



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, February 27, 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 February 27, 2008, was called to order at 7:00 p.m. by Acting Chair Pearce.

1. ROLL CALL

Staff Members Present: Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Wes Jost, Development Services Manager; Steve Otto, Associate Planner; Jenny Soo, Associate Planner; and Cory Emberson, Recording Secretary.

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

Commissioners Absent: Commissioner Phil Blank.

2. APPROVAL OF MINUTES

a. February 13, 2008

Ms. Decker noted that the February 13, 2008 Minutes would be considered at the meeting of March 12, 2008.

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

There were no speakers.

4. REVISIONS AND OMISSIONS TO THE AGENDA

There were none.

5. CONSENT CALENDAR

a. PCUP-213, Patricia Cramer, World School of Massage

Application to amend the previously approved conditional use permit (PCUP-129) to allow a student clinic as part of the curriculum for the massage school located at 699 Peters Avenue, Suite A. Zoning for the property is C-C (Central Commercial) District, Downtown Revitalization District, and Core Area Overlay District.

Commissioner Fox moved to make the conditional use findings as listed in the staff report and to approve Case PCUP-128, subject to the conditions listed in Exhibit B of the staff report.

Commissioner Olson seconded the motion.

ROLL CALL VOTE:

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Blank.

Resolution No. PC-2008-09 approving PCUP-213 was entered and adopted as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

a. PUD-05-02M, James Happ, Northstar Realty Services, Inc./Kenneth and Pamela Chrisman

Application for a major modification to an approved PUD development plan to replace the approved production home designs with design guidelines for the property located at 1944 Vineyard Avenue, in the Vineyard Avenue Corridor Specific Plan Area. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

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

Commissioner Fox noted that Condition No. 19 referred to the floor area ratio (FAR) as 25 percent for Lots 1-5, and 30 percent for Lots 6-10. She inquired why the exact numbers from the Centex production homes were not included as the square footage

allowed. Ms. Decker replied that the Planning Commission requested that staff revisit what had actually been approved. The applicants had previously indicated they would go either way but that 25 percent and 35 percent would be acceptable. This particular condition would have to be revised should the Commission support the originally approved production home sizes. She added that the home sizes differed and were somewhat less in size than as indicated in Table 3.

Commissioner Fox noted that Tab 4 of the Attachments discussed PAP-53, when the Planning Commission had voted to deny the Tentative Map; the grading was originally for a tract home. She inquired whether staff knew why there had not been an alternate grading plan submitted since custom homes were now proposed. Ms. Decker replied that construction process began with laying out the backbone infrastructure, which included the mass grading at one time. The intent of this request was not to modify the grading but to have the same pad and house design with respect to location. The applicants have reconfirmed their interest in having the same floor areas and sizes; they were somewhat limited in terms of where the homes could be placed on those sites. The grading, infrastructure and house sizes would remain the same; the exterior appearance of the houses would change.

In response to an inquiry by Commissioner Fox regarding whether a custom home development could take as long as ten years for all the lots to be purchased and developed, Ms. Decker replied that this issue had been the subject of extensive discussion by staff. She identified several similar examples in Pleasanton that had previous approvals but were never built. She noted that a production home approval did not warrant or guarantee any sooner construction and that there must be a buyer, choices made by the buyer, and completion of the escrow period. Production homes would be custom in terms of interior finishes, floor materials, carpeting, and cabinetry; staff had found that completion of production homes can take the same length of time because it was market-driven. The timeline for buildout could go quickly in a good market, and a slower market would lead to a longer buildout period.

Commissioner Fox inquired whether the lots would be graded all at once prior to the buildout. She further inquired whether the landscaping would be installed around the grading until the house was built. Ms. Decker clarified that this action was not to modify the tentative map, which was already approved for all the lots. She noted that the final map was not approved and would return to the City Council for review, approval, and recordation. The final map would carry a list of conditions of approval through the tentative tract map that must be fulfilled, as well as development fees that must be paid. She noted that this action before the Planning Commission did not address or change the tentative tract map and that the lots would remain. The grading as proposed under the tentative map would also remain. The only item to be considered by the Planning Commission at this time is the Planned Unit Development modification from production homes to custom homes.

With respect to landscaping, Ms. Decker noted that the site may be graded once the final map and improvement plans had been approved. She noted that mass grading would then

follow, similar to that on the Berlogar property. She noted that the neighbors had expressed concern about the timing of the landscaping within the common area, which was a frontage area. During the July 11, 2007, hearing, staff clarified that those improvements were accepted at the same time the other improvements were accepted. Staff included a condition of approval that outlined the timing of the landscaping and believed it was reasonable to have the common area approved by the Planning Department and landscaped prior to the first lot being sold. She noted that it would not lie fallow and that it would have more growth on it prior to the first lot being sold. She noted that there had been discussion in terms of landscaping in the rear of Lots 6-10, and there was a question regarding whether it would be maintained by the developer or the Homeowners Association (HOA) until the lots were sold. She noted that was a problematic condition as that condition had never been required on any other subdivision. She noted that these were private properties, and as the front parcels were sold and built, it was unlikely that the retaining walls would be seen. She added that the landscaping would probably be removed by the future owners, which was a waste of resources, energy, and funds. She noted that the City wished to be good stewards of the environment.

In response to an inquiry by Commissioner Fox regarding whether the City would need an agreement from both parties in order to go forward with an easement, Ms. Decker replied that the project would be conditioned and that an agreement would be needed from the Chrismans to have an easement within their property to the property line in order to access the water line. The meter on the Brozoskys' side would need to be under a City easement as well.

In response to an inquiry by Commissioner Fox regarding whether the 200V line as discussed in the Brozosky letter was part of the easement, Ms. Decker replied that it referenced the easement within the Brozosky property to which the Chrismans had access. She noted that would not be modified with this action as far as requiring an easement going up the Chrismans' new driveway for the purposes of maintaining a public water line to the meter that would then be placed for temporary water service to the Brozoskys. None of the well infrastructure, wiring, or connections that lie within the Brozosky property would be modified in any way. She noted that the Planning Commission may recommend to the City Council that the Chrismans be required to vacate all of their water rights and modify and rescind their easement from the Brozosky property. However, at this time, staff did not recommend that particular action.

Commissioner Olson believed the conditions did not address well usage and it appeared that the Council did not do that either. He noted that in the Minutes of the July 11, 2007 meeting, staff stated that it did not see a nexus between well usage and change in design guidelines. He inquired whether the City had determined whether it had the legal right to require an easement for water rights to be vacated.

Ms. Harryman replied that the City's position was that it had the option to do so, although that was not staff's recommendation.

Commissioner Narum noted that Condition No. 23 referred to the water line going for 400 feet from the meter. She inquired how the figure of 400 feet was reached. Ms. Decker replied that the condition read “approximately 400 feet,” which was the distance that staff believed would reach the Broszky residence or a hookup location determined to be closest to the house.

Commissioner Narum noted that the City Council Minutes referred to priority being given to the Broszkys in the event that the well dropped to ten gallons per minute or less. She requested further clarification of that issue. Ms. Decker replied that gallonage had not been revisited by staff, and staff hesitated to define what a failed water supply from a well may be. She noted that there had been extensive discussion and concern by Council about how to address this issue. Staff believed that since the well was shared, there was concern that over time, there may be some loss or reduction in water availability. At that time, the Chrismans would be connected to City water in order to have a water source. However, the Broszkys are dependent on the well only and would not be hooked up to City water. The intent was to provide a mechanism by which they would be assured of having water since the well would be used by the Chrismans for their own agricultural and livestock uses.

Commissioner O’Connor inquired whether, if the Planning Commission determined that the Chrismans’ rights to the existing well should be abandoned, they would be able to drill another well and whether City approval would be required. Ms. Decker replied that they would be allowed to drill another well and that a number of engineering requirements must be met; a number of costs would also be incurred. She noted that water must be found and that it was not assured that water would be located ten feet away. The water must be used for nonpotable uses such as landscaping and livestock and not for domestic use. She did not know whether significant City fees would be incurred.

In response to an inquiry by Commissioner Fox regarding whether it would take more than two or three weeks to drill a well, Ms. Decker replied that it would take more than three weeks and that extensive investigation was involved in the process.

Commissioner O’Connor noted that Condition No. 16 was redundant; Ms. Decker agreed and added that it could be struck.

Acting Chair Pearce noted that the road that served as the grading and hauling route was made of a newer permeable surface and inquired how effective patching the road would be in the event a truck damaged it.

Mr. Jost replied that repairs were performed with the open-graded asphalt or with conventional pavement. He noted that repairing the new surface with conventional pavement material in small areas had been effective.

Commissioner Fox noted that the original approval stated that the grading would be located across the street because of a concurrent project. Since that was not the case at this time, there were 148,000 cubic yards of dirt to be hauled. She inquired about the

hauling route and destination. Mr. Jost replied that he did not know where the dirt would be going and that the City examined the best route through the City when there was a known site for the material. He noted that if there were a site within the City that needed to be filled such as Bernal Park, an intra-city route would be used. Otherwise, Vineyard Avenue may be used towards Highway 84, or the dirt may be transported out of town.

THE PUBLIC HEARING WAS OPENED.

Christopher Schlies, attorney representing the Chrismans and Jim Happ, noted that Jim Gorny, the architect who developed the design guidelines, was present for technical questions. He noted that he had submitted a letter to the Commission and added that the application was focused on the single issue of going from the production homes to the design guidelines. He believed that action would result in a better project and that the custom homes would be more consistent with the Berlogar project. He understood the concerns expressed by the Brozoskys as well as those in the staff report; he hoped his letter satisfied those concerns. He recalled that in the July 11, 2007 meeting, Mr. Happ had stated that they wished to keep the same square footage, which was acceptable to the applicants. With respect to the FAR's, the proposal in the staff report would fall short for the homes in the rear; he noted that they could accept 35 percent if the Planning Commission so desired. He believed the Centex sizes were fine.

He commended staff on changing the water line since the Council recommendations from 2002. They would be happy to work with Option 2, which he believed would be best for the City and the involved parties; they would also be happy to work with the Brosozky family. He expressed concern about Condition No. 23, which did not have a format for obtaining the bids and putting up the money that he believed was sufficiently detailed. He had prepared and distributed a suggested format and noted that the Chrismans would give the Brosozky family notification that they were ready to move ahead. At that time, the Brosozky family would have a full 60 days to talk to several contractors and get several bids; the applicants would put up an overage of 125 percent of the lowest bid. He expressed concern that if the bids did not come in, they would have to come up with a good-faith bid themselves of 125 percent of the funds needed to do the line. He noted that Mr. Brosozky would coordinate directly with the contractor.

Commissioner Fox inquired whether the applicant would be able to return with revised grading more in line with the homes that fit into the topography of the hillside such as stepped homes going up the hill.

Mr. Schlies replied that the modification of the grading would be an issue.

Ms. Decker interjected that a PUD modification would be required because a grading plan has already been reviewed and approved as part of both the PUD and Tentative Map approvals.

James Happ, applicant, noted that when they started the project, they were given a range of elevations. They were required to put the project on the hill, which caused the amount

of grading that had been required. He noted that the site had been fine without the grading but that they had no choice in the grading; he believed their lots were sufficient in their original, non-graded state. He noted, however, that they were several hundred thousand dollars into the project and that their expenditures would be dramatically increased and incur additional process and time delay if they were to change the lots. He added that they had worked on this project for 20 years and that a change in the lots would put them back to the beginning of the process.

Steve Broszky noted that he had submitted a detailed letter to the Commission. He added that he had been incorrect with respect to the sports courts, which was no longer an issue. He noted that this project had changed significantly since 2001 and that the original Planning Commission that heard this application did not approve it because it could not make the findings. The Commission requested the City Council to look at it, and this project may have been the way to get the Neal School built. He stated that ultimately had nothing to do with this project. He believed that if the custom home plan had been submitted as a separate application, it would not be approved. He did not believe the Commission would want to produce custom lots with one flat pad, without stepped grading or driveways going up hills, as was the case west of the City. He noted that it did not meet the guidelines of the Vineyard Avenue Corridor Specific Plan, which state that “the house designs must be adjusted to conform to the natural character of the site, and grading for a building’s driveways should be compatible with the existing topography and minimized to preserve the natural topology of the site.”

He expressed concern about the issues surrounding moving 148,000 cubic yards of dirt, which would require 25,000 truck trips. He believed the project could be built differently with less grading and that single-story homes could be built on the second tier. He believed that building custom homes would be a much longer process. He believed the option from staff was a step backwards, and he was concerned that he would shoulder the responsibility for getting the bids. He noted that the plan fees would be revoked if they did not act on the project within five years. He believed that Option 2 placed the development in a very inconvenient spot in relation to his household and that he would have to cross and bury his electrical lines. He expressed concern that he was allowed only three parcels on his property while the Chrismans were allowed to have 12 parcels; two of the Chrismans’ parcels had already been sold. He added that one of his three parcels could not be buildable because the easements went around the proposed site. He would also have to pay the Specific Plan fees for the third parcel that he could not develop.

He noted that a fourth option was available to the Commission, which was to find that the use of the well water was not required for irrigation purposes, to recommend the revision to the conditions, and eliminate the right of the Chrismans to use the well on the Broszky property when City water service was available to the Chrisman property. He would like the fourth option to be acted upon. He believed that if this issue was not resolved, he would appeal the proposed homes and would revisit these issues with the Planning Commission. He noted that the Berlogars drilled a well on the other side of the Chrismans, which yielded water with no problem; they relinquished their rights to the

Reznick shared well without any issues. He believed the same should be done in this case.

Mr. Schlies noted that he had not communicated directly with Mr. Brozosky about his concerns about one of his lots having a deep well easement through it. He noted that several years ago, they needed to service the electrical to the well, and the electrical easement and line went through Mr. Brozosky's vineyard; they would have to backhoe through the vineyard to service it. They were able to come to an accommodation by relocating the easement, and he hoped they would be able to have similar cooperation with respect to the easement.

THE PUBLIC HEARING WAS CLOSED.

Commissioner O'Connor noted that since the home sizes were already approved, he believed that was the easiest way to go, rather than complicating the situation with various FAR ratios. The Commissioners agreed with that statement.

Commissioner Fox preferred to keep the original FARs and not increase them to 35 percent as was suggested. She noted that she would only support the major modification if the developer was amenable to the condition of vacating the easement and the water rights upon the connection to City water.

Commissioner Narum expressed concern about Lots 6-10 of the existing approved size, particularly that the FAR ranged from 32.7 percent to 38.95 percent. She would rather see a FAR of 35 percent because it was a measure of the mass.

Ms. Decker wished to clarify that the FAR according to the design guidelines was closer to 32 percent when the garage square footage was excluded.

Commissioner Narum would prefer to see a standard FAR for Lots 6-10 but noted that the existing FARs on Lots 1-5 were acceptable.

Acting Chair Pearce agreed with Commissioners Olson and O'Connor that if the applicant wished to retain the Centex home sizes, she would be amenable to that. The language would be altered to reflect the approved Centex sizes.

Commissioner Fox agreed with that assessment.

Commissioner Narum noted that the grading was acceptable to her, including the language of having no sports courts. She supported the landscaping for Lots 1-5. She had some trouble with the retaining wall and had some concerns about where the water would come from; she was inclined to leave it as is.

Commissioner O'Connor believed the existing visual analysis for the project would be sufficient if the same square footages were retained.

Commissioner Olson echoed Commissioner Narum's comments.

Commissioner Fox preferred that if the developer wished to return with a custom home development, the grading should be changed to reduce the grading involved, and the houses that would be developed should be more in line with the topography of the existing hillside. She believed that with custom development, the grading could be cut in half, save the developers and the homebuyers money, and save the repair on the streets. The revised grading plan would be more in line with the existing hillsides.

Acting Chair Pearce agreed that the landscaping should be in the common area before the first lot was sold. Based on the Centex visuals, she was comfortable with the visuals on this site and noted that the Commission would see each house in its entirety when it is brought before the Commission. She noted that if Mr. Jost was comfortable that the roads could be repaired, she was comfortable with that as well.

In response to an inquiry by Commissioner Fox regarding whether it would be possible to have the developer go between the tentative and the final map to change the grading, Ms. Decker replied that it would not be possible. She noted that the conceptual grading plan would come before the Planning Commission as well and noted that it was approved as part of the PUD and adopted as part of the tentative tract map. Modifying the grading plan would require the applicant to file a PUD modification.

Commissioner O'Connor believed the staff report clause requiring that any damage to existing streets would be repaired should be repeated in Exhibit B for clarification.

With respect to the well, Commissioner O'Connor noted that different documents took different directions. He noted that the Environmental Impact Report (EIR) stated that the vineyards in the Vineyard District would be irrigated by well water, and all other irrigation would be by City water. He believed there was justification to vacate the well rights and easements on the Brosozky property. He noted that the Chrismans would also have the option of placing another well on the property if they so chose; that would eliminate the need for a temporary water line as well as the meter on the Brosozky property. He believed that a precedent was set when the Berlogars vacated their rights to the resident well and redrilled their own well.

Commissioner Fox believed the water rights to the well easement should be vacated. She echoed Commissioner Olson's prior comments regarding property rights, and if the easements remained in place and Mr. Brosozky was hampered in his efforts to develop his third house as outlined in the Specific Plan, it would entail more long-term City bureaucracy and management. She believed it would be cleaner if, when the connection to City water was made, the Chrismans agree to vacate the easement since the well was on the Brozoskys' property.

Commissioner Olson noted that he was conflicted because he was not convinced the City had the authority to direct that the easement be vacated. He would not support directing the Chrismans to vacate the easement.

Commissioner Narum agreed with Commissioner Olson's comments and would support Condition No. 23 with some modifications. She wanted to ensure that the costs would be covered if they exceeded the estimates by 25 percent. She inquired whether it would be possible to move the Brosozkys' lot lower, which would take care of the easement issue with respect to developing his property.

Acting Chair Pearce did not believe that could be addressed at this time and that it would require a Specific Plan Amendment.

Ms. Decker noted that it was not within the authority of the Commission at this time to condition this project with a revision of a Vineyard Avenue Corridor Specific Plan home site location on the Brozosky property. She added that the Planning Commission and City Council have engaged in discussions as projects moved through the process with those properties developing within the Vineyard Avenue Corridor Specific Plan that the locations are considered conceptual, and this would likely be the same consideration with regard to the Brozosky development at the time it may develop. Staff would be happy to engage in these discussions with Mr. Brozosky as well at the time he planned to develop his property.

Acting Chair Pearce believed it would be cleaner and more sensible for the Chrismans to give up their interest in the well. She agreed with Commissioner Olson that the City could not compel that action. She believed that the Chrismans had a vested ownership right in the land, that the parties can agree to that action, and that the Chrismans can offer to give it up. Both parties indicated that they were more comfortable with the plan crafted by City Council in 2003 than Option 2 as recommended by staff. She would favor a motion that followed the original City Council compromise.

Commissioner Fox suggested modifying Condition No. 23 with mutual wording that did not compel and encouraged the applicant to consider relinquishing the easement rights to the well on the Brosozky property.

Acting Chair Pearce believed it was preferable to have more direct language in the resolutions that would direct the City to take a specific action, rather than language more suitable for a General Plan.

Commissioner O'Connor understood that the legal language existed that it was within the City's purview to compel.

Commissioner Fox moved to make the finding that the proposed modification is covered by the previously approved Final Environmental Impact Report for the Vineyard Avenue Corridor Specific Plan and that no additional environmental review is needed; to make the finding as listed in Exhibit E that the proposed modification is covered by the previously approved PUD development plan findings for PUD-05; and to recommend approval of the proposed modification subject to Exhibit B, Draft Conditions of Approval, of the staff report, with the following modifications:

- 1. Delete Condition No. 16 as it duplicates Condition No. 17;**
- 2. Modify Condition No. 19 to state that the maximum FAR allowed would be consistent with the original Centex approvals for all lots;**
- 3. Modify Condition No. 23 to state that as part of the improvements for the project, the applicant shall relinquish easement rights to the well located on the Brozosky property when the connection to City water is made.**

Commissioner O'Connor seconded the motion.

ROLL CALL VOTE:

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

The motion failed.

Commissioner Olson moved to make the finding that the proposed modification is covered by the previously approved Final Environmental Impact Report for the Vineyard Avenue Corridor Specific Plan and that no additional environmental review is needed; to make the finding as listed in Exhibit E that the proposed modification is covered by the previously approved PUD development plan findings for PUD-05; and to recommend approval of the proposed modification to the City Council, subject to Exhibit B, Draft Conditions of Approval, of the staff report, with the following modifications:

- 1. Delete Condition No. 16 as it duplicates Condition No. 17;**
- 2. Modify Condition No. 19 will to state that the maximum FAR allowed would be consistent with the original Centex approvals for all lots;**
- 3. Modify Condition No. 23 to include the suggestion that the Chrismans give the Brozoskys notice of their intent to proceed, at which time the Brozoskys will have 60 days to submit three good-faith bids for the work. The Chrismans will then deposit 125 percent of the lowest bid to an escrow account. If the bids are not presented in 60 days, the Chrismans will obtain a good-faith bid and deposit 125 percent of that bid to an escrow account.**

Commissioner Narum seconded the motion.

Commissioner Narum believed there should be a Document 5 received from Mr. Schlies to the effect that if the actual cost exceeds the amount on deposit, the applicant will satisfy that before the first building permit is issued. With respect to the 400 feet, she preferred to see language that would get the pipe to an existing line in the event that it would be needed. She believed the language should state that the intent was to get the line to an existing water line on the Broszky property.

Ms. Decker noted that Commissioner Olson wished to add Condition No. 114 as stated within the body of the staff report regarding the replacement of any damaged road surface. Additionally, Ms. Decker noted that Condition No. 22 would be struck as it was a timing constraint that conflicted with the Development Agreement. The Commission concurred with those modifications.

Acting Chair Pearce noted that she was uncomfortable with a 60-day timeline as proposed by Mr. Schlies and would like to see it in conjunction with the recording of the final map. She would like to see a longer timeline and believed that a five-year timeline would be more reasonable. She wished to ensure that the proposed condition included having the bids submitted to the City Engineer for review and approval and for the funds to be deposited with the City.

Commissioner Olson noted that with respect to the five-year timeline, the clock was ticking on the Development Agreement. He believed that timeline would cut the Development Agreement too closely.

Commissioner Fox inquired about the timing of the lapse of the Development Agreement.

Ms. Decker noted that the earlier the construction estimates were reviewed by the City Engineer, and the more distant from the final map recordation, the lapse and deposit may vary greatly. If Council approved the project, the final map may not be recorded within 60 days, and there was considerable work to be done before that occurred.

Commissioner Fox believed the original Council ordinance was a better choice than Option 2. She inquired why the City was required to get the three bids and suggested that the onus be placed on the property owner.

Commissioner Narum noted that she was not tied down to the 60-day timeline but was uncomfortable with five years.

In response to an inquiry by Commissioner Narum regarding the meaning of "intent to proceed," Ms. Decker replied that clarification would be necessary whether it meant intent to proceed with designing improvement plans, developing a final map, or actual construction and installation of infrastructure, which may be dependent on having a final map and the payment of all fees. The Commission may wish to state that it would occur within 60 days from the time of final map recordation or prior to or at the same time as final map recordation.

Acting Chair Pearce would like to tie it to the final map and for the timeline to be more than 60 days.

Commissioner Fox suggested that a two-year timeline be used.

Commissioner Olson noted that the timeline was 10 years from the date of recording and will expire in November 2012.

Acting Chair Pearce suggested that one year from final map recordation be used, which was not as unduly burdensome as 60 days. She preferred the City to be an intermediary and that the contact between the two parties be limited in terms of Condition No. 23.

Commissioner Fox suggested adding a condition that Mr. Brozosky had the right to review and have the right of refusal to have work done on his property. She did not believe the onus should be on him to get the bids.

Acting Chair Pearce noted that the Chrismans would get the bids. She wanted each party to have an opportunity to be involved in this process.

Ms. Decker noted that while Condition No. 23 stated that the Brozoskys shall submit three bids, the City could be the facilitator of the process and coordinate the acquisition of three bids from professional firms as recognized by the City as being sound contractors. There would be feedback from all parties at that time.

In response to an inquiry by Acting Chair Pearce regarding whether the amendment was acceptable to the maker and seconder of the motion, Commissioner Fox and Commissioner Olson agreed that it was.

Commissioner Narum suggested reopening the public hearing to allow the parties to comment on the amendment.

Commissioner Narum moved to re-open the public hearing to allow Mr. Brozosky and Mr. Schlies to comment on the motion on the floor with regard to Condition No. 23.

Commissioner Fox seconded the motion.

ROLL CALL VOTE:

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Blank.

The motion passed.

THE PUBLIC HEARING WAS REOPENED.

Mr. Schlies agreed that Ms. Decker's proposal would be a good idea and that the City's assistance would be a good solution.

Mr. Brozosky noted that he had not seen the language and believed that the two issues of an escrow account and the amount of time allowable to elapse between the deposit into the escrow account and commencement of work were being mixed together. He inquired what would happen if they received a bid, and several years elapsed, resulting in an increase in process. He noted that the construction could stretch out to four or five years, resulting in increased costs. He believed that 400 feet would be insufficient and that it must be right to the water line. He was unsure whether the 125 percent would be sufficient and suggested that they would not be able to proceed with the first house until the rest of the money was deposited.

In response to an inquiry by Commissioner Fox regarding whether he had an alternative to 125 percent, Mr. Brozosky suggested that 200 percent would be reasonable and that they would get their funds back as soon as they put the infrastructure and the meter in place. He suggested that be added to the conditions. He did not want this issue returning to the Planning Commission if there was not enough money.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Fox suggested an amendment to change 125 percent to 200 percent, and to change the timeline to within 60 days of the infrastructure being built.

Ms. Decker believed that both parties had an interest in putting the line in as quickly as possible in that both parties would benefit; the Chrismans fulfill the conditions to move forward, and the Brozoskys are provided with an emergency water source, probably within the time that the primary subdivision infrastructure were to be constructed. She believed the suggestion of one year of final map recordation allowed the flexibility and did not tie down the Commission to requiring an estimate to be received within one year. Any unforeseen delay would allow them to return to the Planning Commission to request an extension.

In response to an inquiry by Commissioner Fox regarding whether the applicants must get updated bids if the project were to be delayed until 2015, Ms. Decker replied that it would be beneficial for staff to work on language to address timing. She did not believe it was the Chrismans' intent to inconvenience the Brosozkys by delaying the project so long that it would cost Mr. Brozosky a great deal of money. She noted that the language of "up to five years" may be workable. While she believed that there was every intent to construct, such developments were market-driven. She noted that the approvals went back to 2001, and she believed the Chrismans intended to move this project forward as quickly as possible.

Commissioner Narum suggested changing the language from “400 feet” to “bringing it to an existing waterline on the Broszky property.”

Ms. Decker suggested that the Commission consider that the timing be tied to the anticipated construction. The applicant would go through the final map recordation, bond the project, and submit the improvement plans for Road A. Before the grading permit could be issued, the City would provide estimates 60 days prior to the grading permit. Before the grading permit on-site could be issued, the issue of the estimates and deposits would have been resolved to reflect current costs for on-site work.

In response to an inquiry by Commissioner Narum regarding the trigger to have the money paid and cleared if the work cost more than anticipated, Ms. Decker replied that there were generally contingency costs and “not-to-exceed” limits which the contractor would be responsible for meeting. Any change orders would be handled between the parties, and a reputable contractor would not exceed the estimated costs without agreement by the builder. She noted that the waterline was generally an uncomplicated structure. She did not anticipate that a reputable contractor would substantially exceed the bid.

ROLL CALL VOTE:

AYES: Commissioners Narum, Olson, and Pearce.

NOES: Commissioners Fox and O’Connor.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Blank.

Resolution No. PC-2008-10 recommending approval of PUD-05-02M was entered and adopted as motioned.

Commissioner Olson advised that he would recuse himself from Item 6.b. due to a conflict of interest.

Commissioner Fox left the meeting at this time.

A recess was called at 9:18 p.m.

Acting Chair Pearce reconvened the meeting at 9:26 p.m.

b. PUD-71, Michael Aminian/Medeiros Gardens, LLC

Application for a Planned Unit Development (PUD) development plan to replace the approved production home designs with design guidelines for the property located at 1944 Vineyard Avenue, in the Vineyard Avenue Corridor Specific Plan Area. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

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

In response to an inquiry by Commissioner Narum regarding where the third car would be parked if a family had three drivers and three cars in the home, Ms. Soo replied that they would have to park on the street.

Ms. Decker added that there was insufficient room on the driveway apron for a car and that cars may only be parked in the garages. Guest parking would be marked for guests only.

In response to an inquiry by Commissioner Narum regarding whether there would be any work to improve the condition of the fences along the east and west property lines, Ms. Soo replied that the fence on the West End did not seem to be in good condition and that the fence in the back seemed to be in better repair. She understood that the applicant would install a new fence and added that it was not listed in the conditions of approval. A neighbor to the east had requested that the fence be repaired, to which the applicant agreed.

In response to an inquiry by Commissioner Narum regarding whether sprinklers would be a standard condition, Ms. Soo confirmed that this is included in the conditions of approval.

In response to an inquiry by Commissioner O'Connor regarding whether the garages may be used for storage, Ms. Soo confirmed that the garages were only for parking cars. He requested that that language be strengthened in the conditions of approval.

In response to an inquiry by Acting Chair Pearce regarding whether Condition No. 7 on the school district was a standard condition, Ms. Soo confirmed that it was.

THE PUBLIC HEARING WAS OPENED.

Michael Aminian, applicant, confirmed that he would replace the fence on the west side of the property, and that the east side of the property contained landscaping that he wished to remain. He believed that an eight-foot swale would be beneficial for the shrubs surrounding the property.

In response to an inquiry by Commissioner Narum regarding whether there would be room for a play structure in the open space in the center, Mr. Aminian replied he would not have any objection to it and was concerned about the security for the children.

Ronald Marovich noted that he was president of the Homeowners Association for the neighboring Shadow Creek Bend condominiums. He had attended the recent meeting, spoke with Ms. Soo and the applicant, and was pleased that the applicant agreed to considerable changes in the back of the property. He had been originally opposed to the

project but after working with the applicant and seeing the changes that had been made, he no longer opposed the project.

Mr. Aminian advised that he would be available for further questions.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Narum noted that she liked this project and was pleased that the applicant went out of his way to improve it as much as possible and to accommodate the neighbors. She noted that she could not find examples of roof colors on townhouses that appeared to be significantly different from the color board; she believed the roof looked piecemeal and that there was a difference in the shades. She would prefer the roof to be of one shade than as indicated on the sample boards. She disclosed that she talked with the applicant about the color. She understood that they tried to make the units look individual and articulated, but was concerned about the roof colors. She liked the different rooflines.

Commissioner O'Connor liked the appearance of the homes and noted that they looked like the San Francisco row houses.

Acting Chair Pearce noted that she liked the articulation in the differences between the homes and trusted that the architect would select colors that would not be jarring.

Ms. Decker noted that the following modifications should be made to the conditions:

1. Condition No. 53: Standard construction hours of Monday through Friday, 8:00 a.m. to 5:00 p.m. *The Planning Director shall allow earlier start times...*; and
2. Condition No. 71, requiring that the developer install street frontage improvements on the west side of ~~Birch Creek~~ *Vine Street and Vineyard Avenue*.

Commissioner O'Connor moved to find that the proposed PUD development plan and related materials, Exhibit A, is consistent with the General Plan and purposes of the PUD ordinance; to make the PUD findings listed in this staff report; and to recommend approval of PUD-71 to the City Council, subject to the development plan as shown in Exhibit A and the conditions of approval listed in Exhibit B, with the modifications that the applicant install a fence on the west side of the property and that the CC&R's include language that the garage shall be used exclusively for parking and not for storage

Commissioner Narum seconded the motion.

Commissioner Narum suggested an amendment to add a condition for the applicant to install a play structure if it can fit into the open space area and could meet minimum guidelines.

The amendment was acceptable to the maker of the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2008-11 recommending approval of PUD-71 was entered and adopted as motioned.

Commissioner Olson rejoined the Commission on the dais.

c. PREV-570, Hamid Taeb/Lester Property

Work session to review and receive comments on a preliminary application for a 42-unit single-family residential development on the approximately 116-acre Lester property located at 11021 and 11033 Dublin Canyon Road in Unincorporated Alameda County. The properties are pre-zoned Agriculture (A) District.

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

In response to an inquiry by Commissioner Olson regarding how these lots compared in size to The Preserve, Mr. Otto replied that he had not made that comparison and would look into that question. He believed The Preserve lots were somewhat similar, between 15,000 square feet and 20,000 square feet. He did not believe they would be smaller.

In response to an inquiry by Commissioner Narum regarding the possible inclusion of a stoplight, Mr. Otto replied that a traffic light would be reviewed as part of the traffic study for this project. He did not know whether it would be warranted at this point and added that planned improvements were already in place for Dublin Canyon Road.

In response to an inquiry by Acting Chair Pearce regarding public amenities to compensate for greater than average density and whether the neighborhood park would be considered to be one of the amenities, Mr. Otto replied that could be determined by the Planning Commission. Staff had identified dedication of the open space to be a possible, more substantial amenity.

THE PUBLIC HEARING WAS OPENED.

Hamid Taeb, developer, displayed a PowerPoint presentation on the overhead screen and described the features of this proposed project. He noted that he was unable to get permission from the neighboring Jehovah's Witness Church and moved the entrance to accommodate the Church. He described and displayed the site where one tree would be removed, as well as access roads and bridges. He noted that the inclusion of a gate would

be beneficial to the neighboring homeowners, and he proposed that this be a gated community; he believed that would be a prudent decision. He noted that they designed the project to stay away from the ravines, trees, and ridges. He noted that they created larger lots to add to the open feeling.

Jeff Holmwood, RJA Associates, project planner/engineer, responded to Commissioner Olson's question about the minimum lot size and stated that the minimum lot size would be 15,000 square feet. He noted that with respect to grading, they did not plan to remove very many trees and that one or two trees may be lost in putting the bridge across the creek. He noted that they had not surveyed the location of those trees at this time. They envisioned that Lots 14 through 18 along the west side would be split lots with short pads. With respect to the existing slope exceeding 25 percent, he noted that those lots had small slivers that exceeded 25 percent and that no lot completely covered a 25 percent slope. With respect to circulation, Dublin Canyon Road would be improved at the project entrance to include right-turn-in/right-turn-out lanes and that a westbound left-turn lane would go into the project. He noted that a traffic signal would probably be required at the project entrance or at the Canyon Meadows development entrance, depending on the results of the traffic report. He estimated that it would be at the Canyon Meadows development entrance because there were more units to be served than at their project.

In terms of visual impact, Mr. Holmwood stated that they planned to design the project so that no homes would be visible from the residents along Dublin Canyon Road. He noted that none of the homes would be visible from the Canyon Meadows development, but the proposed homes on Lots 5, 6 and 7 may be visible from the homes in the Canyon Creek neighborhood. They planned to either lower the building pads in that location or build one-story homes. He noted that an extensive photomontage would be created for that and other locations for the EIR process. He noted that they did not wish to build sound walls, and would mitigate the noise without doing so. He estimated that the home sizes would be 2,500 square feet and up; they proposed using a 40 percent FAR for the smaller lots, and a 30 percent FAR for the 20,000-square-foot lots.

Rodger Rager noted that he lived in the Canyon Creek Circle neighborhood and did not have a problem with the development itself. He was concerned about the ensuing traffic and was not sure a signal light would be the answer; he supported a traffic study. He noted that the nearby MTO Church had proposed approximately 200 vehicles. He added that a nearby development at the City limit sign would also bring a lot of cars to Dublin Canyon Road. He believed that when Safeway moves its headquarters into the old Farmers Insurance building, traffic would also increase. He added that all of his neighbors shared his concern about the traffic.

Mr. Taeb noted that they were also concerned about the traffic. He believed that the traffic from the Safeway office would go towards Foothill Road and I-580, whereas the project traffic would go in the opposite direction. He noted that the residents of Canyon Creek Meadows did have difficulty leaving their development when cut-through traffic

from I-580 used Foothill Road. He hoped that the improvements to Dublin Canyon Road would be completed by the time the development was fully constructed.

In response to an inquiry by Commissioner O'Connor regarding whether he would be amenable to installing a stoplight at the other development even if the traffic study did not show it was required, Mr. Taeb replied that he would be. However, he wanted to make sure that the traffic study and traffic engineer would accept the stoplight; he did not want to create a problem by adding a traffic light. He believed the neighbors across the street would appreciate having the stoplight.

In response to an inquiry by Commissioner O'Connor regarding previous versions, Mr. Taeb replied that they had explored versions with different densities, including affordable-by-design homes and duets. He noted that they were not able to fit those homes into the existing site and that he would like to build similar projects elsewhere in the City.

In response to an inquiry by Commissioner Olson regarding the comparison to Moller Ranch, Mr. Taeb replied that there would be many similarities in terms of product type and that the circulation type would be similar. He added that the proposed project had larger lots.

Ms. Decker displayed and described the grading and pad locations in detail.

THE PUBLIC HEARING WAS CLOSED.

Acting Chair Pearce noted that the Commissioners would address the discussion points as detailed in the staff report.

Commissioner Olson noted that he did not see much discussion of the traffic on Dublin Canyon Road and indicated that there was an extensive discussion of the traffic when the MTO Church proposal was discussed. A request had been made that a study be done on traffic on that road, relating more specifically to speed. He requested that the Commission ensure that the safety study be completed in order to come to some conclusions about traffic on Dublin Canyon Road.

Ms. Decker noted that it was likely that project would come forward before this project.

Density

Does the Commission support the proposed policy? Are the public amenities sufficient to allow the additional unit?

Commissioner Narum would be willing to support the proposed density. She was concerned about a gated community with a park in it and wished to ensure that park in-lieu fees would be paid to offset it.

Commissioner Olson supported the proposed density and it appeared that Moller Ranch would be higher in density than this project. He noted that he once lived in Moller Ranch and that it did not feel like a high-density neighborhood.

Commissioner O'Connor did not object to the density and believed the dedication to the park and the staging area would enable him to make that finding. He expressed concern about some of the steeper areas and looked forward to seeing more information about the grading.

Acting Chair Pearce believed the staging area was sufficient but had concerns about the private park as a public amenity. She believed the in-lieu fee discussion was appropriate.

Urban Growth Boundary (UGB)

Should fewer lots be located adjacent to the UGB with additional/larger open space breaks between lots? Should all lots be located inside the loop road with an open space buffer between the UGB and the westernmost portion of the loop road?

Commissioner O'Connor did not object to the lots being adjacent to the UGB in the back of the property. He was concerned about the grading on Lot 18 and suggested that if Lots 17 and 18 were to be combined, it would not go as far into the steeper area; it would also have a wider lot. He did not object to the placement with respect to the UGB.

Commissioner Olson believed that fewer lots closer to the UGB would be a good idea.

Commissioner Narum agreed with Commissioner Olson's comments. She inquired whether it would be appropriate to have a larger setback from the UGB to have more green space. She did not object to the current configuration.

Commissioner O'Connor suggested that when the homes are designed on the lots, larger sideyard setbacks be included to enhance the view between the homes.

Acting Chair Pearce noted that she did not object to the current configuration.

Site Plan

Are the lot locations acceptable? Are the lot sizes acceptable?

Commissioner Narum agreed with Commissioner O'Connor's comment and would like to be able to capture the view. She was concerned about the amount of proposed grading and suggested that they be stepped more so that the houses could conform more to the land. She generally liked the layout and the range of lot sizes, which created a more interesting development.

Commissioner Olson suggested that the houses on the stepped lots be designed around the step. Ms. Decker replied that eight lots would have stepped pads with various floor levels. The remainder of the lots would be slab-on-grade, flat-pad homes.

In response to an inquiry by Commissioner Olson regarding whether more lots could be stepped resulting in less grading, Ms. Decker replied that could be possible.

Mr. Otto noted that stepped homes were more difficult to sell.

Commissioner O'Connor liked the lot locations and while they were somewhat smaller, they were clustered to stay away from the steeper areas and the swales flowing to the creek bed. He was pleased that the homes were kept away from the sensitive areas. He liked the idea of filling in some of the natural slopes on the back side (Lots 1-10), which would create more buffer for the adjacent neighborhood. He did not object to the grading but would like to see more detail.

Acting Chair Pearce liked the lot locations and the lot sizes. She believed that stepping a house could be balanced against the visibility issue.

Is the staging acceptably located?

Acting Chair Pearce believed the open space staging areas should be dedicated to the East Bay Regional Park District (EBRPD) rather than being controlled by the Homeowners Association.

Is the private neighborhood park parcel acceptably located? Is the size of the park acceptable? Should the park have play equipment?

Acting Chair Pearce believed the park was fine and, as a private park, it did not need to be very big. As a neighborhood park, it should have some play equipment.

Traffic and Circulation

Is the proposed on-site circulation acceptable?

Commissioner Olson noted that if the proposed on-site circulation was acceptable to the Fire Department, it was acceptable to him.

Commissioner O'Connor agreed with Commissioner Olson's comments.

Does the Commission support a gate at the project entrance?

Commissioner Olson supported a gate at the entrance and believed it was necessary to enhance security.

Commissioner O'Connor was not generally in favor of gated communities but would strongly support a gate for this community because it was more remote and not as visible from the road. He believed there were some security issues that could be addressed by a gate. In addition, he believed its proximity to the staging area made a gate desirable and did not believe the neighborhood should be subjected to people driving through their development. He believed it was important for the residents to have some privacy.

Commissioner Narum agreed with Commissioner O'Connor's comments.

Acting Chair Pearce noted that she was not generally supportive of gated communities but agreed that a gate was appropriate in this case.

Is the emergency access acceptable for this development?

Commissioner Olson would accept the Fire Department's opinion on the emergency access for the development.

Commissioner O'Connor agreed with Commissioner Olson's comments.

Grading

Is the amount of stepped and flat building pads acceptable?

Commissioner O'Connor expressed concern about grading and moving a lot of dirt as well as having too many stepped homes. He was not as concerned about marketability but was concerned about massing and the need for screening by landscaping. He would not want to increase the number of stepped lots.

Commissioner Olson found the amount of stepped and flat pads acceptable.

Commissioner Narum noted that she would like more information and believed there should be more emphasis on the houses fitting the land rather than the other way around. She noted that she would like to see more detail.

Does the Commission support Lots 1-5, 7, 11, 12, 17-19, and the private park being partially located in areas with slopes exceeding 25 percent?

Commissioner O'Connor did not know how much the private park would be graded down and agreed that it should be flat to accommodate the children. With the gate, he believed it would be fairly private and that some minimal grading would be necessary; he would like to see a more natural look to the area. He added that a play area should be added for the children. He supported filling in some low areas along the ridgeline in order to create a buffer from the other housing developments.

In response to an inquiry by Commissioner Olson regarding whether any of the lots would be greater than 25-percent grading, Mr. Otto noted that some small portions of the property would exceed 25 percent.

Commissioner Olson believed the grading was done appropriately to avoid the sensitive areas.

Commissioner Narum inquired whether the park would be placed on fairly steep slopes. Mr. Otto noted that the existing slopes were steep but that they would be graded to create a flat pad area. Commissioner Narum believed that items 14 and 15 made sense conceptually.

Acting Chair Pearce agreed with the previous comments. She would like to see models to provide visual information regarding the grading. She believed the park should be flat.

Given the lateness of the hour, Acting Chair Pearce requested that the remaining items be addressed at one time by the Commission as a whole.

House Design

Does the Commission wish to make any suggestions regarding the house sizes and design?

Commissioner Narum noted that she was concerned about the 40-percent FAR and would like to see a more detailed schematic.

Commissioner Olson had no further suggestions.

Commissioner O'Connor did not generally object to a 40-percent FAR for this project. He would like side yard setbacks to be designed so the development looked more open.

Acting Chair Pearce would like further information on the 40-percent FAR as well as a potential 30-percent FAR. She liked the charts presented in the Chrisman project and would like to see similar visuals. She would like to maintain the openness between the houses.

Affordable Housing

Does the Commission support the payment of Lower-Income Housing Fees to meet the affordable-housing requirement?

Commissioner Narum supported the payment of Lower-Income Housing Fees to meet the affordable-housing requirement.

Commissioner Olson supported the payment of Lower-Income Housing Fees to meet the affordable-housing requirement versus trying to build affordable housing on the site.

Commissioner O'Connor supported the payment of Lower-Income Housing Fees to meet the affordable-housing requirement versus trying to build affordable housing on the site.

Acting Chair Pearce did not believe this was an appropriate site for affordable housing, particularly because of the lack of services.

Noise

Should the project be designed to avoid the use of any soundwalls?

Commissioner Narum agreed that soundwalls should not be included.

Commissioner Olson strongly believed that soundwalls should not be included.

Commissioner O'Connor believed that soundwalls should be banned and did not support them for this project.

Acting Chair Pearce did not want any soundwalls to be included.

Visual Analysis

Does the Commission wish to see any other viewpoint locations?

Commissioner Narum would like to see a streetscape with the 40-percent FAR on the homes.

Commissioner Olson agreed with Commissioner Narum's comments.

Commissioner O'Connor would like to see the viewpoint of the development grading from the other side of Dublin Canyon Road. He did not believe it would be an issue. He believed the biggest viewpoint would be from The Preserve and would like to see that viewpoint after the grading was done.

Acting Chair Pearce agreed with Commissioner O'Connor's comments and believed that more viewpoints would be better.

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.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Acting Chair Pearce believed that March 19th was the science fair, which may impact several Commissioners' schedules.

Ms. Decker noted that if a quorum were present, business would be conducted accordingly.

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

No discussion was held or action taken.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

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

No discussion was held or action taken.

12. ADJOURNMENT

Acting Chair Pearce adjourned the Planning Commission meeting at 11:06 p.m.

Respectfully,

DONNA DECKER
Secretary