



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, January 9, 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 January 9, 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; Wes Jost, Development Services Manager; Steve Otto, Associate Planner; Marion Pavan, Associate Planner; and Maria L. Hoey, 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. November 14, 2007

Commissioner Olson noted that the last line of the paragraph just above the motion on page 2 starts with a parenthesis is left hanging. Ms. Decker replied that staff would look into it.

Chair Blank indicated that the Commission will go ahead with any other changes but may hold off on the approval of the Minutes as the Commission does not know what that missing section is.

Commissioner Fox stated that she did not have any corrections for the November 14th Minutes but has some for the December 12th Minutes.

Commissioner Narum noted that the first sentence of the third paragraph under Item 6.b., PAP-109 (PHUP-18), Rebecca Andrus on page 8 was an incomplete sentence. Ms. Decker replied that it should read: “Ms. Decker stated that a temporary use permit is not the process used....”

With respect to the phrase “Condition L” in the third sentence of the second full paragraph on page 11, Commissioner Narum inquired if the conditions for Item 6.b. were in letters or number. Ms. Decker replied that they were letters.

Commissioner Narum stated that the fifth sentence of the last paragraph on page 17 which reads: “He added that they had addressed the water issue and stated their position that they were allowing the Roberts to use it for their domestic use until such time as they [Sariches] are able to find a suitable source of irrigation water for the vineyards” was not very clear and requested clarification from staff. Ms. Decker replied that staff would look into it.

Chair Blank noted that in the first sentence of the fifth paragraph on page 33, he requested that language be added that residents can decline the request to start construction before 8:00 a.m.; however, the first modification on the motion on page 34 states that the neighbors may express their objections but does not indicate that the request will not be granted if the neighbors are not agreeable to the change. Ms. Decker replied that staff would add that phrase regarding the neighbors’ ability to decline the request.

Chair Blank noted that he had a speaker card from someone who wanted to comment on the Minutes.

THE PUBLIC HEARING WAS OPENED.

Mary Roberts expressed concern about the Minutes. She stated that at the November 14th meeting, Chair Blank had asked staff whether the issue of the well was taken care of in the Conditions of Approval. She noted that Condition No. 28 conditions her as well as the Sariches. She pointed out that the first sentence conditions the applicant to defer planting of vineyards until such time in the future that a proven water source on the Sarich property can be developed. The condition should have stopped there because the next sentences conditions the Roberts, giving them access to the well water until they connect to City water, and the well water may be used only for residential and household uses and not for irrigation purposes. She noted that no one from staff or the applicants had talked to them about this. She compared it to an application for a second-story addition where because a neighbor states that a windows look into his or her house, that neighbor is conditioned to obscure their windows or open their drapes only at certain times. She indicated that she was not sure this was legal, especially since no one talked to them about it. She noted that she did not understand why she was being conditioned when she was not the applicant. She added that she was open to negotiations regarding the use of the well water and hoped that the condition could be modified to include only the first sentence. She indicated that if they had been assured of the adequacy of the well, they would have watered the grapes this year since they have had less than half of the rainfall they needed; but the condition does not allow them to use the water for irrigation purposes.

THE PUBLIC HEARING WAS CLOSED.

Chair Blank requested staff and legal counsel to look at some of the comments. He noted that the Minutes would not be considered for approval this evening.

Ms. Decker requested the Commission to consider the approval of the Minutes. She noted that the question about page 2 referred to the October 24, 2007 Minutes, and staff can listen to the tapes of that meeting, determine what was intended, and clear up the issue.

Chair Blank noted that the Commission had received advice from the previous legal counsel regarding including conditions on non-applicants. He requested staff to review Condition No. 28.

Ms. Decker clarified that it was not the intent of Condition No. 28 to condition the Roberts. She noted that the language was clear to staff and the Commission at the time this matter came before the Commission. She reiterated that it was not intended that the Roberts were to be forestalled from the irrigation of their grapes. She indicated that staff would look at the language and clarify the intent of the condition before the items goes before the City Council; staff would then advise the Commission of any changes that are made.

Ms. Harryman stated that she was able to figure out what the sentence on page 2 was referencing. She noted that Commissioner Fox had pointed out in the previous paragraph that the discussion on the types of project for design review was not included in the October 24th Minutes, and Commissioner Narum was simply pointing out where in the Minutes that discussion could be found.

Commissioner Narum moved to approve the Minutes for November 14, 2007 as amended. Commissioner Pearce 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, and the Minutes of November 14, 2007 were approved as amended.

a. December 12, 2007

Commissioner Fox distributed copies of revisions she had made to the section on the PAUP-4, Jennifer Hosterman, item and requested that the consideration of these Minutes be continued. She noted that it had been a while since this hearing was held; she listened to the audio and added some missing sections, particularly on the classification of whether or not the hawk is a

fowl. She added that her computer crashed at minute 56. She requested that the consideration of the Minutes be continued, and during the two-week period, staff could review the revisions she had made so far, the Commission can likewise review the changes, and she can complete the missing gap. She pointed out that Commissioner Blank's discussion on his research of the falcon species was missing and should be included, rather than have the broad statement on page 7: "A general discussion of the term 'fowl' ensued." She added that because the item has been appealed to the City Council, she wanted to ensure that the Minutes are as clear as possible.

Commissioner Narum indicated that it was her understanding that this item was on the City Council agenda on Tuesday, January 15th. She inquired how continuing the consideration of the Minutes would affect that hearing.

Ms. Decker replied that it could likely impact the City Council agenda item. She indicated that staff typically would like to have the approved Minutes as part of the packet to the City Council. She noted a scheduling problem because the item is being heard by the City Council on January 15th, and the next Planning Commission meeting is not until January 23rd. She called the Commissioners' attention to previous conversations between the Commission and staff regarding the preparation of Minutes and reminded them that the Minutes are not meant to be verbatim. She added that staff pays close to the content and intent of the proceedings. She noted that she did not recall verbatim what was discussed at the meeting and that the modifications proposed by Commissioner Fox appeared to be additional information to the draft Minutes. She added that she had not had the chance to compare both versions as she had just received Commissioner Fox's modifications and that both could be correct. She advised that unless the Commission were to vote or by consensus request that the Minutes be presented verbatim, staff would look into the modifications for the benefit of saving time for both the applicant and staff, and thereby proceeding with the Council hearing on January 15th.

Chair Blank proposed that each Commissioner go through whatever revisions they may have and then the Commission can decide if it wants to pursue Commissioner Fox's suggestion or if the individual revisions satisfy Commissioner Fox's concern. He added that he had some items that he recalled people had discussed, including a couple by Ms. Harryman, that were not included. He noted that it is important to include these discussions to have accurate Minutes.

Ms. Decker directed the Commission to the note on the Minutes that staff confirms any proposed changes by reviewing the recorded proceedings prior to finalizing the Minutes. She indicated that any amendments or modifications proposed this evening would be checked for accuracy.

Commissioner Fox stated that she would like items in blue added to minutes, after staff checks them for accuracy, rather than have the Commission go through each item one by one. She reiterated that she wanted to make sure that the comments regarding the definition of "fowl" as well as Ms. Harryman's statements about the Code are included.

Chair Blank noted that he did not see Ms. Harryman's clarification that if the Commission believes the hawk can be considered a fowl, then it can make the finding; and if it did not believe the hawk can be considered a fowl, then it cannot make a finding. He added that this is a key

element that should be included because this is the context of the entire decision made by the Commission.

Commissioner Fox indicated that she added that in the second to last paragraph on page 5 of her revisions.

Commissioner Narum noted that the motion and vote on pages 12 and 13 regarding the removal of the tabled motion is confusing and does not reflect what actually occurred. She recalled that there was a motion taken to take the motion off the table, after which a vote was taken; she then withdrew second, and the motion died for lack of a second. She requested that the section be cleared up.

Chair Blank noted that the sequencing was not correct. He agreed that the motion was to take the original motion off the table and that the roll call vote was taken before Commissioner Narum removed her second.

Commissioner Fox moved to approve the December 12, 2008 Minutes as amended, to include the blue revisions in the document prepared by Commissioner Fox, with a review by staff for accuracy and the caveat that Commissioner Fox was unable to listen to the entire section of the tape.

Chair Blank 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, and the Minutes of December 12, 2007 were approved as amended.

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

Ms. Decker advised that Commissioner Fox had invoked her right as a Commissioner to continue an item and had requested that Item 6.a., PUD-81-28-05M, City of Pleasanton be continued.

Chair Blank inquired whether the Commissioner's Handbook provides that continued items be scheduled for the next meeting or the next available meeting.

Ms. Decker replied that the Handbook states that the Commission, by vote, may continue the item to the next meeting date or to another date acceptable to the Commission. She recommended that the item be continued to the February 13th meeting due to the number of items on a request made on this item and the impacts it would have to the already pre-set items on the January 23rd meeting agenda.

5. CONSENT CALENDAR

There were no items for consideration.

6. PUBLIC HEARINGS AND OTHER MATTERS

a. PUD-81-28-05M, City of Pleasanton

Application for a major modification to an existing PUD development plan to consider whether an existing six-foot tall masonry wall along a portion of the westerly property line between Pleasanton Station and Hap's Restaurant should be retained or removed. The property is located at 30 W. Neal Street and is zoned PUD-C-O (Planned Unit Development – Commercial-Office) District, Downtown Revitalization District, and Core Area Overlay District.

This item was continued to the February 13, 2008 meeting at the request of Commissioner Fox.

b. PDR-602, Michael O'Callaghan

Application for a modification to a previously approved design review application for a two-story commercial building with an attached apartment unit at 725 Main Street to reconsider Condition No. 15.c. regarding the installation of pavers in front of the building and Condition No. 72 regarding the installation of an automatic fire sprinkler system for the building. Zoning for the property is C-C (Central Commercial) District, Downtown Revitalization District, and Core Area Overlay District.

Steve Otto presented the staff report and summarized the background, scope, and layout of the project. He noted that Fire Chief Bill Cody and Fire Marshall Scott Deaver were present to address any questions regarding fire sprinklers.

In response to Commissioner Pearce's inquiry with respect to historical procedures on whether this application was initiated by staff or the applicant, Mr. Otto replied that the application for the pavers was initiated by staff and the sprinkler system by the applicant.

Commissioner Pearce inquired why it appeared that no progress was being made on the construction of the building when it was demolished in July. Mr. Otto replied that he would defer that question to the applicant. He added that construction normally starts right after demolition, and he was not aware if the delay was due to the sprinkler system or some other reason. He noted, however, that the building permit plans had just been submitted for plan check review, an indication that the project is moving forward.

Ms. Decker noted that part of the issue was that when the building was demolished, there were some inherent structural problems with the adjacent building that had to go through engineering. She indicated the issuance of a demolition permit does not necessarily guarantee the immediate construction of the building. She confirmed that the building permit plans had been submitted as of December 31, 2007.

Commissioner Fox stated that she had asked staff at the Planning counter about projects that are less than 8000 square feet and could not remember any at that point. She recalled that the former cigar shop building on Neal Street and Railroad Avenue next to Meadowlark Dairy Avenue had applied for an expansion and was denied by the Commission and was subsequently appealed to the Council. She inquired if that building was less than 8,000 square feet and if sprinklers were required. Mr. Otto replied that it was a small building with an application for a small addition to the front and that the building would have been less than 8,000 square feet. He added that he did not know what requirements were placed on that building.

Chair Blank recalled that it was an application for a remodel.

Commissioner Fox inquired if, in the past, the City has ever added sprinklers to a commercial building that was less than 8,000 square feet.

Ms. Decker confirmed that it has been the case. She noted that it has been the practice to add the sprinkler condition for projects that go through the design review process on the Zoning Administrator level as well as for projects that have come before the Planning Commission, particularly smaller commercial structures, including those that are separated from other buildings as opposed to those that stand next to one another in the Downtown area. She indicated that to her knowledge, the Commission has not required sprinklers for additions to commercial buildings or to residential structures with less than a certain square footage, unless the structure is gutted for a complete remodel.

Chair Blank recalled that sprinklers were conditioned for a recent building that was to be gutted. He noted that sprinklers have normally been conditioned for all new construction but not on remodels because it could get more invasive.

Commissioner Fox inquired if there were new construction of 8,000 square feet or less within the last five or six years that have not been conditioned to add sprinklers. She noted that the Fairlands Investment project on Stanley Boulevard and Valley Avenue was a new corner market which was probably less than 8000 and inquired if it was required to be sprinklered.

Chair Blank noted that, from a historical perspective, since he has been on the Planning Commission, no commercial buildings have been approved without a sprinkler system regardless of size. He stated that the Commission went forward to the City Council to create a sprinkler ordinance, and because the Council did not have sufficient time to add it to the Work Plan, it encouraged the Commission to continue its practice of including the installation of a sprinkler system in the conditions of approval.

Commissioner Narum commented that the Council did not take a vote directing the Commission to do so.

Chair Blank noted that he did not know if a formal vote was taken and that he would have to go back and check; however, he indicated that it was actually documented in the City Council Minutes.

Ms. Decker clarified that it occurred during the discussion on the prioritization of the Council's Work Plan. She stated that the sprinkler ordinance was added for consideration because it was an item of interest by both the Planning Commission and the City Council. She noted, however, that because the Work Plan had already been established by then, and there was so much work to be done that would require the obligation of staff resources, the Council did not want to press forward with the ordinance then and directed the Commission to proceed in the manner it has been going of conditioning all new residential structures and commercial buildings of 8,000 square feet or less to install a sprinkler system.

Chair Blank asked Fire Chief Cody to identify the differences between the sprinkler requirements of the City of Pleasanton and the City of Livermore and the value of having sprinklers in commercial buildings.

Chief Cody stated that there is nothing one can do better to protect life, property, and the environment than to install fire sprinklers and that the least expensive time to do it is during new construction. He noted that the value of sprinklers is irrefutable and that some of the fires in which there was a public assemblage or a large number of lives lost were in non-sprinklered buildings. He pointed out in the fire at the nightclub in Rhode Island that had pyrotechnics, everybody died because the building was not sprinklered. He added that had there been sprinklers, there would not have been one death in that building. He continued that more recently in Pleasanton, the Baci Restaurant on Hopyard Road was targeted by an arsonist, and the fire sprinklers saved building; one fire sprinkler head went off and suppressed a Molotov cocktail that was thrown into the building. He noted that had the building been occupied and not sprinklered, there would have been an incredibly high number of lives lost, and based on time of the night the fire occurred, the building would have been burnt down before the Fire Department would have arrived at the scene. He emphasized the value of fire sprinklers and added that the action the Planning Commission takes to condition buildings to be sprinklered is the right way to go. He noted that the Fire and Planning Departments are working together to develop a fire sprinkler ordinance that would initiate a Code amendment and that the process would be taken out for an extensive public review to get input from the community. He added that it should be on the agenda this coming year.

THE PUBLIC HEARING WAS OPENED.

Michael O'Callaghan, representing the owner, stated that there two things man fears: being eaten by a shark or bear and being burned alive and that there is a certain amount of risk that goes with getting out of bed each morning. He indicated that he did not take exception to the Chief Cody's statement that a building may be a better building if it had sprinklers or that fire sprinklers are a good thing for safety and life. He noted that there are National Building and Fire

Codes, California Building and Fire Codes that are more restrictive than the National Codes, Pleasanton Codes, and due process. He referred to Chief Cody's statement that the fire sprinkler ordinance would take much due process, public hearing, and input from the public to develop a good and fair ordinance that is far-reaching in terms of the value of buildings and the health and safety aspects. He added that in the meantime, he felt it was inappropriate that laws are being legislated from the dais without due process, notwithstanding the fact of the important charge the Commission has of determining public health, safety, and welfare. He stated that this condition did not come from the Planning, Building, or Fire Departments but from the Commission, based on its previous decisions. He indicated that his client, the property owner, had asked him why he was being required to put sprinklers when the Code did not require it. He noted for the record that the building is a wooden, historic building between two existing buildings with bad building standards with a real concern about fire consuming the entire block. He stated that George Thomas, the City's Chief Building and Safety Official, had indicated that this particular building is an A-3 building with three-hour fire walls on both side property lines; the building to the north belonging to Mr. Moret has three-hour fire walls around his building, and the building to the south is a masonry block building with a fully-poured concrete block three-hour fire walls. He noted that while the Building Code only requires a one-hour fire wall on the property lines, the three buildings have six-hour fire walls on their property lines.

Mr. O'Callaghan stated that he would like to know if the Commission knew of risks and concerns on which its decision was based and of which he was not aware. He noted that categorically imposing a \$35,000-\$40,000 conditions on the building without full due process is inappropriate and affects multiple things having to do with construction, the value of the building, and property owner rights. He indicated that he was aware that the Commission would like to protect the property rights of the buildings next door; he noted that the firewalls far exceeded the requirements of the Fire Code. He requested the Commission to go by the standards of the Building Code which does not include that all buildings have to be sprinklered. He compared this to driving a Chevy that has less safety equipment than a Mercedes Benz which would be better for safety and handling; yet people have the right to decide and are allowed to drive the Chevy in the most hazardous streets. He added that if the Commission sees any evidence regarding why this particular building should be imposed with mandatory sprinkler system, that should go on record and should be taken into consideration for applicants and builders.

Mr. O'Callaghan stated that the new 7,900-square-foot building on 55 West Angela Street does not have sprinklers, and Mr. Bob Byrd's St. Mary Street building, which is less than 8,000 square feet, is also not sprinklered. He pointed out that the reasons people died in the example of the night club in Rhode Island were because the building was a high-density, over-populated building whose exits were locked with chains so the people could not get out, and whose doors opened the wrong way so that the people piled against them and were asphyxiated.

With respect to why he did not appeal the Planning Commission decision during the 15-day appeal period, Mr. O'Callaghan explained that he was negotiating back and forth with the City Attorney's Office, and Michael Roush, the City Attorney, was not sure about how to deal with his question regarding the Planning Commission legislating an ordinance from the dais versus the provisions of the Municipal Code. He indicated that the time frame for an appeal passed

while he was waiting for direction from Mr. Roush and that he did not know what the process was. With respect to the building construction, he indicated that they had not quite gotten all the problems worked out with Mr. Moret's building to the north. He stated that there were still some easements have to be put in place and some foundation work that needed to be done; however, they were getting close to zeroing in and going full speed ahead.

Chair Blank noted that the Commission held additional meetings in May 2007 and that Mr. O'Callaghan came before the Commission on May 30th because he was concerned that his project was being delayed. He added that Mr. O'Callaghan then came back on June 13th requesting that the condition to install fire sprinklers be removed. He asked Mr. O'Callaghan if the reason he was not able to appeal the Planning Commission's decision was because of the delay caused by the City Attorney's Office.

Mr. O'Callaghan replied that he is not saying that the City Attorney's Office caused the delay but that he was not getting the directive from the City Attorney's Office regarding the correct process to follow. He indicated that he was aware of the process s for appealing and that he did appeal the decision immediately to the City Attorney with respect to whether his situation should should he go back to the Commission for a public hearing or be handled administrative by staff, or whether the Commission was in error in imposing this condition of approval and should have instead strongly advised the installation of a sprinkler system because there is no law in place to impose the sprinkler condition.

Chair Blank stated that Mr. Roush was present at the June 13th meeting and noted from the Minutes of that meeting that Mr. Roush had indicated that there were reconsideration provisions in the City Council Rules and Procedures and had suggested that because the appeal time period had not yet expired, Mr. O'Callaghan could still file an appeal the next day to be heard by the City Council.

Mr. O'Callaghan agreed that there were procedures. He added that he went to Mr. Roush with his objection and asked Mr. Roush what steps he should take next. He indicated that he has here tonight to follow staff's directive.

Commissioner Fox inquired if there were compelling reasons why there should or should not be fire sprinklers in buildings that are less than 8,000 square feet and what types of business or uses in buildings that are less that 8,000 square feet would be required to be sprinklered. She further inquired if the Crown Pub on St. Mary Street has two stories and is less than 8,000 square feet, and whether it has the same type of business and was required to be sprinklered.

Mr. Otto confirmed that the Crown Pub is a two-story building and that it was an existing building that was remodeled with an additional 600 square feet.

Commissioner Fox's inquired if the other building on 55 West Angela Street is the one in the Pleasanton Station area.

Mr. O'Callaghan confirmed that it was and that it was a new building. He indicated that he was arguing not the value of sprinklers but the law. He added that the City has due process and

public hearings and the vast majority of the country and California do not require sprinklers for buildings under 8,000 feet, but the Pleasanton Planning Commission requires it. He stated that the Commission could also require conformity to the Green Building ordinance by using language such as “strongly advising” or “if at all possible” or “use your best efforts.” He noted that the owner may eventually want to put in sprinklers depending on the type of use or business that would occupy the building and that he would have to come back for a conditional use permit for which sprinklers would be required.

Chair Blank recalled that Mr. O’Callaghan stated the last time he was before the Commission that the sprinkler system would cost about \$100,000, and tonight he stated that it would cost about \$35,000.

Mr. O’Callaghan stated that he erred on the \$100,000 because in consultation with the contractors, the fire mains can be installed on Main Street for less than the original cost.

Chair Blank noted that Mr. O’Callaghan had mentioned that the building would cost \$1 million. He asked Mr. O’Callaghan to verify that the sprinklers would be \$35,000 to the million.

Mr. O’Callaghan confirmed the figures and added that it would include tenant improvements.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Fox inquired if the occupancy for the Redcoats (Crown Pub) is the same type as what is proposed for this new building.

Mr. Deaver replied that there is a difference; the Redcoats building was a remodel. He stated that there are national, State, and Pleasanton Codes and that the Pleasanton Code is based on the City’s layout and how it operates, what the City would like to see, and what the citizens expect. He added that the Livermore Building Code and ordinances require every new building to be sprinklered. He noted that the subject building is a mixed-use building which brings an assembly as a Restaurant, which immediately puts it within the same category as a residential building. He added that the three-to-six-hour separations are structural and a determination is needed for that.

Mr. Deaver stated that he has worked with Mr. O’Callaghan and that he was good at what he does. He added that Mr. O’Callaghan has indicated that he believes in fire protection. He indicated that the Fire Department recommended sprinklers for this building because of exiting issues, its close proximity to other buildings, and the mixed-use category. He noted that the building at 55 West Angela Street has the same use and also has fire-wall separations; however, there are openings around the building and does not have the potential exposures the Main Street building presents. He stated that the time to install sprinklers is at this time when the building is being replaced. He explained that the Fire Department does not want to carry on as before as it has identified exiting issues and it is locked-in with other buildings. He added that this is the time to provide a better product, and sprinklers make the building safer. With respect to the cost, he indicated that he was not aware of today’s inflation costs and that \$25,000 would be about right. He stated that the construction costs should be weighed against the benefits of safety and protection of life and property as well as the overall safety of the building.

In response to Commissioner Fox's inquiry if the occupancy of this building would be a "B" classification, Mr. Deaver said yes. He added that the building at 55 West Angela Street would have some light retail mercantile and would be similar to "B" as well. He noted that on the other hand, the Redcoats building and this proposed structure, as a restaurant or bar, are categorized as an assembly where the number of people is much more than that of a mercantile business. He pointed out that when more people are introduced into a building, exiting becomes a concern, and the Fire Department needs to come up with methods of providing fire safety.

In response to Chair Blank's inquiry if Livermore required all new buildings to be sprinklered regardless of size, Mr. Deaver said yes. He continued that this is a local ordinance and that any facility with any occupancy is required to be sprinklered. Chair Blank inquired if this applied to remodels as well, and Mr. Deaver replied that remodels are tied to certain evaluations. He noted that in both the Pleasanton and Livermore Fire Codes, there are certain occupancies that can be put inside the building that would require automatic sprinklers.

Chair Blank inquired if there would be a significant difference in terms of costs of installing a sprinkler system at the time of construction versus retrofitting a completed building for a conditional use permit requirement.

Mr. Deaver replied that there are factors that raise the cost of retrofitting an existing building. He noted that it would need to take into account the condition of the building's structure and would require extra labor. He added that the designers and architects would probably not run exposed pipes through the building.

Chair Blank noted that Chief Code had indicated that the Fire Department is working with Planning and Building on an ordinance this coming year. He inquired if requiring all new buildings to be sprinklered is anticipated.

Mr. Deaver replied that the Fire Department and the new Codes are moving in that direction. He noted that the ordinance would be a bit more performance based, giving much more leniency to edit Code provisions if the buildings are provided with an automatic sprinkler system. He stated that the Codes would be offered as a minimum and that cities that take no action on sprinklers would be required to comply with the minimum Codes. He added that the Codes do not get much into mixed-use, operations, or the desires of the cities; they look at the big picture and incorporate fire safety by inspecting the general building, making a lot of assumptions, and requiring separations.

Commissioner Narum noted that she initiated the change for the pavers and that she understood the recommendation based on the aerial picture. She indicated that she was willing to withdraw Condition No. 15.c.

Commissioner Olson agreed with the removal of the condition for the pavers but indicated that Condition No. 72 should be retained.

Commissioner Pearce stated that it makes sense to remove the pavers. With respect to the sprinklers, she expressed disappointment that it is being discussed again when it has already been discussed twice before. She referred to Mr. O'Callaghan's statement about due process and stated that the due process for an application is the appeal to the City Council. With respect to the presentations made by Chief Cody and Mr. Deaver, she indicated that the conditions surrounding this building regarding it being a new construction and its exiting issues and proximity to other buildings make it perfect for fire sprinklers. She added that if the City adopts a blanket condition that all new buildings need to be sprinklered, the Commission would not have to defend every decision it makes to require fire sprinklers. She noted that even if this building did not have any issues, the Commission would still be conditioning it to be sprinklered because that is what the Commission has chosen to do, and it has been commissioned by the City Council to do the same.

Commissioner Fox stated that she is interested in removing the condition for the pavers. She noted that it was after the fact that staff realized that the condition was in conflict with the Downtown plan and that the Commission was not made aware of that fact at the time of the hearing. She added that if the Commission were made aware of it, the Commission would not have added that condition. With respect to the fire sprinklers, she indicated that in line with the hearing on the red-tailed hawk, she felt the need to be consistent. She added that she is having a difficult time with this issue since the City Council has not actually made a change to require fire sprinklers in buildings that are less than 8,000 square feet. She stated that because she now fully understands what the Municipal Code is, she was not comfortable with retaining this condition unless there is a compelling need. She indicated that her preference is that the City Council modify the Municipal Code or make fire sprinklers a law; the Commission can then base its interpretation on that.

Commissioner O'Connor stated that he had no problem with the removal of the pavers. With respect to the sprinklers, he noted that although the Municipal Code needs to be amended, both the Commission and the City Council have been clear. He indicated that the Municipal Code is a minimum standard and that the Commission has the right, the authority, and the requirement to look after public health, safety, and general welfare. He added that this is what the Commission has been doing and has been consistent about it. He stated his belief that the Commission should continue to require fire sprinklers of all new residential and commercial buildings and that the Code revision should also be require sprinklers on remodels, based of their extent. He indicated that the Commission is trying to improve things in the City and because the workload is such that the Code cannot be updated at this time, the City Council has given the Commission the directive to continue what it is doing in the interim. He indicated that he believed this is the right direction to take and the right way to go.

Chair Blank stated that he was sorry to see the pavers go and that he reluctantly agrees to delete the condition. As regards the sprinklers, he indicated that the Commission often impose conditions of health and safety on projects, as directed by the Municipal Code, such as the signing in and out of daycare centers. He noted that \$25,000 to \$35,000 is not an insignificant amount on a \$1 million building; if the owner builds and then decides to put a nightclub in, he would have to come back to the Commission for a conditional use permit which would require him to retrofit his building to install fire sprinklers at a cost of up to \$125,000. He brought forth

a procedural question and stated that he believed Mr. O’Callaghan did not have the right to appeal the condition on the sprinklers and that staff erred in bringing it back to the Commission because the appeal period had expired. He questioned the legality of staff bringing forward a condition that has been approved but was not appealed, as opposed to the pavers condition being removed because it was in conflict with existing priorities and the decision of a legislating body. He indicated that he was not in support of removing the condition on the fire sprinklers.

Commissioner Pearce moved to eliminate Condition No. 15.c. of Planning Commission Resolution No. PC-2007-28 approving Case PDR-602 and to retain all the other conditions of the previously design review approval of Case PDR-602 in full force and effect. Commissioner Olson seconded the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2008-01 approving the elimination of Condition No. 15.c. of Planning Commission Resolution No. PC-2007-28 and the retention of all the other conditions of approval for PDR-602 in full force and effect was entered and adopted as motioned.

A recess was called at 8:17 p.m.

Chair Blank reconvened the meeting at 8:25 p.m.

- c. **PDR-623, Scott Adams**
Work session to review and receive comments on an application for design review approval to replace an existing one-story single-family home with a two-story tall single-family home including 8,325 square feet of building floor area, 2,215 square feet of attached garage area, and an attached 8,476-square-foot two-story tall indoor tennis court located at 2751 Crellin Road. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

Marion Pavan presented the staff report and summarized the background, scope, and layout of the project.

On behalf of City staff, Ms. Decker acknowledged and thanked Scott and Shelly Adams for their cooperation in the review process of their project. She called the Commission’s attention to the review process described on page 2 of the staff report stating that this project technically would be undergoing a staff –level review process and did not have to go before the Commission. She noted that since this project could have been approved over the counter, the efforts put forth by both the staff and the applicants were significant and attest to their commitment to work with the neighbors in finding good solutions to mitigate the various concerns.

Chair Blank stated that workshops are a great idea.

Commissioner Fox inquired if the original Planned Unit Development (PUD) and the CC&R's had any provisions regarding tennis courts or enclosed sports courts or pools. Mr. Pavan replied that the PUD is silent on open or enclosed tennis courts. He noted that because it is an enclosed structure, it is regarded as part of the primary structure, subject to design review requirements such as floor area ratio (FAR), and setbacks requirements. He added that with respect to the use, there is nothing in the PUD as well to preclude it because it is a private court specifically for personal enjoyment and that of their friends.

THE PUBLIC HEARING WAS OPENED.

Each Commissioner each disclosed that he/she met separately with the applicants and their architect.

Terry Townsend, project architect, noted that the applicants, Scott and Shelly Adams, were present. He thanked the Planning Commission, staff, and the neighbors for their cooperation and indicated that the applicants wish to keep the process open and get everyone involved to attain the best solution for everyone. He then displayed a PowerPoint presentation and pointed out the location of the existing structures as well as those of the immediate neighbors, the gated Grey Eagle Estates, and the Foxbrough development.

Mr. Townsend then summarized the existing conditions of the structure and the proposed design of the project. He noted that the existing house is the original one-story ranch style home that was built about 50 years ago with several additions including an indoor pool, an accessory structure, and a second unit with a full kitchen. He noted that the house has been vacant for two-and-a-half years and that the condition inside the building was unhealthy with a lot of water damage and mold on the floor. He noted that this unhealthy situation was the determining factor regarding whether to continue off of the existing structure or to have the flexibility to move the structure and the proposal around.

Mr. Townsend then pointed to a clear, flat, undeveloped area to the south of the property that they had determined to be the ideal location for the tennis court. He noted that after discussions with the neighbors, this has been moved closer to the street, and about 60 story poles were erected to give the neighbors different visual pictures of the impacts on their lots. 60 erected in various views. He then showed different slides showing views from different angles and from some of the neighbors' properties to give a sense of the massing. He indicated that the scale of the proposed home is in keeping with the existing homes in the neighborhood in terms of width and height. He added that to retain a heritage oak tree, the footprint of the house has been shifted farther down to the south and toward the street; a view corridor to Mt. Diablo has also been kept clear.

Mr. Townsend indicated that they are integrating as many Green points as possible into the project, exceeding the minimum 50 points required by Pleasanton, in terms of construction waste, framing and engineering, aggregate in the driveway, non-invasive landscape, and artificial

turf. He noted that they would be using only sustainable lumber and that there would be no cutting down of old growth. He added that there would be reduced light pollution in the landscaping and tennis court which would have no light poles in the exterior as it is enclosed, and that there would be solar heating for the pool and lightwells on the tennis buildings for the installation of the proposed 15 kilowatt photovoltaic system which would allow them to generate their own electricity. He concluded that the project would have approximately 199 Green points.

In response to Commissioner Olson's inquiry regarding what "flyash" is, Mr. Townsend explained that it is a mix that goes into the aggregate, an expander that helps prevent cracking and provides some insulation.

Chair Blank inquired if there are any view easements in this development. Mr. Pavan replied that to the best of staff's knowledge, there is none on this or the adjoining properties.

Commissioner Fox noted that the maximum height of building is 30 feet. She inquired if this was measured from the lowest grade to the highest point of the building. Mr. Townsend replied that the measurement is from the lowest portion of the grade to the highest point of the building, which would be the ridge of the tennis building. He added that the walls are 22 feet and follow the second floor of the main building.

Scott Adams, applicant, expressed his appreciation for all who had invested their time on this project, particularly the neighbors who have provided their input and numerous suggestions. He explained that the main living quarters is not only a residence but also his home office. He added that in line with PG&E's recommendation to provide for in-law situation when building a new home, they have included guestrooms to accommodate their seven grandparents. He noted that the garages are large so the neighbors would not have to look at their parked vehicles. With respect to the indoor tennis court, he indicated that his family has a history of sun cancer and that no sunscreen would protect him if he played outdoors three to four times a week. He stated that he was 50 years old with a seven-year-old stepson and that he would like to stay healthy by exercising so he can live longer and have a better quality of life. He noted that tennis would work for him as he has played the game from the time he was 12 years old. He added that with a tight schedule, having a court right at the property would enable him to play as often as every day since he would not have to drive out or arrange for a baby sitter. He pointed out that another reason for having a covered, indoor tennis court is so he does not bother the neighbors with noise or light pollution.

Mr. Adams stated that they did what they could for the project, spending close to \$20,000 for the digital images and the story poles and working with the neighbors to address their concerns. He indicated that they have waited several months for the process to begin and that they had done what they could at this point. He noted that the workshop was helpful and looked forward to the comments from the Commission and the neighbors.

Chris Beratlis stated that he has lived in the neighborhood for 30 years before any other house was built. He added that it is a nice area and that he enjoyed what the area used to be with no houses, but with life being what it is, development has to occur. He indicated that he had looked at the proposed plans and believes that it would be a great asset to the area. He noted that the

new house would be in the same elevation as his house, about 560 feet, and within 100 percent from his viewshed. He stated that he had no objection to the project and welcomed the Adams to the neighborhood.

Norm Watt, the neighbor directly below the living portion of the property, stated that the Adams are very nice people and have addressed their concern about the closeness of the house to the property line by moving the house forward. He added that he would like to maintain the open fencing and noted that the landscaping plans are somewhat vague. He indicated that their property is lower than the Adams' and that if he did not want to see the house, they would have to plant some trees; however, they did want to block their views as well. He stated that he would like to see more landscaping details such as taller landscaping on the applicants' side of the property. Mr. Watt noted that his bedroom faces the home and that he did not see any pictures to demonstrate the views from his house, which he would like to see. He stated that the applicants have done a very nice job.

Teri Bush stated that she lived next to the Watts, who live below the Randalls, whose property is below the Adams' property. She thanked the applicants for accommodating their initial concern of keeping the trees because they would affect their view. She expressed concern about the impact of the construction and requested that it be limited to Monday through Friday from 8:00 a.m. to 5:00 p.m. She noted that it is a very beautiful property and that the construction is nice but expressed concern that the large size of the house would set a precedent. She indicated that there was a recent flooding in their yard and that she would like the architectural design to address the drainage of the property since the bigger building would leave less ground to soak up the water. She added that she would like to work with the applicants with respect to planting trees that would not obstruct both their views. She noted that she would like to retain the open fencing as it keeps the property much more open.

Dave Allen indicated that his house is located west of the subject property and that he appreciated the effort of the applicants to communicate with the neighbors and receive feedback. He pointed out that the proposed house was a large structure that would, in cubic volume, be equivalent to a 25,000-square-foot house and would be difficult to hide with landscaping. He indicated that his house is directly above the proposed house and expressed concern about the 15 kilowatt solar panels that he would be looking at from his house and which could be tilted back towards his house and give him an angle of sun. He stated that the applicants have made efforts to move the panels out of his viewfield but they would now be within the viewfield of the downstairs rooms. He added that he would like to see photos of the house taken from different perspectives as he believes those presented were taken from favorable perspectives that would minimize the massing and view impact of the house. He reiterated his appreciation for the process and the applicants' efforts to work with the neighbors to minimize impacts, which is difficult to do with the large building but for which they have done their best.

Chair Blank asked Mr. Allen if his concern was regarding the way the solar panels would look or the reflection of the panels on his house. Mr. Allen replied that he had a couple of concerns: the first is that if the solar panels would be in addition to the 30-foot height of the building, it would sticking out another five feet towards his house; and the second is the location of these panels as they are not shown in any of the renderings presented. He indicated that he was interested in

what he will see when he looks out of his window and if the panels would be glaring back at his house when the sun rises in the east.

Commissioner Fox asked Mr. Allen how he arrived at the 25,000 square feet of cubic volume. Mr. Allen explained that the tennis court, a single-floor, 8,475-square-foot structure, added to the house with an 8,400-square-foot pad, would be equivalent to approximately 16,000 square feet; however, adding the cubic volume of the floor space of the tennis court to the cubic volume of the floor space of the main house plus the ground-floor coverage with the building pad size, depending on how much of the top floor is open to the bottom floor, would result in a range from the low 20,000 square feet to the high 20,000 square feet in terms of the cubic volume equivalent of a two-story house of a similar size.

Becky Randall thanked the staff and the neighbors for the time they have put into this project. She read a letter she had written describing her residential history in Pleasanton. She indicated that she bought her home in 1987 and had recently remodeled both the interior of the house and the exterior property. She handed the Commissioners some photos of what her property looks like taken from her perspective, noting that she was careful not to infringe on other people's property. She then related how she had purchased another property in the area during the remodel of her current house, and the next-door 3,200-square-foot house was sold and demolished and then replaced with a 7,000-square-foot house a few feet away from property fence and infringing on their privacy. She handed the Commissioners some pictures of this house. She noted that the proposed Adams home is beautifully designed but too large for the size and shape of the site and that it would be the largest home in their neighborhood. She indicated that the Adams are great neighbors and, given the concessions, she is now happy with their house; however, she is torn because it is a large house which may look fine once it is screened, but she loves her house and her property and does not want to see the tennis court. She expressed concern about the drainage issues and others issues that come with a large house located just above her own.

Mr. Adams stated that he will work with the neighbors with respect to the landscaping, irrigation, and fence issues. He noted that with respect to the largeness of the house, it will not have a gravitational impact on the neighbors and the only impact would be the view they would be looking at from their properties. He pointed out that the mass is not the issue and because the lot is long, each neighbor will see only one part of the building; no one neighbor will see the entire structure. He indicated that from the Allens' house, the view impact is not the blocking of the alley, as the view that is being blocked by the building is the Adams' own backyard; he noted that they do have a right to privacy in their own backyard. He added that the Allens' house is perched above their own home and that it would be impossible to have any kind of private use in the back half of their own property because of the way the Allens' windows are set; the roof of tennis building, however, would block the Allens' view of their own swimming pool and backyard and would provide some privacy. With respect to the impacts from the Randalls' house, he stated that the house had been moved away from the Randalls' house and that he believed that while the visual impact cannot be totally obliterated, the landscaping would solve about 90 percent of the problem. He noted that when one moves into a house next to a very large vacant lot, there is a risk that development will take place at that lot, and that development may not be the neighbors' first choice. He added that the risk of that development should not be

shifted totally to the new neighbors. He indicated that there is a limit to what can be done with respect to the impact of the use but that they had done what they could.

Mr. Townsend explained that the location of the solar panels is shown on the roof plan, Sheet No. 5 of the house plans. He stated that the panels are not above the roofline or above the 30-foot height of the building but are imbedded into the roof wells that are integrated into the structure. He indicated that solar panels are not reflective and actually absorb the daylight in order to work. He added that the panels for the pool would not be reflective either, with a dull-finished and a plastic coating.

Commissioner O'Connor inquired if the parapet wall on the roofline is eight feet tall.

Mr. Townsend confirmed that it was. He added that it would be 22 feet high to the ceiling with a total of 30 feet in height. He indicated that the roof comes up on one side and sinks back down on the other side in slopes such that the panels would not be visible as they are reset within the structure.

THE PUBLIC HEARING WAS CLOSED.

Chair Blank indicated that there are three specific questions that staff would like the Commission to address and that he would like to add a fourth for other general questions and comments not covered by the three questions that the Commissioners may have.

Commissioner Pearce inquired if there were any fencing standards or open-fencing requirements that need to be met such as in a Specific Plan or the PUD. Mr. Pavan replied that the site is not covered by any Specific Plan; he added that he would have to check if there were any conditions on the PUD with respect to fencing requirements.

In response to Chair Blank's inquiry if this is straight-zoned, Mr. Pavan replied that it is a PUD zone that references an R-1-20,000 development standards with additional standards that are part of a PUD plan. He added that this workshop focused mainly on the building, massing, and location and noted that the neighbors have expressed their preference for open fencing. He indicated that the fencing issue will be addressed in the staff report for the public hearing. He explained that the purpose of the one wall was to enclose and screen the garage court from view from Crellin Road and Gray Fox Circle in order to hide parked cars and other garage activities.

Ms. Decker noted that the packet for this project includes the Ordinance No. 1076 that approved this PUD, and Condition No. 24 provides that all fencing would be subject to the approval of the Planning Department. She indicated that staff would work with the applicant and the neighbors on an appropriate fence design.

With respect to the various drawings on the elevations, Commissioner Fox inquired if these renderings needed to be combined to get a complete picture of the east elevation, and if so, would it be feasible to have them. Mr. Pavan replied that the east elevation would be a composite of the elevations for the tennis court and the house. He added that it would be possible to have that done.

Commissioner Fox inquired if there would be a height limit on the tennis court building if it were built as a separate structure from the main house. Mr. Pavan replied that the height limit refers back to the R-1-20,000 standard with a 30-foot maximum measured from the lowest grade to the midpoint of the sloped roof. He stated that he would have to research if a detached tennis court would be considered a second primary residence or an accessory structure and that he would bring that information back to the Commission. He added that staff had looked into separating the tennis court with a view of minimizing the building mass.

Commissioner Fox inquired if the separate structures connected by a breezeway in the Mariposa Ranch homes are considered to be one or two building or an accessory structure. Mr. Pavan replied that the height requirement would be a consideration in this case. He indicated that a garage would be a detached accessory structure with a maximum height of 15 feet, generally located in a setback area, thus requiring a shorter building as it is a lot closer to the property line. He noted that whether the tennis court is dictated by the primary structure setback would be something he would need to research.

Chair Blank requested staff to look into this and bring back the information possibly at another workshop.

The Commission then proceeded to consider the different questions.

1. *Does the Planning Commission conceptually support the proposed siting of the structures on the site with respect to location, setbacks, and the buildings' orientation?*

Commissioner Narum: Yes. She indicated that she supported what the applicants have done in trying to find a compromise to mitigate some of the concerns of the neighbor to the rear. She noted that considering the lot as it is and where the structures might have been placed if the neighbors' concerns were not taken into account, what the applicants are proposing is less than ideal but they have done so as a compromise with the neighbors.

Commissioner Olson: Yes.

Commissioner Pearce: Yes. She agreed with Commissioner Narum and expressed her appreciation for the applicants' efforts to maneuver the building within the lot.

Commissioner Fox: Yes; however, she stated that she would like to see a composite elevation showing both structures together before giving her final "yes."

Commissioner O'Connor: Yes. He noted that in terms of the siting of the structures and the setbacks, the landscaping was missing which would have a big impact; however, since the building has been moved, the siting on the lot itself is fine.

Chair Blank: Yes. He expressed concern about the building mass but noted that it could be remedied by architectural tricks.

2. *Should the dwelling and tennis court be divided into two separated structures or two separate structures connected by a breezeway or similar structure?*

Commissioner O'Connor: He noted that his answer would depend on staff's research regarding building heights for separate structures. He stated that if separating the structures would put the tennis court outside of the primary buildings envelope and limit its height to 15 feet, it would be impossible to build an indoor tennis court. His answer is "no." He noted that the massing would look larger if a breezeway was built or if the structures are separated by just a few feet. He added that it would also move the structure closer to the property line, making it more visible to the neighbors; massing would go in the wrong direction.

Commissioner Fox: She indicated that before she made any comments, she would first like to see staff's memo on the ramifications of separating the structures and the composite elevations with perhaps one of the buildings turned a little bit more to look less massive.. She noted, however, that at this point, her preference is to keep them together as one structure.

Commissioner Pearce: No. She stated that it would not matter if they were separated. She noted that the massing comments from the neighbors have nothing to do with the connector between the house and the tennis court and that she was not certain separating the structures would affect the visual massing. She indicated that she does not see any point in separating the structures.

Commissioner Olson: He agreed with Commissioner Fox that he would like to see staff's memo first; however, his inclination is not to separate the structures. He added that he would not like to see the Commission preventing the building an indoor, regulation-sized tennis court.

Commissioner Narum: No. She expressed concern that separating the structures would shift them more into the view corridor and end up closer to someone else's property; while it may alleviate some of the massing, it would create more significant issues.

Commissioner Blank: He indicated that he is inclined not to separate the structures. He stated that while the memo is important, he did want to get tied down by a strict interpretation of the rules. He indicated that barring the unforeseen, they should remain together; separating them is worse than if they were kept together.

3. *Is there additional detailing that the Planning Commission may wish to see added to the structure?*

Chair Blank inquired if staff is looking for general comments or detailing of the design elements. Mr. Pavan replied that it would be both general and specific comments. He requested the Commissioners to provide comments regarding the elevations such as if the structures would benefit from additional detailing, for example, adding more stone and where or adding wood detailing.

Commissioner Narum: She commended the applicants' good efforts to work with the neighbors, noting that it is not easy to put together everyone's concerns. She stated that the site location is good and represents a good compromise, although it may not be ideal for the owner. She added that she would like to see the 24-inch and 36-inch box plants included in the landscaping plan to ensure that they do not affect the view of the people below, exactly what these trees are with respect to the perimeter line. She indicated that she liked the open fencing and supported the 8:00 a.m. to 5:00 p.m. Monday to Friday construction hours and that she would like the drainage issue addressed. She noted that she liked the architectural detailing; with respect to the color, she would like to see a color lighter than that of the house on the golf course by the clubhouse. She added that she would like to see a condition restricting future additions such as locker rooms to the tennis court.

Commissioner Olson: He noted that the detailing is terrific, particularly on the tennis court building, and that no additional detailing is needed. He stated that he would like to retain the open fencing and see a landscaping plan as well as the drainage runoff addressed. He indicated that he did not think the reflection from the solar panels is an issue and that he liked the roof plan on the tennis courts that hid the panels. He congratulated the applicants on their great efforts at amassing Green points.

Commissioner Pearce: She noted that the Green points were wonderful and that the detailing was beautiful. She indicated that she would like to see revised visuals from additional viewpoints including the Watt house, as well as accurate depictions of the location of the solar panels. She stated that she liked the colors.

Commissioner Fox: She noted that when the Commission reviewed the 325 Ray Street building, then Commissioner Maas made some comments regarding the articulation of the style; she would like staff to pull those comments because this building looks similar to that one. She noted that the tower element in the south elevation looks lower than the roof line and inquired if it is supposed to have a roof; and if it is the same tower shown in the west elevation where it appears to be above the roof line. She noted that she liked the open fencing and that she would like to see some of the composite diagrams and location of the solar panels on the roof as well a complete landscape plan with a comparison of tree size at construction and after five years. She noted the neighbors' concern regarding drainage and would like to see the location of the bioswales.

Mr. Pavan indicated that the tower on the south and west elevations are the same. He noted that the tower is an architectural feature that is a tribute to Dilbert. He added that from the south, the roof of the main structure is behind Dilbert and that the west elevation is a side-on view of Dilbert.

Commissioner O'Connor: He indicated that he would not repeat what has already been mentioned. He stated that the architecture and detailing are superb. He expressed concern about the stucco walls as they detracted from the architecture and added to the massing; he would rather have landscaping to hide the garage area. He noted that he liked the open fencing and that this is the most Green points he has seen integrated into any house.

Chair Blank: He complimented the applicants on the Green points. He requested that larger four-by-four paint chips to facilitate the envisioning of the colors. He would like the drainage issue addressed and see the location of the solar panels well depicted as well as accurate visuals taken with the right photographic lens. He expressed concern with the mass of the house shown on the west elevation from the street side with the gate and proposed some detailing to make it less massive. He indicated that he would like the tennis courts soundproofed and the windows properly shielded to avoid any noise or light impact on the neighbors. He supported the standard construction hours as well as the open fencing.

Mr. Pavan requested clarification in relation to the insulation of the solar panels and asked the Commission if whether it would like to see exactly how panels will be done or see the line of sight from the uphill neighbor looking across the building.

Chair Blank replied that he would like to see the line of sight and a computer-generated photo looking down at the panels to show what they would look like.

Mr. Pavan noted that when he discussed the visuals with the applicants, he had directed them to include some photos from the Allens' house to replicate what they would be seeing from their windows. He indicated that he would follow up on that. He stated that the construction hours would be the standard Monday to Friday from 8:00 a.m. to 5:00 p.m. and that there would be a standard building and engineering condition to address the flooding so that all year on-site water is kept on site and drained appropriately into the City's drainage system.

Ms. Decker requested a point of clarification that Commissioner Fox would like to see a staff memo on the setbacks and accessory structures and that Chair Blank would like to have that at a workshop before the public hearing. She recommended that the materials be presented to the Commission at a public hearing rather than have a second workshop.

Chair Blank indicated that he was fine with that and that he was not lobbying for or indicating that he desired a second workshop.

Commissioner Fox requested that staff research the information in the Municipal Code as well for the memo and that it be provided to the Commission ahead of time.

Ms. Decker indicated that staff would address the comments and questions presented tonight in the staff report for the hearing and that other issues that come up at the hearing will be addressed at that time.

Commissioner Fox inquired if the composite renderings would be available in the packet and when the hearing date might be. Ms. Decker confirmed that the composites renderings would be available and that she would need to look at the schedule to determine when it might be scheduled. She noted that the meetings have a fairly impacted schedule but that staff would get this on the schedule as quickly as possible in concert with the applicants' time frame to prepare the requested renderings and landscape plans.

No action was taken.

Chair Blank asked Ms. Randall if she would like to have her photos back. He noted that since there were presented at the hearing, they could be included as part of the public records. Ms. Randall indicated that staff could keep the photos.

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.

b. Exotic Animal Zoning Codes from Neighboring Municipalities

Chair Blank thanked staff for the materials on exotic animals zoning codes.

Recruitment of the Director of Community Development

Chair Blank indicated that the City Manager has been meeting with the Commissioners and that at his meeting, the City Manager is looking for two Planning Commission volunteers to participate in the recruitment process of the Director of Community Development position. He noted that it would take a full-day commitment or possibly more.

Commissioners Narum and O'Connor volunteered.

Commissioner Fox inquired if the other Commissioners could forward potential questions that they would like to have answers to, if this is not a violation of the Brown Act.

Chair Blank stated that the process is being run by the City Manager and that he would ask him. He noted, however, that the Commissioners could present their questions to Commissioner Narum or Commissioner O'Connor.

Commissioner Narum indicated that she was open to that as long as it is not a Brown Act issue.

Chair Blank indicated that the Planning Commission has no jurisdiction over who the City Manager selects and, therefore, he doubts that the Brown Act comes into play in the final decision. Ms. Harryman confirmed Chair Blank's statement.

Empty Phone Box on Main Street

Commissioner Pearce stated that there is an empty phone box in front of the Blue Agave restaurant. She noted that the phone has been removed and requested staff to look into this.

Commissioner O'Connor indicated that AT&T is removing all of their pay phones as they are no longer profitable and cost more to maintain since most people now have cell phones.

Ms. Decker indicated that staff would look into that.

Pete's Coffee

Chair Blank noted that he passed by the Valley Avenue/Hopyard Road intersection and noticed a sign on the building under construction indicating that Pete's Coffee was coming.

San Francisco Cigar Company Building

Commissioner Fox noted that the building next to the Meadowlark Dairy which used to be a cigar shop is now a lounge. She asked if the new business had to go to Planning to get the zoning designation changed and if the speakers and music are allowed.

Ms. Decker replied that it is the San Francisco Cigar Company building. She stated that the company has had the building for some time and recently had the interior remodeled with a small addition which was within their footprint. She noted that the lounge falls within the State regulations that alcohol may not be sold with the tobacco business. She added that the music and loud speaker are allowed.

Distribution of Agenda Information and Packet

Commissioner Narum suggested that a cut-off time be implemented for requests for additional information. She indicated that it is frustrating to come to the meeting and see a stack of information related to the meeting that she tries to read while listening to the meeting proceedings and sometimes while people are roaming around distributing material. She noted that it would be more effective if these materials were distributed electronically to provide sufficient time for the Commissioners to read them before coming to the meeting.

Chair Blank inquired if this could be agendized as a public hearing.

Commissioner Fox noted that the City Attorney had informed her that there is a new State law with the Brown Act that every communications between a legislative body and staff before the hearing but after the distribution of the packet has to be made available to the public as soon as they are made available to the Commission.

Ms. Harryman indicated that the new law takes effect on July 1, 2008. She noted that the Commission could have a short discuss on whether or not it wishes to agendize these matters.

Commissioner Fox inquired if the Commission can get the packets delivered on Thursday instead of Friday to give the Commissioners more time to read the materials. She noted that the City Council gets its packet a week ahead of the meeting.

Chair Blank read from the Commissioner's Handbook that the packets are to be delivered no later than one week preceding the meeting.

Commissioner Olson inquired if, based on the new law that would take effect in July, the email the Commissioners received today with Commissioner Fox's questions regarding the item on the wall would that have had to have been distributed to public.

Ms. Harryman indicated that she would like to address that when the item is agendized, assuming the Commission would like to agendize it.

Commissioner Fox clarified that she sent her email to staff two days ago, and staff appears to have waited 24 hours before distributing it to the Commissioners.

Commissioner Pearce moved to agendize the discussion of the new law going into effect in July, the delivery timing of the meeting packet, and the subsequent delivery of additional information and method of their delivery.

Chair Blank 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.

Commissioner Fox requested that the packet be placed in a plastic bag on rainy days to prevent the materials from getting soaked.

Fire Sprinkler Ordinance and Sports Courts

Ms. Decker informed the Commission that the Fire, Planning, and Economic Development Departments are working together on the fire sprinkler ordinance. She indicated that there would be considerable outreach to the community and that staff would be bringing comments and feedback back and forth in manageable portions to the Planning Commission and the community during the process, and when the entire ordinance comes together as one big document, it will come before the Commission for a public hearing.

Commissioner Fox inquired about the status of the sports court ordinance. Ms. Decker replied that it will be brought before the Commission as soon as possible.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

Commissioner Fox inquired if the Commission could have an up-to-date notice of items that had been postponed or delayed and when they are scheduled to go before the Planning Commission. She indicated that she received a call from Mr. Aminian, an applicant, asking for a meeting, but she was not aware that staff had scheduled it for a future hearing date.

Commissioner Narum stated that she also received a call from Mr. Aminian requesting a meeting.

Chair Blank suggested that changes be done one at a time and that the delivery of the packet be addressed first.

Commissioner O'Connor suggested that staff notify the Commission when the applicant is informed of his hearing date as well as if the hearing is continued.

Chair Blank noted that the Commission receives notification cards on items that have been scheduled for a hearing date.

Ms. Decker noted that the scheduling of items is very fluid and that items are sometimes continued when staff does not have all the necessary information for the project. She indicated that staff is good at informing applicants of their hearing dates and that staff will continue to provide the Commission with a listing of items that are coming forward. She suggested that if a Commissioner receives a call from an applicant and is not aware of the date of the hearing, the Commissioner can refer the call to the staff planner or to herself.

Commissioner Olson noted that he does not schedule meeting appointments with applicants until after he gets his information packet.

Commissioner Narum and Chair Blank indicated that they do the same.

Commissioner O'Connor stated that he schedules meetings after he receives the notification card because if he waits until he gets the packet, he will have only a couple of days to schedule the meeting.

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.

d. Revised Planning Commission Schedule of Meeting Dates for 2008

Commissioner Pearce inquired if the March 26th meeting is being rescheduled in view of the Planners Institute on March 26-28 in Sacramento.

Commissioner Fox indicated that she would probably attend.

Commissioner Pearce noted that Commissioners Olson, Narum, Fox, and herself will be attending the conference, so there would be no quorum for the March 26th meeting.

Commissioner Narum indicated that an email was sent to the Commissioners regarding their availability for a meeting on March 19th. She indicated that she may not be available on that date. Commissioner O'Connor indicated that he would be here. Chair Blank and Commissioner Olson indicated that they would be available as well. As there would be a quorum, the Commission will be meeting on March 19th.

9. COMMUNICATIONS

No discussion was held or action taken.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

Commissioner Pearce informed the Commission that the Bicycle Committee has received three consultants proposals and that the Committee will review the proposals and choose a Chair at its meeting on Monday.

12. ADJOURNMENT

Chair Blank adjourned the Planning Commission meeting at 10:33 p.m.

Respectfully,

DONNA DECKER
Secretary