



## PLANNING COMMISSION MINUTES

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

**APPROVED**

**Wednesday, March 12, 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 March 12, 2008, was called to order at 7:00 p.m. by Chair Blank.

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

Staff Members Present: Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Marion Pavan, Associate Planner; Steve Otto, Associate Planner; Jenny Soo, Associate Planner; and Cory Emberson, Recording Secretary.

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

Commissioners Absent: None.

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

##### **a. February 13, 2008**

Ms. Decker noted that the minutes would be considered at the March 19, 2008 meeting.

In response to an inquiry by Chair Blank regarding why the consideration of the minutes was being continued, Commissioner Fox replied that she had requested they be continued because she was still listening to the audio in order to include additional detail.

In response to an inquiry by Commissioner Pearce regarding whether there were any time constraints on the minutes, Ms. Decker replied that there were none.

Chair Blank noted that the statement on page 6 that was attributed to Mr. Roush was not made by him.

Commissioner Narum noted that she would not be present at the next meeting and wished to submit her changes to staff.

Commissioner O'Connor arrived at this time.

**b. February 27, 2008.**

Commissioner Narum believed that the motion at the bottom of page 17 included an amendment to add a condition for fencing on the west side of the project.

Ms. Decker replied that she would check the audio to confirm whether that was the case.

Commissioner Olson noted that the first sentence of the third paragraph from the bottom on page 18 should be modified to read as follows: "In response to an inquiry by Commissioner Olson regarding how *these lots* ~~this lot~~ compared in size to The Preserve,..."

Commissioner Fox wished to ensure that it was clear that the roll call vote on page 15 was for the motion on page 11, and inquired whether the motion should refer to that motion. Ms. Decker replied that it was not the practice to provide those clarifications within the text of the minutes.

Commissioner O'Connor noted that the second and third sentences of the seventh paragraph on page 9 should be modified to read as follows: "He noted that the Environmental Impact Report (EIR) stated that the vineyards *in the Vineyard District* would be irrigated by well water,... He believed there was justification *to vacate the* ~~of~~ well rights...."

Commissioner O'Connor noted that the first sentence of the second paragraph under Urban Growth Boundary on page 21 should be modified to read as follows: "Commissioner O'Connor did not object to the lots being *adjacent to* ~~outside~~ the UGB...."

Commissioner O'Connor noted that sentence on the fifth paragraph under Urban Growth Boundary on page 21 should be modified to read as follows: "Commissioner O'Connor suggested that when the homes are designed on the lots, larger *side yard* setbacks be included to enhance the view between the homes."

Commissioner Pearce noted that the first sentence of the fifth paragraph under Density on page 21 should be modified to read as follows: "Acting Chair Pearce believed the staging area was sufficient but had concerns about the private park *as a public amenity*." She noted that she did not have any concerns about the private park in general.

Commissioner Fox noted a typo on the second modification under the first motion on page 11 and requested that the word "will" be deleted. She added that Mr. Brozosky's name was misspelled and requested that it be corrected.

Commissioner Narum moved to approve the minutes of February 27, 2008, as amended. Commissioner Olson seconded the motion.

**ROLL CALL VOTE:**

**AYES:** Commissioners Fox, Narum, Olson, and Pearce.  
**NOES:** None.  
**ABSTAIN:** Chair Blank.  
**RECUSED:** None.  
**ABSENT:** None.

The minutes of February 27, 2008, were approved as amended.

Chair Blank commended Commissioner Pearce for an outstanding job of presiding over the February 27, 2007 meeting.

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

There were none.

**4. REVISIONS AND OMISSIONS TO THE AGENDA**

There were none.

**5. CONSENT CALENDAR**

There were no items for consideration.

**6. PUBLIC HEARINGS AND OTHER MATTERS**

**a. PAP-117, Xin Chen/Frank Nguyen, Appellants (PADR-1762/PUD-99-09-02M, Aman and Tee Bawa, Applicants**

Appeal of the Zoning Administrator's approval of an application for administrative design review to construct an approximately 700-square-foot, detached second unit with an approximately 250-square-foot covered porch at the property located at 2632 Ingrid Court; and application for a major modification to an approved Planned Unit Development (PUD) development plan, Case PUD-99-02, to allow additional grading and retaining walls along the rear and side yard slope banks of the property located at 2632 Ingrid Court and to relocate two developer-installed trees along the rear yard slope bank of the property. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

Ms. Decker noted that as the Zoning Administrator for this application, she would be able to answer any specific questions only from that perspective but that all other questions should be directed towards Mr. Otto, the project planner.

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

In response to an inquiry by Commissioner Pearce regarding whether any of the neighbors have a view easement, Mr. Otto replied that there were no view easements in this development.

In response to an inquiry by Commissioner Pearce regarding whether the CC&R's were of concern to the Planning Commission, Mr. Otto replied that CC&R's are covenants, conditions, and restrictions that apply privately for the property owners. The City does not oversee or enforce CC&R's. He added that CC&R's often had more restrictions than City requirements.

In response to an inquiry by Commissioner Narum regarding whether a privacy fence for downhill privacy would be an option similar to that at the Lemoine development, Mr. Otto replied that the fencing regulations for this development require open fencing along the property lines. The only allowance for solid privacy fencing per the PUD were where the grade was 10 percent or less or where the fencing met the principal structure setback. Staff had been approached by some neighbors about installing solid fencing, and staff had not supported that action. The Specific Plan contained language about not placing solid fencing on hillsides to avoid visual impacts. He noted that the Lemoine PUD had two modifications to allow solid fencing and added that the site was flatter with smaller lots, thus lessening the impact.

Chair Blank and Commissioner Pearce questioned what the recent fencing modification for Lemoine Ranch was.

Ms. Decker provided further background regarding the fencing on the Lemoine development. She noted that generally, open fencing was preferred to avoid a tiered appearance when looking up a hillside. She noted that the request for private fencing was related to the realization that the homes were in some conditions quite close where neighbors could readily view into their neighbor's home. Therefore, a revised fencing plan for privacy fencing was approved as a PUD major modification by the City Council.

In response to an inquiry by Commissioner Olson regarding whether the applicants could apply for a PUD modification to allow the privacy fencing, Mr. Otto replied that would be possible. Commissioner Olson noted that if he were in the neighbors' position, he would want solid fencing.

Commissioner O'Connor did not believe the Planning Commission should knowingly approve items that were in violation of the CC&R's. He did not believe that the wall height exceeded the fencing height, and he inquired whether the appellants would prefer solid fencing. He noted that a condition of approval discussed landscaping being between six to eight feet tall, which was taller than the fence and would also provide privacy.

Commissioner Fox inquired whether the floor area ratio (FAR) in an R-1-20,000 zoning district was defined for the primary and secondary structure combined, or whether the secondary structure may exceed the overall FAR for the lot. Mr. Otto replied that the second unit must conform to the FAR for the development and that it was calculated in the FAR. He noted that this FAR of 20 percent was more restrictive within the development than in a normal R-1-20,000 district of 25-30 percent.

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

Frank Nguyen, appellant, noted that he did not believe the second unit followed the spirit of the community and that it was the first second unit in the development. He did not believe it was appropriate and noted that the Homeowners Association (HOA) did not follow through on their complaint because State law allowed second units. He noted that the second unit would block their view, and they expected to be able to see their landscaping. He expressed concern about the security of their home and that their home would be isolated from the rest of the community.

Xin Chen, appellant, displayed a series of slides on the overhead screen and noted that he was concerned that the second unit would block their view. He believed the City should take responsibility for any consequences of the construction of the second unit, such as landslides, flooding, and other unforeseen circumstances during and after the construction. He noted that their privacy would be compromised and was concerned about impacts on health and safety. He stated that both the City and the applicant should be prepared for a lawsuit as a result of any damage to his home.

In response to an inquiry by Commissioner Olson regarding whether the appellants would accept solid fencing, Mr. Chen replied that they would be amenable to solid fencing.

Commissioner O'Connor suggested that landscaping that was taller than the existing fence be installed to provide screening and privacy and inquired whether that would be a better option than a four- or five-foot high solid fence. Mr. Chen replied that would be another option to consider, although he could not commit to a plan of action.

In response to an inquiry by Commissioner O'Connor regarding the typical garage in the development, Mr. Chen replied that they were generally two- or three-car garages.

Commissioner Fox inquired whether the 250-square-foot-covered porch was considered to be part of the 80 square feet of open space required by the Municipal Code. Mr. Otto replied that it could be, but there was no specification that it be covered or uncovered.

Aman Bawa, applicant, summarized the background of his application and displayed a PowerPoint presentation on the overhead screen. He noted that the second home was intended to be a guest home as well as a pool house and added that their extended family would be able to stay there to help them with their special needs child. The extra space would enable them to do more occupational and physical therapy for their child. He noted that they installed story poles and that many of the neighbors did not have any issues with their proposed project. He noted that they had listened carefully to their neighbors' concerns and had made significant

compromises. He noted that the appellants did not have any problems with the grading but took issue with the idea of a guest home. He noted that once the landscaping grew in, the view would be blocked effectively to ensure their privacy. He noted that the appellant's privacy concerns did not have to do with house-to-house privacy, but rather that the guesthouse would be in view of his yard. He noted that with respect to the solid fencing, he would have to examine that further because of the significant change it would present to the neighborhood. With respect to the CC&R concerns, he did not believe there were any and added that the car was never in the driveway because they used the three-car garage. With respect to the landslide concerns, he noted that they had engineered everything to City code, and the pool had extra steel grading for support and everyone's safety. He noted that they kept the neighbors in mind when designing this home.

Tami Santiago noted that she was on the Vineyard Hill Architectural Committee and was part of the original committee that reviewed the applicant's plans. She noted that in 2006, this was a 1,100-square-foot dwelling. There were concerns at the time, and the committee took close to a year interviewing the neighbors and researching similar developments in the area. She noted that the committee was able to reduce the square footage to 700 square feet and the roof height to 13 feet to minimize the visual blockage. They believed that the applicant had made many concessions and fully supported the second dwelling and his plans. With respect to the garage parking, overflow parking may go onto the driveway. She noted that she had a two-car garage, and her teenage son parked his car in the driveway.

Steve Fineberg noted that he had originally been opposed to the plan, but after working with the committee and the applicants, he withdrew his complaint. He had originally been concerned about the height over the fenceline and appreciated the concessions made by the applicant. He noted that they would look right at a solid fence, which would not address the height and blocking views. He would be opposed to a solid fence but did not oppose a solid fence between the applicant's and the appellants' properties.

Mr. Nguyen noted that when he originally bought his home, he was told they would not be able to build a second unit; however, that was not mentioned in the CC&R's. There were guidelines for gazebos and storage units. He was concerned that because Mr. Bawa was on the Board of the HOA, he (Mr. Nguyen) was not able to communicate effectively with the Board. He was concerned when the City approved the second unit because the second unit would block their views. He was very concerned that their issues had not been heard or addressed and hoped this decision would allow future residents to live by the regulations for their community. He stated that he thought the design looked nice and matched the existing home but that he feared it would create more density that was not in keeping with development.

Mr. Bawa noted that he had no part in the reviews of their particular case and recused himself as a Board member. He noted that the approvals were done by the Architectural Committee, which was independent of the Board; that committee was run by Ms. Santiago. He believed that the appellants' concerns had been heard and emphasized that they compromised considerably in the design of the unit.

Mr. Chen expressed concern that their home's value would be decreased with a second unit next to his yard. He noted that he would seek the recovery of that loss.

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

Commissioner Fox inquired whether the FAR would be affected by the enclosure of the front porch. Mr. Otto noted that it would be enclosed space, and without doing the calculations, he believed off-hand that it would be part of the 20 percent.

In response to an inquiry by Commissioner Fox regarding the Fire Department's access to the structure with a solid fence, Mr. Otto noted that Clara Lane had a roundabout that may be used by the Fire Department to respond.

Commissioner Blank noted that the structure could be sprinklered.

In response to an inquiry by Commissioner Fox regarding whether the Fire Department examined the plans to ensure that emergency access was adequate, Mr. Otto confirmed that was part of the project review. The Fire Department had no comment on this plan.

Commissioner Narum inquired whether there had been any thought of relocating the unit to the southeast so it would be off the appellants' property line; she believed that may help the appellant's privacy concerns. Mr. Otto noted that staff did not pursue that possibility with the applicant because the structure was set back ten feet from the side property line where only five feet was required. Staff believed that was an adequate setback for a one-story structure and noted that the rear and side yard setbacks exceeded those requirements.

In response to an inquiry by Commissioner O'Connor regarding whether the pool was already in place, Mr. Otto confirmed that it had been dug and poured. The applicant would delay pouring the patio until this issue was resolved.

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 believed that placement would help them as well.

Commissioner O'Connor believed that would require the applicants to start over.

Chair Blank noted that the Planning Commission had a long-standing tradition of including a condition of fire suppression systems and believed that should be included in the conditions of approval.

Commissioner Olson echoed Commissioner O'Connor's comments about landscaping versus solid fencing and would like the Commission to look at Condition No. 9 of Exhibit C of the staff report. He believed it would apply to the property line on the northern line and inquired whether that condition should apply to the other property lines involved here as well. He would like to

see a change that involved further use of the landscaped screen and leave the fencing the way it was. He noted that he would support a change to Condition No. 9 to include landscaping along the rear sloped bank.

Mr. Otto noted that staff did not include a requirement along that side and was concerned that any additional screening landscaping would impact Mr. Nguyen's concerns with views over the fence. He understood that the applicant intended to landscape in that area, but staff did not require it. He noted that there were restrictions in place for height of landscape materials.

Commissioner Olson noted that since the landscaping would grow, he might not need to suggest a change to Condition No. 9.

In response to an inquiry by Chair Blank regarding Saturday construction, Mr. Otto replied that the matter had been discussed at the Zoning Administrator hearing. He added that it had been brought up by the Zoning Administrator and that some neighbors worked on the weekend and felt that Saturday hours would impact them. Ms. Santiago noted that some homeowners purposely scheduled construction on the weekend so they could be present to supervise. The Zoning Administrator decided to keep the Saturday hours for that reason.

**Commissioner Pearce moved to deny PAP-117, thereby upholding the decision of the Zoning Administrator approving PADR-1762, subject to the conditions listed in Exhibit C, with the addition of a condition that an automatic fire sprinkler be installed in the structure, and to recommend approval of PUD-99-09-02M to the City Council, subject to the conditions shown in Exhibit D.**

Commissioner Pearce noted that she believed the applicant had made a reasonable effort to mollify the neighbors' concerns by reducing the massing and the height. In addition, the applicant had worked with the HOA's Architectural Review Board, and while she understood the appellants' concerns, there was no view easement and no right to a view. With respect to the CC&R', she believed the City should not be involved in such a private agreement between parties.

**Commissioner Olson seconded the motion.**

In response to an inquiry by Chair Blank regarding whether there were any drainage issues from this unit, Mr. Otto replied that the conditions of approval stated that the applicant shall submit a drainage plan to be reviewed and approved by the City to ensure that no drainage shall go onto Mr. Chen's property.

Commissioner Fox noted that she would not support the motion because she believed the option of moving the structure closer to the primary residence should be explored.

Commissioner Narum noted that she would not support the motion because she would like to see an evaluation of moving the secondary structure off the property line. While there were no view easements, she believed that there should be some consideration under the health, safety, and welfare category for the downhill neighbor because the unit would look down on their pool.



Chair Blank suggested that she may table the motion to see if there was support for her proposal.

**Commissioner Narum made a substitute motion that the Commission continue this item and request that staff evaluate revision of the visuals so that the unit is pushed up the northern property line as much as reasonable while maintaining the setbacks and grading standards.**

**Commissioner Fox seconded the motion.**

Commissioner Pearce noted that the applicants had waited a long time for this project and inquired about the timeframe for this issue to return to the Planning Commission.

Ms. Decker noted that priority was given to projects that are continued and added that more work would be required by the applicant to adequately evaluate the visual impacts to the adjacent neighbors. While it may appear to be easy that a four-foot revision be made, the drawings must be redone, submitted, and evaluated, and visuals would be reconsidered. She did not know whether that could be accomplished in one week or whether alternative plans could be redrawn within 30 days. She noted that the Planning Commission meeting schedule was very impacted and had several very large projects such as Staples Ranch and the General Plan that cannot be delayed. She noted that there may be cost impacts that the applicants may not be willing to shoulder. Staff would like the opportunity to explore the issues and return to the Planning Commission with the information rather than have the Commission make a decision that may or may not impact other neighbors.

Chair Blank noted that he would not support the substitute motion to continue the project. He believed the applicant had tried in good faith to move forward, and he agreed that this item would probably be heard before City Council. He did not believe the delay would be appropriate.

Commissioner Pearce noted that the applicants and appellants have now heard the Planning Commission's ideas and may continue to work on this going forward.

**ROLL CALL VOTE:**

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

**The motion failed.**

Chair Blank noted that he would support the original motion on the floor. He noted that there were no view easements and believed the applicant showed good faith. He understood the appellants' position with respect to view easements and believed that the impact to the view was nonexistent. He noted that without a view easement, the appellant did not have the right to

prevent someone from encroaching on that view. He believed the applicant had been very willing to be flexible when he was not legally required to do so.

Commissioner Narum noted that she was not as concerned about the view as the welfare of the neighbor on the downhill side.

Commissioner Fox concurred with Commissioner Narum's comment that the view was not an issue for her. She was concerned that the applicant considered this to be a second dwelling and a poolhouse and believed it should be placed closer to the primary residence.

**ROLL CALL VOTE:**

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

**Resolutions Nos. PC-2008-12 denying PAP-117, thereby upholding the Zoning Administrator's approval of PADR-1762, and PC-208-13, recommending approval of PUD-99-09-02M to the City Council, were entered and adopted as motioned.**

A recess was called at 8:34 p.m.

Chair Blank reconvened the meeting at 8:42 p.m.

**b. PDR-623, Scott and Shelly Adams**

Application for design review approval to: (1) demolish an existing one-story single-family home; and (2) to construct a new two-story single-family home with 8,325 square feet of living area, 2,215 square feet of attached garage area, and an attached 8,476-square-foot indoor tennis court on a 58,703-square-foot lot located at 2751 Crellin Road in Foxbrough Estates. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

Mr. Pavan summarized the staff report and described the background, scope, and layout of the proposed project.

Commissioner Fox noted that on page 15 of the staff report, there was a discussion on the General Plan Land Use Compatibility for Community Noise Environment regarding the noise level of up to 60 dB being "normally acceptable" for residential properties. She inquired whether there was a reduced noise level maximum that was required after 10:00 a.m. and before 7:00 a.m. Mr. Pavan replied that the language was taken directly from the City's noise ordinance, which stated that at no time can events exceed 60 dB per event at the property line. He believed that Commissioner Fox's question addressed nonresidential uses adjoining or in close proximity to residential uses; the lower noise standard must be followed at the property line.

Commissioner Fox believed there was a 10 dB decrease for residential uses as well and requested that staff check into that possibility. Mr. Pavan noted that he would explore that possibility; he reiterated, however, that it was 60 dB at the property line for residential properties.

Ms. Decker confirmed Mr. Pavan's statement and stated that there was no requirement for the residents to reduce the noise level to 50 dB within those hours.

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

In response to an inquiry by Commissioner Narum regarding the wall in the front elevation, Terry Townsend, project architect, stated that the wall was present in the previous visual and that they did not intend to retain it. The only walls they intended to retain were two existing pilasters that will be stuccoed over with the same texture as the house. The existing front fence will also be removed. He noted that the visuals were done by outside consultants and that it was difficult to remove one element in the visual. He described the proposed project in detail and displayed a PowerPoint presentation of the site. He noted that a noise analysis had been performed at Club Sport and at the side of the property. The noise levels at the tennis court were in the upper 40 dB to the lower 50 dB range; the ambient noise at the site matched that noise level. He presented color and materials board and added that the landscape architect had submitted eight sheets of landscape, hardscape, and exterior lighting plans. The grading and drainage plan was provided by the civil engineer. He stated that the drainage on the existing parcel was inadequate, and there were some drainage problems onto the bushes after a recent storm. The existing small concrete V-ditch was inadequate for the amount of water flowing through and would be removed; two new V-ditches would be installed. He noted that the drainage issues had been resolved. He stated that additional point of view visuals displayed the perspective from the Watts' and Allens' homes; he also displayed a conceptual five-year landscaping rendering had been created.

Mr. Townsend stated that the property was surrounded by open fencing and described the meetings with the neighbors to review the initial concept plan. The plan was revised based on the neighbors' input.

Scott Adams, applicant, noted that after he and his architect met with his neighbors, he spent between \$30,000 and \$40,000 to make adjustments to their plans. He noted that they produced a digital rendering, put up story poles, moved the footprint, and redid the drainage and tree reports. He acknowledged that the plan was not perfect but went a long way towards addressing the neighbors' concerns. He noted that his home was large partly because it included his home office as well as sufficient room for their elderly parents and grandparents should they need it. He noted that he wished to build the tennis court for health reasons. He was confident that the noise would not be audible past the property line at any time, day or night. He noted that construction activities would only occur on Saturday in special cases. He stipulated that it was a large house and that he would like to have private use of their back yard. He noted that the only solution was a roof and that he did not have any concerns about the neighbors' landscaping preferences. He noted that it was too soon to determine the placement for the solar panels.

Dave Allen spoke in opposition to this project and expressed concern that since the Planning Commission took a straw poll at the workshop, the decision had effectively been made. He noted that the home was very large and that it was hard to hide such a building, even with an outstanding landscaping plan. He noted that he would see the house in its entirety from all of his windows. He appreciated the Photoshop views being put together but did not believe the transparency of the building accurately represented how it would work. He suggested turning the transparency effect off to see it accurately. He noted that it was an accessory structure, and he expressed concern about the light coming from the windows in the tennis building. He had expected that there would be comment on the lighting in the staff report and inquired whether the blinds would be drawn on the south side of the house. He hoped the solar panels would be visible only as a sliver; he preferred that they be placed in the well rather than in the back yard. He was concerned about the reflectivity of the panels and noted that it depended on the manufactured materials. He added that their absorption of sunlight did not affect their reflectivity.

Becky and Marc Randall thanked the applicants for working with them during this project. She requested that three conditions be reconsidered:

1. No construction of any sort, including interior work, should be conducted on Saturdays and Sundays in order to preserve their privacy and quiet enjoyment of their home on the weekends. She added that this was the same condition she and the Allens abided by during their remodels;
2. The solar panels should not be placed on the property east of the tennis facility or anywhere other than the roof wall of the indoor tennis court to avoid a permanent visual impact; and
3. No HVAC units or other noise-producing units should face their property, especially on the north side facing their family room, pool, patio, and barbeque areas, nor on the east side facing their kitchen and dining areas;

Mrs. Randall stated that they did not have problem with parking on Crellin Road, which had open fields and plenty of room. She was very concerned that parking on Gray Fox Circle would be unsafe. She noted that the story poles had been erected in August and added that none of the Planning Commissioners were able to view them until January, when the poles outlining the tennis facility had either fallen or had been blown down. She submitted pictures of the poles as seen from her property. She acknowledged that owning a home adjacent to an open space carried with it the risk that it would be developed and noted that when they moved into their home in 1997, there was an existing adjacent home with a detached garage and studio apartment, which were occupied until the Adams purchased the home in 2005. She did not believe the City would have supported a home this large, which was six times as large as the existing home. She believed this would be the largest home in Pleasanton. She noted that the FAR rating of her own home was 8.8 percent, far less than the reported 28.6 percent for this proposed project. She believed the current proposed plans would be acceptable to them if the three proposed conditions would be considered. She thanked the Adams' for their willingness to work with them and looked forward to having them as neighbors.

Teri Bush agreed with the Randalls' request that construction take place only from 8:00 a.m. to 5:00 p.m. on weekdays and noted that it would be preferable if her children could play outside without the construction noise. She was pleased that the old V-ditch would be removed and requested that she be included in the discussion regarding the new drainage process. She requested

that the drains be adequate to handle a storm if the Adams' were out of the area. She noted that the tree report stated that Trees 681, 682, 685, 688 and 693 would be retained and hoped that the roots were retained and not damaged during construction if possible. She was very concerned about the noise from the HVAC units.

Mr. Adams noted that the tennis court was designed so that light neither got in nor out. He noted that they did not produce additional digital pictures because they were extremely expensive, costing between \$5,000 and \$10,000 for only a few more views. He determined that they had reached the point of diminishing returns since the Commissioners had walked the lot. With respect to the reflection from the solar panels, they would bring the placement to staff for approval. He had requested that some work be available on an exception basis for the weekends so that quiet work could be done, thereby expediting the construction process. He preferred that the solar panels be placed in the roof wells but that their placement, as well as that of the HVAC units, had not been engineered at this point. He noted that they were agreeable to the parking being placed on the safer portion of the road leading to their house. He noted that the noise readings of the tennis court were taken from outside the playing court and that readings inside the rest of the building would be more accurate. He noted that they had demonstrated a willingness to work with the neighbors, and if there were additional areas of concern, he would like to hear about them as well. He also noted that he would like consideration of modifying the construction hours for at least interior works.

Mr. Townsend noted that they typically placed orange fencing around the identified trees to protect them and that the proposed grading was not in the direct boundary of the trees in order to preserve them. He noted that was stated in the mitigation measures of the tree report.

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

In response to an inquiry by Commissioner Fox regarding where the HVAC units were to be located, Mr. Pavan replied that their locations had not been specified at this time. He noted that the outdoor compressors would be located at various areas of the building to minimize the plumbing runs from the compressor to the heat exchanger inside the building. He noted that would maximize the cooling efficiency of the equipment, which would also minimize the amount of time the compressor would run and contribute to lower noise generation.

In response to an inquiry by Chair Blank regarding whether compressors could be soundproofed, Mr. Pavan replied that there were several compressors by Carrier and/or Crane that had a noise level of 62-64 dB. He noted that as the noise-generating level of the compressor declined, the energy efficiency also declined as the compressor did not move as much air through the cooling coils. He noted that an acoustical blanket had been suggested as well and added that noise mitigation measures were a balancing act between the efficiency of the compressor versus the operating time of the compressor.

Ms. Decker noted that many single-family residences had condensing units placed within the six-foot wide side yard setbacks less than a foot from the fencing. The newer models were designed to reduce noise and the fencing appeared to reduce the required 60 dB. In this

application, staff believed there was enough land area to provide adequate sound mitigation to adjacent properties.

In response to an inquiry by Chair Blank regarding whether the conditions of approval may include language stating that the Planning Director would work with the applicant with respect to noise mitigation, Mr. Pavan replied that Condition No. 4 stated that “installation and maintenance of air conditioning equipment shall maintain an operating sound level of 60 dB at the property lines.”

Ms. Decker further stated that there was duplicate language, which staff wished to combine, in Condition No. 18, reading, “All mechanical equipment shall be designed, constructed, and maintained in such a manner that noise emanating from it will not be perceptible beyond the property line plane.” Both conditions were intended to address a mechanical equipment.

In response to an inquiry by Commissioner Fox regarding a comparative equivalent of 60 dB, Ms. Decker replied that gusting winds were 69.4 dB. She noted that the issue of the noise level included a peak level of noise higher than that, but it could not be sustained.

In response to an inquiry by Commissioner Olson regarding inside work being conducted on a Saturday, Mr. Pavan replied that the condition limited construction to Monday through Friday, allowing discretion for start and stop times. It did not allow construction on weekends.

Ms. Decker noted that there were many activities that could be conducted that were quiet, such as painting. The original intent of the restrictions on construction hours was to eliminate noisy activities such as pounding nails or using heavy construction equipment. She noted that some language could be crafted to allow quiet interior work on weekends that would be compatible with the neighborhood. She noted that there were occasions when hours could be modified so that contractors could avoid the heat and that it was important for contractors and residents to respect the hours. She added that there had been cases when Code Enforcement had been called. She noted that the Planning Director at times modified hours to extend weekday hours or allow weekend hours on a case-by-case basis.

Ms. Harryman concurred that the Planning Director had the authority to allow modifications to the construction hours.

Chair Blank was concerned that if painting was allowed, a compressor may be brought in during that time.

In response to an inquiry by Chair Blank regarding apparent inconsistency in weekday versus Monday through Saturday hours, Ms. Decker replied that Monday through Saturday hours were allowed for projects that were additions processed as administrative design review applications. New home constructions are conditioned to Monday through Friday hours.

Ms. Harryman stated that upon further consideration, she would argue that the condition, as stated, did not empower the Planning Director to modify the hours to include Saturday. Since

the Commission had the opportunity to clarify, she suggested that be done if the Planning Commission were so inclined.

Ms. Decker agreed with Ms. Harryman that this was a good opportunity to clarify the language.

Chair Blank noted that the condition of approval should be modified to state that no construction work on State or Federal holidays would be allowed.

Commissioner O'Connor recalled that the applicant stated he did not want light to go in or out of the tennis court and inquired whether that was included in the plans. Ms. Decker replied that the plans called for opaque glazing and added that a condition could be included for clarification. The false opaque windows were merely decorative to avoid a blank wall.

In response to an inquiry by Commissioner Pearce regarding whether the language in Condition No. 2 could be modified to further restrict the issue of reflectivity of the PV panels in order to ease the neighbors' concerns, Ms. Decker replied that staff attempted to not require the applicant to return to the Planning Commission should it be found that the PV panels could not go in the well. She noted that the applicant indicated that they had no intent of installing reflective panels, and they were conditioned that they could not be higher than the parapet walls. It was her experience that if they were designed on grade, they were on a 1:12 slope, which was fairly flat.

Ms. Decker noted that under Condition No. 1, staff referenced Exhibit A and added that the Planning Commission had spent considerable time trying to capture all of the studies contained in Exhibit A. She noted that the tree survey and an updated letter were not part of it and would be enumerated in the next draft.

**Commissioner Pearce moved to approve PDR-623 subject to the conditions of approval as listed in Exhibit B of the staff report, with the following modifications that:**

- 1. Conditions Nos. 4 and 18 be combined; and**
- 2. Condition No. 30 be modified to include language that in addition to Federal holidays, no construction be allowed on State holidays and on Saturdays and Sundays.**

**Commissioner Fox seconded the motion.**

Chair Blank inquired whether if the Planning Director allowed construction activity to start early on a weekday because of excessive heat and if a complaint were received from a neighbor, the Planning Director would stop the construction activity. Ms. Decker replied that was correct and, furthermore, depending upon the sensitivity, staff has required a minimum of 24-hour notice prior to the requested exception. That would enable staff or the contractor to contact the neighbors for their permission.

Chair Blank noted that the language stated that "the Planning Director *may*..." rather than "shall." Ms. Decker replied that the language could be changed to read "shall," which would be the case if there were any complaints.

Commissioner Fox suggested an amendment to Condition No. 30 to change the word “*may*” to “*shall*.”

Commissioner Narum suggested an amendment to Condition No. 8 to include the reference made on page 18 of the staff report regarding allowing open fencing up to six feet tall and the installation of gates that would be set back 22 feet from the front property line.

Commissioner Narum suggested that a condition requiring that no construction vehicles be permitted to park on Gray Fox Circle would be added.

Ms. Decker inquired what the Planning Commission wished to do in the event that neighbors on Crellin Road complained about the parking. Commissioner Olson believed that would be excessive. Commissioner Narum withdrew the suggestion.

**The amendments were acceptable to Commissioners Pearce and Fox.**

**ROLL CALL VOTE:**

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

**Resolution No. PC-2008-14 approving PDR-623 was entered and adopted as motioned.**

- c. **PUD-53, Bringhurst, LLC**  
Work session to review and receive comments on a proposal to subdivide an existing 3.28-acre parcel located at 990 Sycamore Road into five lots whereas the North Sycamore Specific Plan has allocated three lots for the subject site. Zoning for the PUD-A (Planned Unit Development – A) District.

Commissioner Fox disclosed that she met with the applicant.

Commissioner Narum disclosed that she met with the applicant.

Chair Blank noted that he had not met with the applicant.

Commissioner Olson noted that he had not met with the applicant.

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

Commissioner Pearce noted that the Specific Plan allowed the lots to be 12,000 square feet or 15,000 square feet and that this particular location specified a minimum lot size of 15,000 square



feet. She requested an explanation of that discrepancy. Ms. Soo noted that the option was to have low density residential with a 15,000-square-foot or a 12,000-square-foot minimum lot size.

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

Margo Layton, applicant, described the background of this proposed project and noted that over 2,600 square feet of their land was needed for a collector road. She noted that they made life easier for the City and the Sycamore Heights development by agreeing to a lot line adjustment. She noted that allowed for the new Sycamore Road. She noted that the change made it apparent to her that the acre along Sycamore Creek Way had more in common with the Sycamore Heights development than her other two acres; it was surrounded on three sides by LDR and became a wide, shallow lot. She noted that dividing the acre into three lots would create uniform lots with evenly increasing pad elevations. She noted that Lot 3 was cut slightly high so they did not go under the existing legacy sycamore trees. Their goal was to create homes that would complement the existing Sycamore Heights homes in size, style, and color. She noted that the extra dirt from the adjacent lots could be used, rather than offhauling dirt with trucks and trailers through the streets of Pleasanton, followed by hauling more dirt back in.

Ms. Layton noted that it was not easy requesting additional density when many of the residents wanted fewer homes. She believed this project would improve the continuity and flow of the style and size of the houses along Sycamore Creek Road. She believed it would utilize existing roads and infrastructure with minimal impact on the community. She noted that the area was designed to accommodate more houses than were built. She did not want to change the semi-rural feel of the community, but wished to complete it. She noted that they were able to install utilities at the time the other homes were built so they would not have to tear up the road at a later time. She noted that they had no plans to alter the existing zoning or density of the two-plus acres off Sycamore Road, which would remain agricultural, with no change to the feel of the neighborhood or any increase in traffic beyond that which was already allowed.

With respect to lot size, she noted that staff agreed that there was only a minor discrepancy in lot size, which was determined by lining up the fences of the Sycamore Heights homes above and below their project. She would like to retain a straight, clean fence line, and pushing the fence into Lot 2 would place it below the drip line of the heritage sycamore tree, which they would like to avoid. She noted that Lot 3 was larger than the 15,000 square foot limit because their neighbor's existing sycamore impacted the visible area on the lot. The average square footage of all three lots was just over 14,793 square feet, which was very close to 15,000 square feet. She wished to remind the Commission that they had donated land to the City for the construction of the new collector road. She noted that because the restrictions on Lot 1 were beyond her control, staff had assured her that they would be able to retain it as a one-acre agriculturally zoned lot. She noted that when combined with Lot 2, these agriculturally designated lots were well over the minimum one acre.

Ms. Layton noted that the response from the neighbors had generally been positive and understood that people who opposed items usually wrote to City staff. She submitted copies of correspondence that was positive and noted that no speakers who opposed the project were in attendance. She wished to assure the residents along Sycamore Road that they did not intend to

change the rural feel of the area, would not add traffic to Sycamore Road, and would not increase density beyond that which is already allowed. She noted that her family had lived in the area for many years and had the support of Planning staff; she requested the Commission's support and input on her proposal.

Lila Bringhurst, applicant, noted that Ms. Layton was her daughter and detailed the background of the proposed family project. She noted that Ms. Layton did not have any sewer service and brought her water up from a well. She requested the City's help in moving this project forward.

Howard Roundtree noted that he owned a property in the Sycamore Heights area and noted that he looked at the three pads every day. He had invited Ms. Layton to the next board meeting on April 23, 2008 at the Senior Center to discuss the lots. He could support this project conceptually and needed to discuss it with his wife.

Ms. Layton thanked Mr. Roundtree for attending and welcomed any questions from her neighbors.

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

In response to an inquiry by Commissioner Fox regarding whether the Planning Director or the Public Works Director signed off a grading plan, Ms. Decker replied that the plan check process began by a submittal to the Building and Safety Division and routed through Public Works. The project planner would inspect the plans to determine whether they were in conformity with what had been approved with the PUD or Tract Map. In this case, a modified plan came forward, which was signed off; it was an opportunity to take off-haul material from the Summerhill development and place it on the site, which was allowed.

Commissioner Fox requested a copy of the signed-off plan. Ms. Decker replied that staff had not intended to exclude it. She noted that the pads had been developed by using the Summerhill offhaul and that the utilities had been stubbed to the sites as well; the stubs had been inspected by City staff at the time, and then approved. She noted that they had not gone through the Planning Commission. She noted that there was no entitlement or Specific Plan Amendment to create these pads. The pads were created as part of the Summerhill development by taking the offhaul, which was approved and inspected by the City in conformity with the grading requirements.

In response to an inquiry by Chair Blank regarding the date when the pads were created, Ms. Decker replied that that occurred in 2003.

In response to an inquiry by Commissioner Fox regarding whether there was a detailed approval allowing the lots to be leveled at specific heights and to stub them with utilities, Ms. Decker replied that the City did not have that level of specific documentation in this case. She advised that the City was not asking the Planning Commission to condone actions that may not have gone through the appropriate process. She noted that at the time, the developer was selling homes quickly and saw an opportunity to develop this parcel. Negotiations for lot line adjustments led to three additional pads and accommodation of offhaul material to be placed at the closest location to the Summerhill site. She believed it seemed reasonable, at that time, to take

the Summerhill offhaul and place it at the upper site. She noted that the North Sycamore Specific Plan showed road alignments that were slightly different from the alignment of the roads at the present time. Staff used the documents to determine the concept and the intent for the development of the area. However, this project would require a Specific Plan Amendment for both density and zoning. As to the question of density, she noted that the Summerhill development had not completely built out all of the units. Some lots had been combined for a larger pad. Therefore, overall density in the North Sycamore Specific Plan area would not be increased because the lands were zoned PUD-A. She noted that the applicants were in a difficult position because the City had allowed to place offhaul, to compact, to build benches, to construct, and to provide utilities to three lots; there was no single package with building plans for the development of those sites.

Commissioner Fox noted that she had not seen a situation with a Specific Plan, featuring grading that presumed that a Specific Plan Amendment would be approved, as well as home sites that were not originally in the plan.

Commissioner Olson noted that this was a good example of something that had been done incorrectly in the past and was not as concerned about the past occurrences as long as it could be made right in the present.

Commissioner Narum noted that the discussion points were all related.

Discussion Point 1 – Should the proposed Specific Plan Amendment be approved to allow for a density increase?

Discussion Point 2 – Assuming it is supportable to have this portion of the lot be changed from PUD-A district to PUD-LDR district, would the proposed lot size be suitable?

Discussion Point 3 – Would the layout for the proposed PUD-A lots be acceptable?

Commissioner Narum noted that she would like to address all three discussion points at once. She would be willing to support the density increase provided that those lots along Sycamore Creek were done in a manner consistent with the setbacks. She would like to see a transition from the lot on the left to the lot on the right in terms of the front setbacks. She noted that the side setbacks were consistent with the Specific Plan and was more interested that it presented a visually consistent setback. She noted that most of the houses in Sycamore Creek had side driveways, with the exception of the lot to the left. She had some concerns about the lot to the left being 12,000 square feet or smaller, and because of the grading, the adjacent lot was the largest at 16,000 square feet. She would be more supportive of the project if the lot sizes could be closer.

With respect to Discussion Point 1, Commissioner Olson believed the Planning Commission should approve the Specific Plan Amendment. He did not view it as a density increase because the number of total homes originally approved was not increased.

With respect to Discussion Point 2, Commissioner Olson agreed with Commissioner Narum's points about the site being consistent with the rest of the neighborhood and would support the change from PUD-A to PUD-LDR. He believed the proposed lot sizes were as good as they would get. He believed it was a sensible solution, and the argument for doing it was compelling.

With respect to Discussion Point 3, Commissioner Olson would find that acceptable.

With respect to Discussion Point 1, Commissioner Pearce agreed with the comments made by Commissioners Narum and Olson. Her main concern was that the homes be consistent in appearance with Sycamore Creek Way, including setbacks. She preferred that the largest lot be placed next to Lot 2 and then go down in lot size from there if the current grading allowed. She agreed with Discussion Points 2 and 3.

With respect to Discussion Point 1, Commissioner Fox did not believe the Specific Plan Amendment should be approved to allow a density increase to five lots. If this application returned to the Planning Commission, she would like staff to use the SPA nomenclature in identifying the case, rather than using a PUD number.

With respect to Discussion Point 2, Commissioner Fox noted that the North Sycamore Specific Plan discussed a minimum lot size of 15,000 square feet and indicated that she would be amenable if the lots were graded for 15,000 square feet each.

With respect to Discussion Point 3, Commissioner Fox believed the layout for the proposed PUD-A lots would be acceptable.

Commissioner O'Connor was not open to changing Specific Plans for density purposes. He did not believe it was appropriate to transfer densities to other lots that did not use all of their density. He believed that the rural part of Pleasanton was designated for three lots for a reason. He could support turning the three lots on Sycamore Creek into two lots. He believed the remaining portion on Sycamore Road should remain as one lot.

With respect to Discussion Point 1, Chair Blank noted that he could support a density increase under very restrictive circumstances and believed it was very important to remain consistent throughout the City.

With respect to Discussion Point 2, Chair Blank believed that consistency in the lot size was subordinate to architectural consistency. It appeared to him that this issue had not been handled correctly in the beginning and did not believe the property owner should be punished for that occurrence.

With respect to Discussion Point 3, Chair Blank believed the layout of the lots were generally acceptable. He strongly encouraged the property owners to spend the time and money to have high-quality visuals performed to get a sense of how the project would fit into the neighborhood, what the views would be, what the landscaping would look like, and what the impact on the neighborhood would be. He would not want the homes to look too dense by design.

No action was taken.

## **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.

### Director of Community Development Interview

Commissioner Narum noted that she and Commissioner O'Connor participated in the interview boards for the new Director of Community Development. She saw a wide range of candidates and felt that the City Manager took into serious consideration the input she and Commissioner O'Connor provided from the Planning Commission perspective.

Commissioner O'Connor believed that the candidate placed highest by Commissioner Narum and himself was hired.

### Instructions for Overhead Projector

Chair Blank requested that instructions for the overhead projector be printed and posted.

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

- a. **Future Planning Calendar**

No discussion was held or action taken.

- b. **Actions of the City Council**

No discussion was held or action taken.

- c. **Actions of the Zoning Administrator**

No discussion was held or action taken.

## **9. COMMUNICATIONS**

Ms. Harryman wished to remind the Commissioners that they should keep due process considerations in mind and that questions posed during the staff report should be restricted to questions and not comments. The Commissioners' opinions should not be voiced until after the public hearing has been completed. Although the Commissioners were aware that they had not made a decision until the full review has been made, it was important from a due process standpoint as well as the public's perception that only questions be posed at that time.

Commissioner Fox inquired whether questions about hypothetical modifications of conditions may be posed during the staff report. Ms. Harryman replied that it would be better to save those questions for after the staff report.

**Chair Blank moved that the Planning Commission formally recognize and commend Maria Hoey for the outstanding job performance she had displayed over the past few weeks in preparing the minutes. He was very pleased to find on the dais the minutes that would be considered on March 19, and recognized that that took a great deal of effort. He noted that the Planning Commission had signed a card showing their gratitude for a job well done. Commissioner Fox seconded the motion.**

**ROLL CALL VOTE:**

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

**The motion passed.**

**10. REFERRALS**

No discussion was held or action taken.

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

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

No discussion was held or action taken.

**12. ADJOURNMENT**

Chair Blank adjourned the Planning Commission meeting at 11:15 p.m.

Respectfully,

DONNA DECKER  
Secretary