would be at all times, which would be valuable information if CalTrans ever took over the right-of-way. He noted that they would use mechanical parking if there were too many cars and that a two-bedroom unit would not automatically get two spaces for their cars. He noted that the tandem spaces would always be assigned to the same unit and that the parking would be unbundled from the rent. He added that if a resident had three cars, the resident would pay three times the parking space fee than the resident with one car. He noted that they were trying hard to discourage the use of the car and encourage the use of mass transit. He added that they were discussing the possibility of exploring the Flex Car program.

In response to an inquiry by Commissioner Narum regarding whether the permitted retail uses had been shown to mall management and whether they have any input with respect to competition, Mr. Otto noted that staff had not shown the list to the mall. Mr. Heffner noted that they had been in touch with the mall and had explained their retail uses on the site. He noted that the specific list of uses had just been received, and no discussion on it has taken place. He added that the urban grocery concept had been discussed and that they were in favor of it.

Commissioner O'Connor noted that staff's memo detailed the proposed changes to the conditions of approval and noted that some had been eliminated. He inquired how committed staff was to the eliminations and noted that they had discussed ensuring that a grocery store be

located on site. He did not advocate mandating the grocery store but acknowledged that part of the rationale was to eliminate the need for people to run all over town to get the services they need. He noted that the car wash bay had been added to the conditions of approval but had been eliminated in the recent memo. He inquired what the rationale was behind its elimination besides the cost of installation.

Mr. Heffner replied that they requested the elimination of the car wash because they were not in the car wash business. He noted that a car wash facility had always been a part of their suburban properties over the years, which was an amenity for the residents so they would not have to go off-site to wash their car. He stated that in this case, the property manager would provide some concierge services on-site, one of which would be for the property manager to bring the resident's car to the local car wash, patronize a local business, and bring the car back to the resident's space. He noted that an on-site car wash seemed to send the wrong message when they were trying to reduce the usage of the car. He acknowledged, however, that he understood that people would need to have their cars washed.

In response to an inquiry by Commissioner O'Connor regarding whether there would be a surcharge for the concierge to have the car washed, Mr. Heffner replied that he did not know the price point and that it would depend on the service desired by the customer. He noted that 10 to 15 years ago, the car wash was a gathering place on-site but that a TOD would not be an appropriate location for a car wash. He added that the water runoff would also conflict with the overall philosophy of a TOD project.

Commissioner O'Connor stated that he did not know whether it would be more green for 600 to 700 cars driven across town to be washed or to do it on-site. He noted that people would wash their cars in any case and that having a carwash on-site would be convenient. He noted that a 494-unit suburban project in San Diego would include a car wash. He noted that a TOD was a new concept, and they were trying to discourage the use of the car. He added that they had sufficient spaces on-site and that it would not only send a mixed message but would also be expensive. He stated that he hoped that 20 percent of the residents would use only one car because they would take the train to work.

Commissioner Pearce requested clarification regarding the open space area located between the north parking area next to the freeway and the building. She noted that this looked like passive open space on the plans and inquired whether the applicant had envisioned a lawn.

Mr. Davies replied that the area would be fairly loud due to the freeway noise and, therefore, would not be very pleasant. He believed that a simple treatment would be best and that it would be closer to a lawn where a badminton set could be set up.

Commissioner Pearce inquired whether there would be facilities for bicycles, including bike lockers. Mr. Heffner replied that there would be bicycle parking in the first and second levels in the parking garage. He noted that there would be bike storage and that people would need to bring their own locks.

Commissioner Fox inquired why the lack of sewer and water conditions were stricken as they were standard conditions. Mr. Otto noted that they were standard advisory conditions and the applicant had some concern with them. He added that since they were advisory, the City could withhold permits if there was a water shortage, in the same way that any problem with sewer capacity would enable the City to withhold the issuance of building permits.

Mr. Heffner noted that they were being required to construct an eight-inch sewer line 850 feet around Stoneridge Mall Road because the sewer was currently at full capacity. He stated that he did not want the building permits to be refused for lack of sewer capacity after they had paid to install the new sewer line. He noted that the sewer and water were together in that regard. He noted that construction costs have skyrocketed, interest rates are rising, and the lending requirements are much tougher. He added that they had agreed to reduce their rent on 20 percent of their units by 50 percent of the income. He indicated that they wished to move through the process and get the approvals moving forward, at which point they will spend \$2 to \$3 million on plans preparing for the building permit. He noted that as a developer, there was a great risk of spending that money after having committed to putting in the sewer line, only to have the City refuse the building permit because of reduced sewer capacity. He noted that having that as a condition of approval would be an obstacle to the lenders and equity partners as they spend the money to design the project on the way to getting the building permit.

In response to an inquiry by Commissioner O'Connor regarding what position that put the City in if there was, in fact, no sewer capacity and it was not a condition of approval, Ms. Harryman replied that this condition was advisory to the applicants. She added that the applicant noted that they were putting the capacity around the project but that if there were insufficient capacity at the treatment facility, the permit would not be issued. She noted that it would not change the City's position and that, in her opinion, it was acceptable to strike those conditions.

Ms. Decker noted that staff checked with the Utilities Engineer and Director of Public Works and that they had engaged in discussions with the applicant, who were amenable to the removal of these conditions.

Commissioner Fox inquired whether other developers in town would get preferential treatment and get their permits pulled first. Ms. Harryman noted that these conditions were standard, advisory conditions that put the developer on notice with no priority one way or the other.

Commissioner Pearce noted that she liked the vehicle counter sign. She inquired how the on-site property manager would be able to monitor the retail parking, as well as take care of the concierge services. Mr. Heffner noted that there would also be 24/7 security personnel and that a project of this size would have at least three staff members who lived on-site as part of their compensation package.

Chair Blank inquired where the discussion on the 230 KV power line under the BART substation that was mentioned in the first report was located.

Commissioner Narum noted that it was included in the EMF report.

Chair Blank thanked the applicant for a very nice presentation.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Narum stated that there should be some discussion on Exhibit C (Permitted Uses). She wished to confirm that take-out restaurant establishments were not a permitted use and noted that it should be a permitted use for a resident to pick up dinner after leaving the BART station on the way home. Mr. Otto noted that it would exclude take-out restaurants. He explained that the Code distinguished between a sit-down restaurant and a take-out or drive-through restaurant and that the take-out or drive-through restaurants were generally allowed conditionally. He added that staff had removed the drive-through restaurant from the list of permitted uses. He noted that if tables and chairs were included, it would no longer be a take-out restaurant. He added that if the City Council were amenable to a take-out restaurant with no tables and chair, staff would be agreeable.

In response to an inquiry by Commissioner Fox regarding whether a deli was a take-out restaurant, Commissioner O'Connor replied that a couple of tables and chairs would probably be possible.

Commissioner Narum inquired about the item on the list, "specialty stores selling those items normally sold in department stores." Mr. Otto noted that was a common item and that while a department store may carry many items, a specialty store may carry a majority of one item carried in a department store.

Commissioner Narum noted that under Conditionally Permitted Uses, she did not see martial arts listed. Mr. Otto replied that fell under the Recreational Facility and Sport Uses.

In response to an inquiry by Commissioner Narum regarding whether a day care facility would be included, Mr. Otto replied that was not included because the Planning Commission normally had the required outdoor space for a day care as required by the State. He added that staff was unsure whether the open space would be available for a day care.

Commissioner Fox noted that during the workshops, the Commission was looking for uses that would be high-traffic uses that would keep people on-site for commonly used activities. She inquired why bookstores, hobby stops, interior decorating shops, and jewelry stores were listed and noted that uses such as a packaging/mail business, dry cleaners, and news stands would be appropriate for the site. She added that she did not understand why shoe stores, toy stores, picture framing shops and pet shops were included on the list of permitted uses. She noted that she would like to see the list narrowed down to the uses that were discussed as being desirable in a TOD and that commonly used retail establishments be put on-site. She expressed concern that in the worst case scenario, the TOD would be built and that a toy store, pet shop, and other stores that people would normally drive to would be put in place of something that the residents would use.

Mr. Otto noted that the list had been narrowed down considerably from the Code and that uses from the prior workshop had been included, particularly the pharmacy and packaging store. He added that staff did not wish to severely limit the uses on the site to the point where empty tenant spaces would be a concern.

Chair Blank noted that the Commission could make some estimates as to the needed uses for a TOD in three years when Pleasanton would have a better understanding of what the residents needs were.

Commissioner Fox noted that she did not believe that a jewelry store, a hardware store, and a rental business would be ideal for the TOD.

Commissioner Narum noted that a hardware store would be a good use. She recalled a discussion from the first workshop about not wanting uses that would be in direct competition with the mall. She noted that the residents could go across the street to the mall for toys, clothing, shoes, and accessories. She expressed concern that some of those uses would preclude uses that the Commission really wanted.

Chair Blank noted that there could be a situation where the TOD development had a use first, which may then open at the mall afterwards. He added that the Commission should be careful about how it tries to anticipate the restrictions.

Commissioner O'Connor noted the market conditions would control the uses and that a Saks Fifth Avenue store would not open in the TOD center.

Chair Blank noted that with respect to the balconies, the original discussion was that apartments without balconies would be a negative. He noted that this was a market decision and that if the developers wished to build the entire project without balconies, which he would not personally recommend, they could make that decision. He noted that the rent could be reduced on the units without balconies. He expressed concern that too many restrictions may be placed on a use that will not exist for three years.

Commissioner Fox noted that they were trying to formulate a mixed use in order to minimize traffic and trips around town. She stated that she believed the Planning Commission had the option to identify the permitted uses that would be desired in that location to ensure that it was in line with the TOD philosophy. She added that she did not want to see tenants being forced to drive around town because those retail uses were not within the site.

Chair Blank noted that he was concerned with the possibility that someone may want to open a jewelry/craft store in the TOD project, only to be denied because there was a similar store at the mall.

Commissioner Fox suggested making it a conditional use rather than a permitted use so the Commission could ensure the permitted uses were truly the kind of typical uses seen in a TOD. She added that the Commission would have the option to identify conditional uses as well.

Chair Blank noted that this kind of use was so new and acknowledged that he was not an expert in this area. He would like to see some researched data that listed, out of 50 TODs that had been studied, the 25 most common retail stores, as well as the most successful and least successful retail stores. He expressed concern that until the data were examined, identifying specific stores would be an exercise in guesswork.

Commissioner Fox stated that it would be reasonable to say that clothing, shoe, and accessory stores would not be typically seen in a TOD.

Chair Blank stated that he would like the applicant to make the market decision of what kinds of retail stores were included.

Commissioner Narum agreed with Chair Blank's statement and would like to allow take-out restaurant uses.

Chair Blank agreed with that suggestion and invited a motion.

Commissioner Pearce believed this was a great project and hoped that it succeeded.

Chair Blank appreciated the work the applicant had done with the tower, noting that the original rendering of the tower looked more like a prison. He noted that it was much better and resembled Pleasanton.

Commissioner Pearce moved to find that the project would not have a significant effect on the environment and to recommend approval of the draft Mitigated Negative Declaration; to find that the proposed General Plan Land Use Amendment is consistent with the Goals and Policies of the General Plan; to find that the proposed PUD rezoning from the Planned Unit Development – Commercial-Office District to Planned Unit Development – High Density residential/Commercial District and development plan are consistent with the General Plan and purposes of the PUD ordinance; to make the PUD findings for the proposed development plan as listed in the staff report; and to recommend approval of Cases PGPA-13, an amendment to the General Plan Land Use Element to add “High Density residential” to the existing “Retail/Highway/Service Commercial; Business and Professional Offices” Land Use Designation and PUD62, PUD rezoning the site from the Planned Unit Development – Commercial-Office District and development plan approval to construct a mixed-use, high-density residential/commercial development, subject to the conditions of approval listed in Exhibits B and C, with the modifications to strike “eliminating take-out establishments” from the uses. Commissioner Narum seconded the motion.

Commissioner Narum requested further clarification of the reason for removing the counter.

Chair Blank noted that there would be three people and security on-site, but never heard a reason for removing the counter.

Commissioner Pearce noted that counters were expensive.

Ms. Decker noted that staff discussed that issue with the applicant, and in reviewing the conditions of approval, staff initially felt that a counter would be useful, there would be a limited number of parking stalls for the retail area, and the rest was reserved for the residents. She noted that there was a drive-through aisle and that if the parking spaces were not visible from there,

there would be no parking available for use. Staff felt that for the limited number of spaces committed to the retail use, a counter would be unnecessary.

Ms. Decker inquired if the Planning Commission desired to include the memorandum with the modified conditions.

Commissioner Narum moved to amend the motion to include the memorandum dated April 23, 2008, modifying the conditions of approval in Attachment C. The amendment was acceptable to Commissioner Pearce.

ROLL CALL VOTE:

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

Resolutions Nos. PC-2008-19 recommending approval of the Mitigated Negative Declaration, PC-2008-20 recommending approval of PGPA-13, and PC-2008-21 recommending approval of PUD-62 were entered and adopted as motioned.

Commissioner Fox clarified that she voted “No” because she believed that a grocery store should have been mandated rather than saying it was a permitted use. She noted that the Planning Commission had an opportunity to put in the retail uses that will minimize traffic and make it as much of a TOD as possible and that she believed the Planning Commission should have a list of permitted commercial uses that could be narrowed down to the high-traffic types of uses that the City would like to see as part of the TOD in the first couple of workshops. She expressed concern about the parking and the contingency with the I-580/I-680 flyover and what the fallback position would be. She stated that she did not get a good answer as to the solution and would have liked to have seen more alternatives presented if CalTrans did get the land and wanted to do the flyover. She noted that she was also uncomfortable with the parking situation.

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 advised that the applicant for this item was not present and requested that this item be continued to the next available date as it was not the City’s practice to hear an item without the applicant in attendance.

Commissioner Fox noted that had occurred previously and inquired whether staff was aware that the applicant would not be in attendance.

Ms. Decker said no and noted that staff had called the applicants and was unable to reach them.

In response to an inquiry by Commissioner Pearce regarding whether staff would obtain a written confirmation that they would be in attendance before the item would be rescheduled, Ms. Decker replied that staff would. She added that another option would be to open the public hearing for the item and continue it so it would not need to be renoticed. She noted that some comments from the neighbors regarding the project had been received.

Chair Blank indicated that he would prefer the item to be renoticed.

Commissioner Narum agreed that the item should be renoticed.

- c. **PSPA-02/PUD-02-07M/PCUP-210, Scott Trobbe, Pleasanton Gateway, LLC**
Work session to review and provide comment for a proposal to modify the Bernal Property Phase I Specific Plan and the approved PUD development plan and for a conditional use permit for a commercial/office development on an approximately 39.22-acre property located on the southwest corner of Bernal Avenue and Valley Avenue, between Valley Avenue and I-680. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

This item has been continued to a future meeting.

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.

Agendizing Discussion of Sports Courts and RV Parking

Chair Blank inquired whether a discussion of RVs and sports courts could be scheduled as two separate items so the Commission may receive public input and feedback on those items.

Ms. Decker noted that a workshop had been held with the Planning Commission with respect to sports courts and added that in February, the Planning Commission had indicated its desire to revisit what had been discussed because of the ongoing litigation that had become part of the discussion. She noted that the previous information had been reissued with a memo to the Planning Commission, and staff had hoped to return with another workshop. She noted that due to the scheduling and the impacted calendar, staff had not been able to bring it back. She stated that the litigation had been completed and that she had not been aware of where it was in the process. She noted that staff would be able to bring that information back.

Chair Blank inquired whether it would be useful to have staff review the public record of the litigation.

Ms. Harryman replied that staff would be able to review the public record of the litigation but that she was not sure whether a private action between two neighbors would be relevant as opposed to the general concept of whether a sports court ordinance was warranted. She noted that another staff attorney had been following that action as well. She noted that there could be appeals and that the litigation may not be concluded.

In response to an inquiry by Chair Blank regarding the status of the RV/fifth wheel question, Ms. Decker replied that the question arose the previous month. She noted that there were two discussions with respect to RVs: the on-site parking of RVs and a discussion of how to define an RV or motor home more clearly, and that the Code Enforcement staff was still in the process of identifying those items. She stated that the second issue was related to the parking of RVs on the street, and no additional action will be taken as far as a Citywide Code amendment with respect to RV parking issues within the right of way and streets. She noted that they were not necessarily coming to the Planning Commission immediately since the Staples Ranch and the General Plan would be moving forward and would impact the calendar very significantly.

Commissioner O'Connor understood that when the fifth wheel/motor home issue had been discussed, the Planning Commission would discuss parking in the right-of-way.

Ms. Decker recalled that those were two separate discussions and that the issue of parking in the right-of-way came up before the Planning Commission and was further discussed before the City Council under Matters Open to the Public. The City Council had heard comments from the public with respect to that issue and did not direct staff to take action for any ordinance amendment. She added, however, that there was an acknowledgement that the Council may look at the particular portion that had been examined by the Planning Commission with respect to the parking of motor homes, recreational vehicles, RVs in sideyard setback areas. She added that was mostly a neighborhood impact as far as visual blight, as well as the concerns brought forward by the Planning Commission regarding property values and proximity to side yards.

Commissioner O'Connor inquired whether the Council meeting should be reviewed or whether the Planning Commission should ask Council again. He noted that when he brought this issue up two months ago, it was after he had seen the Council meeting; at that time, Mayor Hosterman had asked the City Manager the status of the discussion of RV parking, and the City Manager told the Mayor it had been referred to the Planning Commission.

Commissioner Fox noted that it was like the Livermore RV ordinance.

Commissioner Narum noted that she understood the meeting concerned the parking on the property and that she did not believe there was any discussion of parking on the street.

Commissioner Fox requested City staff to review what had taken place.

Commissioner O'Connor suggested that staff ask the Council for clarification or review the meeting. He stated that he understood that parking in general also included on-site parking, as well as public right of way. He noted that both the Planning Commission and City Council had heard many complaints about that issue.

Ms. Decker noted that staff would follow up and obtain verification from the City Manager in that regard. She added that staff had no direction to do any kind of modification to the ordinance with respect to RV parking in the right of way. She noted that staff was continuing to study and investigate the issue and would bring the issue of parking on the property and sideyard setback areas to the Commission.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Ms. Decker noted that the Staples Ranch schedule had been slightly modified and that the special meeting scheduled for May 13, 2008 has been canceled. She added that the Commission would consider the Draft Environmental Impact Report (DEIR) for public comment on May 14, 2008.

In response to an inquiry by Commissioner O'Connor why the May 13 meeting had been canceled, Ms. Decker replied that the additional components of the Staples Ranch project that had been anticipated to come forward with the DEIR would not be ready to go to a public hearing at this time and that staff wanted the Planning Commission and the public to have enough time to look at the DEIR to allow the Final EIR to come forward.

Commissioner Pearce commented that when CEQA was first enacted, EIRs were normally ten pages long.

Ms. Decker noted that the 45-day review period commenced on April 16, 2008, and this would be the first public hearing to follow up. The Planning Commission would be able to ask more questions on the May 28, 2008 hearing.

Chair Blank recommended that his fellow Commissioners use yellow Post-It notes to make comments on the DEIR binders, which were costly, and would enable the binder to be reused.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

Commissioner Fox noted that there had been design review approvals to the Jack in the Box and added that when the plastic signs were put up in 2004, they were different than the signs approved by the Planning Commission. She stated that she believed Matt Sullivan and Brian Arkin had requested that the signs be brought back to the Planning Commission and that the outcome had included the expectation that if there would be modifications to the signs in the future, that Jack in the Box management would need to retrofit the signs to enable them to look similar to the design originally approved by the Planning Commission.

Commissioner Fox inquired whether the Jack in the Box in question was the restaurant on Santa Rita, or near the Bernal property.

Ms. Decker replied that it was the one located on Santa Rita Road, which was the first location.

Commissioner Fox noted that was not the Jack in the Box she was referring to.

9. COMMUNICATIONS

Commissioner Pearce noted that a Bicycle and Pedestrian Master Plan Committee meeting had been held at which installing a crosswalk at Mohr Avenue and the Iron Horse Trail had been discussed. She added that consultants were working on the project and that the conference room environment was not as structured as at Planning Commission meetings. She noted that there were no speaker cards, and people often talked out of order.

Ms. Harryman noted that it was a Brown Act meeting.

Commissioner Pearce noted that members of the public sat at the same table as the Committee members and that there was no opening of public hearings.

Ms. Harryman suggested that Commissioner Pearce call her during office hours to discuss the meeting procedure.

In response to an inquiry by Commissioner O'Connor regarding whether the crosswalk issue had been referred to the City Council, Commissioner Pearce replied that a recommendation for that item had been made because they had been previously discussed. She noted that several Committee members had bad experiences at that crosswalk and passed on a recommendation for a blinking crosswalk.

Commissioner O'Connor noted that a painted crosswalk would be insufficient.

Commissioner Pearce believed that because it was on Iron Horse Trail, a blinking crosswalk would be needed.

Commissioner Pearce inquired about the current work on the heritage tree and the status of the trees. Chair Blank replied that there had been no appeals.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

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

No discussion was held or action taken.

Commissioner Narum inquired whether the permit for the water tank/swimming pool had moved forward. Ms. Harryman replied that the water tank project had been appealed.

Ms. Decker noted that the Spencers' project was a PUD modification and was scheduled to come before the City Council.

Chair Blank thanked staff for the directions for the video projector.

12. ADJOURNMENT

Chair Blank adjourned the Planning Commission meeting at 10:15 p.m.

Respectfully,

DONNA DECKER
Secretary