



## PLANNING COMMISSION MINUTES

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

**APPROVED**

**Wednesday, May 23, 2007**

*(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 May 23, 2007 was called to order at 7:00 p.m. by Chairperson Fox.

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

Staff Members Present: Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Phil Grubstick, City Engineer; Jenny Soo, Associate Planner, and Cory Emberson, Recording Secretary.

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

Commissioners Absent: None.

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

##### **a. May 9, 2007**

Commissioner Blank complimented Ms. Emberson on a good job of capturing the essence of what he had said with respect to high voltage lines in residential areas on page 14.

Commissioner Blank noted that he did not recall whether he had said “*either* assertion could be made,” or “*neither* assertion could be made” on the last sentence of the third paragraph on page 17.

Ms. Decker noted that staff would confirm the language from the tape.

Commissioner Blank noted that the sentence on the third full paragraph on page 18 should be modified to read as follows: “He ~~did not believe~~ *believed* an apartment without a balcony would be more difficult to rent.”

Commissioner Pearce noted that the first sentence of the fourth full paragraph on page 16 should be modified to read as follows: “... especially in the two- and three-bedroom apartments that would house young families *who would need to drive their children to school.*”

Commissioner Pearce noted that the sentence on paragraph 8 on page 17 should be modified to read as follows: “Commissioner Pearce noted that while she did not want to see all metal and glass in the design, she ~~did not want to see a design that looked like the firehouse with a lot of trellises.~~ She would like the design to acknowledge its location.”

Chairperson Fox noted that for Ms. Soo’s staff report presented in the third paragraph on page 6, she would like to see mention of the floor area ratios (FAR) for the two zoning standards. She also noted that with respect to the last sentence of the first paragraph on page 7, Ms. Soo had indicated the lot size as being approximately 18,000 square feet.

Ms. Decker noted that staff would follow up and confirm what was noted in the record. She added that with respect to the FAR, the last paragraph on page 6 stated that the R-1-20,000 regulations allow a maximum FAR of 30 percent. In response to an inquiry by Chairperson Fox regarding whether the FAR for R-1-6,500 was noted as being 40 percent, Ms. Decker confirmed that it was.

Chairperson Fox noted that the last sentence of the second full paragraph on page 8 should be modified to read as follows: “Mr. Lamson believed the directional signage was a very important addition and believed the FAR *corresponding to the R-1-20,000* was appropriate.”

Chairperson Fox noted that she would like to see more detail of the discussion regarding the size and styles of the Ruby Hill homes presented in the last paragraph on page 8 before the public hearing was closed. She recalled that there was a discussion that the front of Ruby Hill was 4,200 square feet; the middle section of Ruby Hill was another square footage measurement, and that the size of the homes next to the golf course was another square footage measurement. She believed that Mr. Lamson stated what each square footage measured and requested that that information be reflected in the minutes.

Chairperson Fox noted that in connection with the motion on page 10, she believed that she stated she supported the motion for R-1-20,000 but did not recall whether she supported the motion concerning the addition suggested regarding the garage extension and the square footage extensions. She requested that staff confirm that information.

Ms. Decker noted that the second paragraph on page 11 reads: “Chairperson Fox reiterated that she would prefer it to be R-1-20,000 and would not be able to support the amendment. She retracted her second to the initial motion.” She noted that Chairperson Fox had stated that she could not support the increase in the square footage to 6,600 square feet plus the 700-square-foot exemption because it was greater than that allowed by the R-1-20,000 zoning district.

Chairperson Fox noted that during the discussion of design styles of PUD-62/PGPA-13, Windstar Communities, Inc., she recalled a discussion about the colors and the issue of preferred styles and that she had mentioned styles found in San Mateo and trellises. She requested that staff confirm the language discussing different areas within the Bay Area that would be good to consider.

**Commissioner Blank moved to approve the May 9, 2007 minutes as amended.  
Commissioner Olson seconded the motion.**

**ROLL CALL VOTE:**

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

**The motion passed, and the minutes of May 9, 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 two pieces of correspondence had been received from the Montgomerys and Ceizler regarding Item 6.c., Chun Kim. While the correspondence did not specifically request that the item be continued, the Montgomery correspondence requested that the Planning Commission consider reducing the size and visibility from the valley floor prior to approval, and the Ceizler requested that the Planning Commission not make a decision without formally involving the homeowners association. Staff felt that there has been considerable effort made by staff, the homeowners association, and the Kims to find the best design for the proposed home that relates to all of the concerns and suggested that the Planning Commission discuss this matter.

The Planning Commissioners concurred that they were ready to hear the item.

Chairperson Fox noted that Item 5.a., PAUP-4, Jennifer Hosterman, was continued to May 30, 2007. She further noted that Item 6.b., PUD-05-02M, James Happ/Kenneth and Pamela Chrisman, was continued to the next available meeting date.

**5. CONSENT CALENDAR**

**a. PAUP 4, Jennifer A. Hosterman**

Application for an animal use permit to allow a red tailed hawk to be kept in the rear yard accessory structure of an existing residence located at 2922 Chardonnay Drive. Zoning for the property is R 1 6,500 (Single Family Residential) District.

This item was continued to the May 30, 2007 meeting.

**b. PTR 7813, Charles Austin and Scott Austin**

Application for a Vesting Tentative Subdivision Map to subdivide an approximately 30.15-acre property into eight single-family custom home lots, four parcels that will be transferred to adjoining property owners, and with the remaining land dedicated to the City of Pleasanton for open space purposes. The subdivision map is submitted in conformance to the previously approved applications PGPA-11 and PUD-58. The property is located at 3459 Old Foothill Road and is zoned PUD LDR and AG (Planned Unit Development – Low Density Residential and Agriculture and Grazing) District.

Ms. Decker noted that a letter from Mr. Lee Henderson had been received.

Commissioner O'Connor noted that a letter from Mr. Sandeep Duggal had been received on the same item.

Ms. Decker noted that staff had spoken to the neighbors who had written to address their concerns and assured them that their concerns would be included in the staff report. Some of those items would be conditioned to be examined and confirmed by the Planning Director prior to the final subdivision map, which was a common practice. She noted that it would afford time for the adjacent neighbors to address the landscaping and other issues. She added that the letter from Mr. Henderson had requested that a westerly portion of the site also be dedicated to him; that request was not part of the PUD approval, nor was it consistent with the PUD approval. She noted that the Planning Commission was to determine that the map, as presented, was in conformity with the PUD approval and the subdivision map. The Planning Commission did not have the authority to require the applicant to grant lands to individuals or to consider decreasing the amount of open space for the Austin property, which would require a PUD modification.

**Commissioner Blank moved to make the finding that the proposed Vesting Tentative Subdivision Map is covered by the approved Negative Declaration for PUD-58 and is consistent with the Pleasanton General Plan; to make the subdivision map findings as stated in the staff report; and to approve Vesting Tentative Subdivision Map 7813, subject to the conditions of approval as stated in Exhibit B of the staff report, as recommended by staff.  
Commissioner Narum 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-2007-25 approving PTR-7813 was entered and adopted as motioned.**

**6. PUBLIC HEARINGS AND OTHER MATTERS**

**a. PCUP, 191, Derek and Linda Barragan**

Application for a conditional use permit to park an approximately 12-foot high, 32-foot long fifth wheel in the side yard setback area of the existing residence located at 1971 Brooktree Way. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

Ms. Decker introduced Jenny Soo, Assistant Planner and project planner.

Commissioner Blank disclosed that Cindy Free had called him to discuss this issue and that he had also spoken with Becky Carter, who invited him to view the subject site from her backyard. He was unable to do so, but had driven through the neighborhood.

Chairperson Fox, Commissioners Olson, Pearce, Narum, and O'Connor disclosed that they had visited Becky Carter and had spoken with her.

Chairperson Fox thanked the public for the emails that had been received.

Ms. Soo presented the staff report and noted that this application came to the Planning Commission as a result of Code Enforcement action. She described the background, scope and layout of the proposed project.

Commissioner O'Connor noted that the Code specifically stated "trailers, trucks and buses," but not motorhomes; he noted that when the fifth wheel is covered, there was no way to tell the difference. Ms. Harryman noted that the Code was silent as to motorhomes and, therefore, considered allowed, whereas a fifth wheel fell under the

length restrictions. Ms. Soo confirmed that staff believed that visually, there was no difference between a fifth-wheel trailer and a motorhome when they are covered.

Commissioner Pearce inquired why there was a difference in the Code between trailers, buses, and trucks of varying sizes. Ms. Harryman noted that she did not know but added that when the Code was written, fifth wheels were not as large as they are today.

In response to an inquiry by Commissioner Narum regarding whether a motor home of the same size would be allowable, Ms. Harryman confirmed that it would be allowed.

Commissioner Olson noted that when he drove through the neighborhood, he saw several similar vehicles and had the impression that the City was not enforcing the Code consistently. Ms. Harryman noted that Code Enforcement responded on a complaint basis and did not initiate enforcement actions on its own.

Chairperson Fox noted that she had seen a heavy-duty truck on the property as well as another truck and inquired whether there was any restriction on the number of commercial vehicles in a particular residential house. Ms. Decker advised that the Code did not restrict the number of vehicles that a person may have and requested that the Chair reserve that question for the applicant. She noted that the truck in question did not exceed the one-ton limit and added that the applicants did not work out of their home.

In response to an inquiry by Chairperson Fox regarding whether someone could live in a motor home on a property, Ms. Decker noted that the Code did not allow people to live within a motor home or a fifth wheel on a residential site because that would be construed as habitable living area.

In response to an inquiry by Chairperson Fox regarding whether this vehicle had been stored on the subject site year-round or whether it had been stored off-site during the rainy months, Ms. Soo replied that the vehicle had been parked at the site since the Barragans purchased it at the end of 2006.

A discussion of the definitions of trailers, campers, and motor homes ensued.

In response to an inquiry by Commissioner Blank regarding the date this section of the Code was written, Ms. Harryman noted that it had last been amended in 1995.

In response to an inquiry by Chairperson Fox regarding whether the subject fifth wheel was considered to be a vehicle, Ms. Decker replied that if the fifth wheel were to be parked in front of a house, the Vehicle Code would restrict its ability to be parked on the street to 72 hours.

Ms. Harryman noted that under the current Code, there could not be both a trailer and a boat; there could only be one of each recreational vehicle. It excluded automobiles, including a pickup truck.

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

Derek Barragan, applicant, 1971 Brooktree Way, noted that he was available to answer questions. In response to an inquiry by Commissioner Olson regarding the conditions in Exhibit B, Mr. Barragan he replied that he suggested that instead of trees being planted by the fence, a flowering or evergreen vine could be planted through the lattice to provide screening and stop the deterioration of the lattice.

In response to an inquiry by Commissioner Blank regarding what kind of vehicle would be required to pull the fifth wheel, Mr. Barragan replied that it should be at least a three-quarter-ton pickup truck. He described his trucks to the Commissioners.

In response to an inquiry by Commissioner O'Connor regarding whether there were any discussions with Ms Carter before he purchased and moved the fifth wheel, Mr. Barragan replied that he had spoken with her in May or June of 2006 before the Barragans made the purchase. She had not wanted the lattice, but he informed her that they did plan to purchase the recreational vehicle, and that they wanted to store it there. He noted that because Ms. Carter did not want to pay for the extra lattice, the Barragans incurred that expense for the length of the fence. He noted that the fifth wheel was delivered in July 2006.

In response to an inquiry by Chairperson Fox regarding the allowable fence heights, Ms. Decker confirmed that a fence may be six feet tall, with a design review approval for height greater than that, typically seven or eight feet. She added that eight-foot fences along busy thoroughfares are generally supported.

In response to an inquiry by Chairperson Fox regarding whether any RV lots in town were open for storage, Mr. Barragan replied that he had not inquired about any openings but had started gathering storage costs. He noted that monthly costs ranged from \$80 per month for a 25-foot vehicle, but the cost increases as the length increases.

Rebecca Carter, 1963 Brooktree Way, spoke in opposition to this project and noted that when she learned about the fifth wheel, she was told it had already been bought and stored elsewhere. She had contacted a storage facility near the Pleasanton Fairground and was told there was availability for \$85 for a 32-foot vehicle. She opposed this application because she believed it violated the Pleasanton Municipal Code and the Zoning Ordinance, because it adversely affected the surrounding properties, and because it was not desirable to the community. She noted that the staff report disregarded those legal standards in favor of finding visual mitigations. Her attorney advised her that this recommendation had misinterpreted California law. She described the visual impacts of the trailer and believed it harmed her property value. She was very concerned that it was clearly visible from the street. She believed the \$85 monthly parking fee at the Pleasanton Fairgrounds was a fair price to pay for the improvement to the neighborhood. She did not believe the extra foot of lattice would improve the visual impact and that a higher lattice addition would be structurally unstable. She did not believe the trees could

grow quickly enough to screen the view. She encouraged the City to change the Code to disallow residential storage of large motor homes as well.

Jack Young, 1883 Rosetree Court, noted that he was a retired civil engineer and was concerned about the view from his upstairs window over the recreational vehicle. He did not believe that increasing the fence height would mitigate his view and that there could be any meaningful plant growth to accomplish that goal. He noted that he would not wish to purchase a property with a large vehicle next door and would want to negotiate a lower purchase price.

Sherry Maas, 1968 Brooktree Way, noted that she lived directly across the street from the applicants' property and could see the fifth wheel from her kitchen and front windows; she noted that she did not have any problem with it. She noted that she purchased her home for the side yard access and added that they had a covered motor home parked on their side yard as well. She noted that she was disappointed to see the division in neighborhood and hoped that the neighbors could exercise respect without imposing financial hardships on anybody.

David Stauffer, 1955 Brooktree Way, spoke in opposition to this project. He cited Section 3 of the staff report which read, "Conditional uses are uses that by their nature require individual review to ensure that impacts associated with their use will be minimal." He did not believe that the visual impact of this trailer was minimal and that the use complied with the Code. He believed there were already too many trailers in Pleasanton.

Alyssa Barragan, 1971 Brooktree Way, noted that when her father grew up, this was a family-oriented neighborhood, and most of the neighbors had trailers and campers. She noted that the trailer enabled their family to camp together, which they had done their whole lives. She noted that the trailer has been kept closed except before and after their vacations and when her mother cleans it.

Linda Barragan, 1971 Brooktree Way, noted that with respect to Ms. Carter's concern regarding lowered property values, she had noticed there was an RV parked across the street from Ms. Carter's kitchen window. She added that their family's RV was not visible from any window and added that there were five RVs parked in the neighborhood, including one on the street. She noted that this RV was a family vacation tradition and that it was cost-effective for them. They had not realized there was an ordinance about RVs because there were several other RVs in the neighborhood already. She noted that the extra cost to store the RV off-site would pose a financial hardship for them.

Derek Barragan understood the concerns about property value and noted that there were several other RVs on the street.

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

Chairperson Fox noted that correspondence had been received from Cal Andre and LaDonna Burns, which had been included with the other documentation.



Commissioner Blank expressed concern about this use and did not believe the mitigations were sufficient. Even with the additional foot of lattice, there would be four feet of a covered RV. He believed it would take several years for trees to become effective at screening it. He did not believe that a trailer of this size was anticipated 15 years ago when this Code section was written.

Chairperson Fox believed this was the largest trailer she had ever seen.

Commissioner Pearce noted that neighborhood issues were among the most difficult that the Planning Commission dealt with and that it was very difficult to come to a decision that does not affect one party or another adversely. She believed the intent of this section of the Code was to address vehicles that visually impacted the neighborhood. She was not convinced that this vehicle could be mitigated and screened and understood Mr. Barragan's concerns about trees pushing up against the fence. She noted that she was inclined to deny the application.

Commissioner Olson noted that from the correspondence received by the Commission, he noticed that many of the emails and letters requested denial of this conditional use permit. He did not believe this RV construction mitigated visually and was also inclined to deny this application.

Commissioner Narum noted that she had trouble making the finding under "Health and Welfare" because of the visual impacts. She was concerned about the apparent inconsistency and outdated nature of this section of the Code. She noted that she was inclined to deny this application and would also like to address the Code inconsistency at the appropriate time.

Commissioner O'Connor noted that the Code addressed large trucks and buses but not a large motor home, which he believed should be included in the Code. He noted that he drove around the neighborhood and only saw one motor home/fifth wheel other than those on the street and wondered whether critical mass on the street had been reached with respect to motor homes. He had seen one motor home parked on the front lawn of another home and added that he could not make the findings to approve this application. He discussed the difficulties in planting additional trees that would provide adequate screening but would engulf the home and remove blue sky exposure. He noted that he would not be inclined to approve this application.

Chairperson Fox noted that the height of the trailer gave a walled-in feeling to the next-door neighbor. She believed it would be possible to screen such a trailer on a 20,000 square foot lot with a large setback, but not on a lot this size.

**Commissioner Blank moved to deny PCUP-191.  
Commissioner Narum 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-2007-26 denying PUD-191 was entered and adopted as motioned.**

Chairperson Fox called for a recess at 8:30 p.m.

The hearing reconvened at 8:40 p.m.

**b. 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.

Also consider a Negative Declaration for the project.

This item was continued to the next available meeting date.

**c. PDR-599, Chong Kim**

Application for design review approval to construct a two-story home consisting of 3,089-square-foot upper level, 2,079-square-foot lower level, and 1,078-square-foot garage, at the property located at 9900 Longview Lane. Zoning for the property is HPD (Hillside Planning) District.

Ms. Soo presented the staff report and described the background, layout and scope of the project. She noted that the applicant had responded to the neighbors' concerns regarding visual impacts by moving the home farther down the slope, reducing the roof slope, and providing a real example of a home stepped to fit into the topography.

Commissioner Pearce inquired about the meaning of the following text on the third paragraph on page 7: "The removal of the existing trees will *argument* a greater visibility from the valley floor to mitigate this." Ms. Decker replied that was a typo and should read "*augment*." She further described the section and displayed it on the overhead screen."

Commissioner Blank noted that he did not see any mention of the house being prepped for photovoltaic panels. Ms. Decker recommended adding that as a condition. Commissioner Blank would also like to see the addition of cabling to be 100Base-T with

a separate junction box or coax cable with separate junction boxes. Ms. Decker confirmed that the standard condition requiring state-of-the-art communications could have that language added..

In response to an inquiry by Commissioner Olson regarding the LEED point rating, Ms. Soo replied that the project had 93 points.

Commissioner Olson noted that in the second geotechnical review by Engeo, Inc., the comment section read, "No comment needed." He noted that in the March 1 letter, Comment No. 5 contained a specific recommendation that the project be conditioned that a document be recorded with a deed for the property stating that the site was located within a large, ancient landslide area. He added that he could not find that statement in the conditions. Ms. Decker noted that there was discussion that the storm drain system must comply with the geotechnical peer review, and Condition No. 52 discussed the geotechnical consultant to be on-site. She added that there was typically a condition of approval that stated that it must comply with the recommendations of the geotechnical report and/or a peer review.

Commissioner Olson noted that Comment No. 5 in the March 1 letter was specific, and he would like to see it included in the conditions of approval. Commissioner Blank concurred with that suggestion.

In response to the Commissioners' questions about colors, Ms. Decker replied that there should be some direction or consensus from the Planning Commission regarding the range of colors that would aid in the Planning Director review. She noted that the photomontage and printing, daylamps notwithstanding, may or may not accurately depict the colors. When approval is sought from the applicant, color chips would be submitted and examined in relation to the elevations and renderings. She noted that could be included in the conditions.

In response to an inquiry by Commissioner Pearce regarding whether normal non-reflective glass would be used, Ms. Decker replied that there had been no discussion of which she was aware.

In response to an inquiry by Chairperson Fox regarding the slope at the location of the house pad, Ms. Soo replied that the architect or civil engineer could provide that answer.

Chairperson Fox noted that the garage was 1,078 square feet and inquired whether there was a restriction on garage size on some higher levels of the ridge. Ms. Soo replied that was not the case in the subject district.

In response to an inquiry by Commissioner Blank regarding whether there were any ordinance or General Plan guidelines with respect to any restrictions on hillsides dependent on grades, Ms. Decker confirmed that there were not.

**THE PUBLIC HEARING WAS OPENED.**

Martin Lysons, 279 Front Street, Danville, spoke on behalf of the applicants and owners and thanked staff for a thorough and accurate staff report. The applicants agreed with the staff report and the conditions of approval as well as the proposed added conditions that were noted by the Commission regarding communications, prep for photovoltaic panels, and adding the specific recommendation from the Engeo, Inc. review. They would also be willing to look at the nonreflective glass as part of the design. He noted that this site had a long history and that there had been an approval in 2000. He believed the new design was much less obtrusive than the previous design and that it was smaller and had a lower profile. He noted that they had worked with the homeowners association, going back to March 2004, and that they had met on May 23, 2006; they came to an agreement regarding specific criteria by which the homeowners association would approve the project. He noted that the agreement was outlined in the letter and the staff report.

A discussion of the homeowners association's involvement in this application process and noticing ensued.

In response to an inquiry by Chairperson Fox regarding the slope of the pad as well as the entire lot, Tim Lorenz, project architect, 526 Clipper Street, displayed the site plan and noted that the last site had been developed 35 years ago. He pointed out the area that had a 45-degree slope and added that the ancient hillside was still intact. He described the existing driveway cut and the slope of the site. He noted that the colors often appear pinker under fluorescent lights and agreed to work with staff on-site to get the colors right. He noted that the black oak tree would be retained and added that Tim Ghirardelli stated that it was in fair-to-poor condition and that they were sensitive to changes in water patterns. He noted that in order to bring the house down, the roof pitch was changed to 3:12; he believed it remained an attractive house. He noted that they were taking advantage of the flattest part of the lot and the best location for the home.

Ms. Decker noted that the 1986 General Plan stated that buildings should not be constructed on grades greater than 25 percent; that statement was omitted and struck from the General Plan when it was updated in 1996 and, therefore, not applicable. She added that there had been interest through the General Plan Update process to examine slopes within the area, but the Council has not supported nor directed that language be put back in the current General Plan Update. The General Plan currently did not restrict building on sites where the grades were greater than 25 percent. She noted that that the City Engineer could provide comment as far as these slopes being between 20 percent to 25 percent. She noted that this was the flattest portion of the site and that it was located in the least-sloped area.

Commissioner Blank agreed with Ms. Decker's synopsis of the 25 percent grade and added that while it was not in the 1996 General Plan, the City Council had the opportunity to enact it pending the approval of the current plan and chose not to do so.

Chairperson Fox recalled that staff had said that if a slope were 25 percent, it would not be graded, and requested clarification. Ms. Decker noted that was under a great deal of

discussion on the Planning Commission at the time regarding whether or not developable acreage for a site should exclude any areas with a grade of 25 percent or greater, and to look at other areas in terms of determining density. She added that went no further than that discussion; it was evaluated and analyzed but was not taken up by the City Council as part of this General Plan. She emphasized that it was not part of the current General Plan and, therefore, not a constraint to the development of the site.

Mr. Lorenz displayed and described the various slopes on the site. In response to Chairperson Fox's inquiry regarding the direction of any potential landslide, he pointed out the surficial landslide feature which was not deep-seated and added that it would flow away from the house. The geotechnical report indicated that the entire area above Foothill Road was an ancient landslide, which slid millions of years ago, and that everything in the area was built on it. He did not believe there were any identified landslide features in this area, which had been stable for many years, and that it was unlikely to develop a landslide. He described the buffer of trees and the design mitigations they took to increase privacy and the viewpoints between the two residences. He noted that there would be no changes in the trees between the home and the Szetos' home.

Jim Diggins, DeBolt Civil Engineering, 811 San Ramon Valley Blvd., Danville, noted that their soils engineer and Engeo were comfortable with the placement of the house. He noted that they would redesign the storm drainage to go around as requested.

Simon Szeto, 9904 Longview Lane, noted that he lived next door to the subject site. He noted that he was surprised when he received the notice for this meeting the previous week and that he did not have much time to prepare. He believed the project may affect homes in the valley which were more than 1,000 feet from the site. He expressed concern about the year-and-a-half of construction but noted that they would cope with it. He realized that a new home would come of it and may want to build his own home someday and was interested in what the planning process was and how to go about getting the approvals. He noted that this home was above the 670-foot elevation, and while the new ordinance did not allow that, he knew that this home was approved well before the ordinance was enacted. He inquired about the reasoning for that ordinance. He recalled that the home would be moved 15 feet in another direction, rather than the five feet as noted in the letter; he requested clarification of that. He inquired what would happen if the property were to be sold before the house was built.

Ms. Decker noted that while she was uncertain about the discussion of no building above the 670-foot elevation, the staff report reflected a discussion of the location of this site relative to the West Foothill Road Corridor Overlay District requirements. The site was outside that district, but the staff report did discuss what was prohibited or allowed, and how this particular proposal met those requirements. The first paragraph on page 9 stated that the District prohibited building sites within lots located at, on, or near ridges that did not have the background of the Pleasanton or Main ridges. She noted that staff could research that issue and give the information to Mr. Szeto. She noted that there were other homes above that elevation and that this was the last home that was available for

construction. She noted that it did not seem likely that this site would be subject to that restriction in that it is the last lot of the development, and the existing homes in the development are uphill from this particular site.

Ms. Decker noted that staff would be happy to delineate the design review approval process with Mr. Szeto individually. She noted that whether the property were to be sold or not was outside the purview of the Planning Commission and noted that if the project were to be approved, it would run with the land until activated. Any new purchaser would be able to build this particular house under this design review.

Mr. Lysons thanked Mr. Szeto for his comments and noted that with respect to the Beth Grimm letter, they had agreed to drop the house by four feet and to move it over by 15 feet. He noted that the 15 feet was reflected in Item 1 of his letter. He noted that they had not heard anything from the homeowners association regarding the footprint and would have gladly given additional information had they been asked.

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

In response to an inquiry by Chairperson Fox regarding whether slope instability would result from the removal of the pylons from the illegally constructed foundation, Ms. Decker noted that she would defer to the recommendations outlined in the geotechnical report.

**Commissioner Blank moved to approve PDR-599, subject to the conditions of approval outlined in Exhibit B, as recommended by staff, with the following modifications:**

- 1. Add a new condition reflecting the recommendation of the geotechnical peer review report dated March 1, 2007 that the site's location within an ancient landslide area be recorded on the deed.**
- 2. Add a new condition that outlines the terms surrounding the "hold harmless" agreement.**
- 3. Add a new condition that a modern telecommunications infrastructure be supplied to each room location, e.g., 100Base-T with a separate junction box or coax cable with separate junction boxes.**
- 4. Add a new condition that pull strings be added for photovoltaic roof panel systems.**
- 5. Add a new condition that the final colors of the building shall be subject to the review and approval of the Planning Director.**
- 6. Add a new condition that the house shall be constructed with nonreflective glass.**
- 5. Add the standard condition regarding the one-year design review permit expiration period.**

Ms. Decker noted that the following modifications to the conditions be added for clarification:

1. Modify the first sentence of Condition No. 20 to read as follows: "...a temporary six-foot-tall chain link fence *or approved equivalent* shall be installed around the trees as a protective measure...."
2. Delete Conditions Nos. 30 and 31 because the building should already meet Title XXIV for State energy requirements and comply with all codes for structural requirements before building permit issuance.
3. Modify the first sentence of Condition 33 to read as follows: "The project developer shall submit *a plot plan* ~~plot plans for each of the residential lot lots....~~"
4. Modify Condition No. 37 to delete reference to Saturday construction hours.
5. Modify the first sentence of Condition No. 47 to read as follows: "Except otherwise approved by the Fire Marshall, the home shall be equipped with an automatic residential fire suppression system ~~with~~ *and may be required to provide* an on-site water storage tank (~~minimum 650-gallon capacity~~) and water pressure booster pump, ~~subject to the satisfaction of the Chief Building Official and Fire Marshall,~~" and delete the last sentence regarding the underground location and maintenance of the water tank.
6. Modify the second sentence of Condition No. 65 to read as follows: "The following requirements shall be incorporated into the project, *and shall be consistent with the recommendations of the geotechnical reports per Exhibit A, which will ensure that whatever drainage or stormwater requirements are in concert with those geotechnical concerns as far as slides.*"
7. Add the language "*subject to review and approval by the City Engineer*" at the end of Conditions 65.a. and 65.d. regarding sizing designs criteria for stormwater runoff treatment and location of roof drains discharge, respectively.
8. Add the standard conditions for green building requirements and special inspections.
9. Add the standard condition that the applicant has up to two one-year extensions to the design review approval after the one-year time period.

Commissioner Pearce seconded the motion.

#### ROLL CALL VOTE:

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

Resolution No. PC-2007-27, approving PDR-599, was entered and adopted as motioned.

Chairperson Fox noted that she cast the “No” vote because she was concerned about the slope stability and that the site was approximately 600 feet from the Calaveras Fault. She was also concerned about the issues brought forth in the geotechnical report regarding the drainage plan and because the homeowners association had not yet reviewed the plan or agreed to it.

## **7. MATTERS INITIATED BY COMMISSION MEMBERS**

### Commissioners Handbook Improvements

Commissioner Blank noted that at the last meeting, there was considerable controversy about the contents of the Commissioners Handbook. He disclosed that he had discussed his concerns with Ms. Harryman, and he learned that the rules surrounding the Commissions were not required to be consistent among all the Commissions. He believed that because all the Commissions were vital to the functioning of the City, no Commission was more important than another. He believed the Planning Commission had a special burden because people spent hundreds of thousands of dollars as well as significant amounts of time preparing their applications and reports. He proposed that the Planning Commission consider soliciting former Planning Commissioners Trish Maas and Mary Roberts to review the Planning Commission section of the Commissioners Handbook and to work with staff to make recommendations to help clarify certain unclear sections of the Handbook.

Chairperson Fox believed that when City Council removed the dual voting for liaison Commission members, it indicated that it wanted to ensure that all Commissions had consistency with City Council proceedings.

Ms. Harryman advised that legally, commissions could have different rules.

Commissioner Blank inquired whether the Commissioners would support Ms. Harryman examining this issue further.

Commissioner Narum noted that she would support that and expressed concern about a Commissioner being able to continue projects for any reason. She concurred with Commissioner Blank’s point about the time and money expended by applicants to present their applications as well as staff’s time in preparing their reports, only to be continued by one Commissioner. She would like to see a majority vote required to continue an item in those circumstances. She believed that if there were a good reason to continue an item, the Commissioners would be reasonable and respect that reason.

Commissioner Blank would be open to that suggestion and noted that there may be a session with Ms. Roberts and Ms. Maas, if they were agreeable, to discuss the inconsistencies of concern to the Planning Commission.

Ms. Decker noted that the most recent Handbook printing date was 2004 and did not know the most recent revision date.



Chairperson Fox noted that when a City Council item was continued, members of the public may speak on that item during Meeting Open to the Public and that each individual item was not opened. She requested clarification in that regard and requested that staff review the resolution, City Council minutes, and staff report from 2002 which highlighted the inconsistencies. She noted that each Commission had liaison Commission members between City Commissions. She supported seeing what the City Council says, but unless it agrees that there should be changes, she believed the Planning Commission should defer to its requirements.

### Municipal Code Consistency

Commissioner Narum believed there should be some active level of working on the Code to amend the language and provide clarification regarding trailers, campers, boats, and RV vehicles.

Commissioner Blank suggested asking staff to approach Council to agendaize an item to amend the Code and, pending the amendment of that Code and if Council agreed, the Planning Commission could devote some time to develop some guidelines that could be used such as what occurred with the sprinklers.

Commissioner Narum suggested holding workshops within the Planning Commission.

In response to an inquiry by Chairperson Fox regarding whether the City Council was considering an RV ordinance, Ms. Harryman replied she was not aware of that but that they did receive emails regarding RVs parking on the street and whether the 72-hour restriction was being enforced. She noted that the Commission had discussed a fire sprinkler ordinance, sports courts, and other items, and suggested that the Commission discuss whether to agendaize this issue for a future issue. She noted that the City did not receive many complaints regarding RVs and suggested that the Commission prioritize its concerns.

Commissioner Blank believed that had been done and recalled that the sprinkler ordinance had been prioritized for the City Council work plan.

Chairperson Fox noted that there were no hybrid ordinances such as storing an RV for 90 days and believed that should be examined. She added that the City Council directed the Planning Commission to examine the reconsideration of the conditional use permit process.

Ms. Decker noted that City Council requested that staff return with information regarding a Code amendment and what that might mean, as well as its parameters; at that point, direction would be given. She recommended that staff could provide an information report, agendaize the item, and take a sampling of various neighborhoods with photographs to discuss the RV issue in a broader scope. This would provide the Planning

Commission with additional information regarding RV storage at residential sites, citywide.

Chairperson Fox noted that the home occupation permit was outdated and included at-home work such as macramé projects. She would like to update that document as well.

Ms. Decker noted that staff was concerned about the outfall regarding RV owners who would be concerned that they would have complaints lodged against them. She believed that people were honest and that the action this evening could result in a flush of applications due to potential Code enforcement.

Commissioner Blank agreed with Ms. Decker's concerns, and while there were dozens of items in the Code that could be updated, that was not the charter of the Planning Commission.

Commissioner O'Connor suggested that Code enforcement should be more proactive and that the Code Enforcement Officer should visit Brooktree Lane because he had seen some glaring motor homes, such as one parking on the front lawn.

Ms. Decker noted that if the Barragan project is appealed to City Council, the trailer will remain in place until final action is taken. If it is not appealed, the applicants would have to move it. If they did not move the trailer then, Code Enforcement would address the issue. She noted that it was not typical of City policy or Code Enforcement to perform active Code enforcement as suggested by Commissioner O'Connor.

In response to an inquiry by Commissioner O'Connor regarding the amount of time taken for Code Enforcement actions to be scheduled, Ms. Decker replied that staff took a considerable amount of time and energy addressing these issues, including working with neighbors. She added that in such cases, people were also angry and upset and that work and family schedules make it difficult to meet quickly.

Commissioner O'Connor suggested discussing and formalizing a suggestion to City Council about the appeal process. He believed that it would be a waste of time if there were no new information as people would be appealing to the Council only in order to get the answer they want that they did not get from the Planning Commission. He noted that there should be some ability to limit how far an appeal could be taken.

Commissioner Narum agreed with Commissioner O'Connor's statement and understood that the Economic Vitality Committee has been working on that issue under the direction of Sharrell Michelotti.

Commissioner Blank noted that the City of Piedmont had an ordinance stating that a decision would be appealable only if there were new facts or an error in the process. He believed that Commissioner O'Connor's point was well-taken regarding submitting the

same staff reports and information to City Council and believed it was a waste of the public's and staff's time.

Commissioner Narum suggested charging a higher appeal fee which would be refunded if the appeal was successful.

Ms. Decker noted that currently, the appeal fee ranged from \$3.25 to \$25. She noted that the appeal process was also being examined by the Development Services Committee.

Commissioner Pearce did not believe it made sense to hear these items *de novo*. She believed that if the Planning Commission was intended to be quasi-judicial, it should act in that manner. She believed it devalued the Planning Commission in the eyes of the public and of the City Council and devalued the Commissioners' time to have the decision heard *de novo* by the City Council. She noted that City Council could decide whether to hear it and noted that Piedmont had made this change successfully by establishing ten criteria for review of Planning Commission decisions by the City Council.

Commissioner O'Connor did not like having a financial criterion because the developers would have the money to pay the fee.

Commissioner Blank noted that the Heritage Tree Board had a more difficult appeal process.

#### Downtown Vitality Committee of the Pleasanton Downtown Association

Commissioner Olson drew the Commission's attention to an email received from Christine Saldivar of the Pleasanton Downtown Association (PDA) expressing concern about the Pleasanton Downtown area and requesting the Commissioners to attend its monthly Downtown Vitality Committee meetings. He noted that he would start to attend those meetings.

Commissioner Olson believed the Association had wanted a liaison from the Planning Commission to attend the monthly meetings.

Chairperson Fox inquired whether noticing would be required to comply with the Brown Act if three or more Planning Commissioners attended that meeting.

Ms. Harryman suggested that it would be best if the Commissioners did not sit together or talk to one another. If a Commissioner wanted to speak, she advised them not to voice opinions on policies or applications that might come before the Planning Commission at a later time. She suggested that the Commissioners who planned to attend the meeting listen at that meeting.

Commissioner Pearce requested that it be agendaized.

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

**a. Future Planning Calendar**

No discussion was held or action taken.

**b. Actions of the City Council**

No discussion was held or action taken.

**c. Actions of the Zoning Administrator**

No discussion was held or action taken.

**9. COMMUNICATIONS**

No discussion was held or action taken.

**10. REFERRALS**

No discussion was held or action taken.

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

No discussion was held or action taken.

**12. ADJOURNMENT**

Chairperson Fox adjourned the Planning Commission meeting at 10:40 p.m.

Respectfully,

DONNA DECKER  
Secretary