

**P15-0010, Kim Connors, Appellant; John Rocha, Applicant**  
**Appeal of the Zoning Administrator's approval of an application for Administrative Design Review to construct a 1,200-square-foot second unit with an approximately 317-square-foot one-car garage on the property located at 547 Sycamore Drive. Zoning for the property is PUD-A/MDR (Planned Unit Development – Agriculture/Medium Density Residential) District.**

Jennifer Wallis presented the staff report and described the scope, layout, and key elements of the application.

Commissioner O'Connor asked Ms. Wallis if only the immediate neighbors were notified the first time around and then out to 1,000 feet on the appeal.

Ms. Wallis replied that is correct.

Commissioner O'Connor stated that he was always under the impression that everyone within a 1,000-foot radius was notified for the first notification. He inquired why that was not done in this case.

Ms. Wallis replied that only applications before the Planning Commission are notified for 1,000 feet. She explained that typically, any residential construction that is over ten feet in height, whether it is a patio cover, a room addition, or a second-story addition first goes through an Administrative Design Review process, and those are only noticed to adjacent neighbors that would have immediate impacts. She continued that the adjacent neighbors have seven days to come in and respond with any concerns or review the plans and, if they wish, request a Zoning Administrator hearing, at which the Zoning Administrator would then make a decision. She stated that if no Zoning Administrator hearing is requested, staff can go ahead and administratively approve those applications. She added that the Planning Commission would then be notified of that approval or of the Zoning Administrator's determination if the application went to a Zoning Administrator hearing.

Commissioner O'Connor inquired if he would be notified if the applicant were his next-door neighbor.

Ms. Wallis said yes.

Commissioner O'Connor noted that for second units, one of the units must be owner-occupied. He inquired if the owners could rent out both units to one and the same person if the owners were to move completely away.

Ms. Wallis said no. She explained that the owners have to occupy the property and it has to be listed on their tax assessor role as their primary residence.

Commissioner O'Connor inquired if the owner can never move and keep the entire property.

Ms. Wallis said no.

Ms. Harryman explained that the owner could keep the property but can only rent out one of the units; the other has to be owner-occupied.

Commissioner O'Connor requested clarification that if the owner were to move, the owner could rent out his entire property to one family who might have a child live in the outside unit and the family live in the inside unit.

Ms. Harryman said no. She explained that the owner can have his teenager or his mother-in-law move into the second unit, although they would likely not be renting it; but the owner cannot move away and rent out both units.

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

Terry Townsend, Project Architect, representing the property owners, John and Cynthia Rocha, stated that they are here tonight to present this second unit for consideration and to request denial of the appeal and uphold the Zoning Administrator's approval which was granted on February 9, 2015. He displayed a slide of the location map and described the layout of the property, indicating that parking for the residents is accessed through Amber Lane, off of Sycamore Road, and through Pioneer Trails Place. He pointed out that the three houses to the south use Pioneer Trails Place for access to their properties. He noted that the majority of the two private roads, Amber Lane and Pioneer Trails Place, are on the Rocha property, with a small portion of the southern half of Pioneer Trails Place split among the three other parcels. He added that as Ms. Wallis had mentioned, there is a Maintenance Agreement in place for Pioneer Trails Place.

Mr. Townsend stated that one of the more difficult things with respect to second units is to satisfy the parking requirement, as a lot of the parcels in town do not provide for that. He noted that in this case, there is already an access road to the detached garage for the primary unit, and the design intent is to utilize that private road to access the property for parking instead of the additional impervious surface that would be required to come off of Sycamore Road. He added that this would also minimize the disturbance of the open space adjacent to Sycamore Road, and locating the second unit in the southwest corner of the property would also retain the rural nature of Sycamore Road and would be in compliance with the requirements for the North Sycamore Specific Plan.

Mr. Townsend stated that following the Zoning Administrator's approval of the second unit on February 9, 2015, Kimberly Connors appealed the action with two objections: the first was utilizing Pioneer Trails Place for access to the unit, and the second was construction traffic. He indicated that he would respond to those objections tonight.

Mr. Townsend stated that in her letter of appeal, Ms. Connors mentioned that using Pioneer Trails for access would burden the residents of Pioneer Trails Place and proposed that the structure be moved closer to Sycamore Road and utilize and extend the swing drive off of Sycamore Road to access the second unit. He added that Ms. Connors also noted that the applicant request a variance for a second driveway which would be off of Sycamore Road.

Mr. Townsend explained that this suggestion, unfortunately, does not take into consideration the setbacks adjacent to Sycamore Road, the open space, the increase of impervious surface which would be required for the continuity of the vineyard. He indicated that carving out the vineyard and extending driveways for access is not in keeping with the intent of the North Sycamore Specific Plan. He noted that the current proposal locates the second unit 20 feet off of the nearest property line, which is far in excess of the minimums required for second units. He added that it is farther away from the side yard setbacks of any of the three units to the south, and there is existing landscape screening adjacent to Pioneer Trails Place. He stated for the record that the closest resident at 494 Pioneer Trails actually has a three-car garage and driveway.

Mr. Townsend stated that with respect to her concern about construction traffic, Ms. Connors mentioned that the street was not properly designed to support such traffic. He indicated that as Ms. Wallis noted, construction traffic is temporary, and he is confident that the applicants will work with the neighbors to minimize its effect. He explained that construction vehicles can use the two existing driveways that are already on site, plus a temporary driveway for the new secondary unit which will have a gravel base. He stated that the road is actually built to City standards and as such, supports all kinds of vehicles, including construction trucks, cement trucks, garbage trucks, and fire trucks. He added that the road was already in place and supported construction activities when the three residences to the south were built, as well as when the pools were installed in two of those residences.

In summary, Mr. Townsend stated that moving the location of the proposed second unit does not make sense as it compromises the intent of the North Sycamore Specific Plan, carves up the existing vineyard, and decreases the open space. He requested that the Commission deny the appeal and uphold the Zoning Administrator's approval.

Gary Hirata stated that he lives to the rear of Mr. Rocha's present residence and, together with his wife, Kimberly Connors, are the appellants. He indicated that he is opposed to the construction of a 1,500-square-foot residence and garage because the applicant, John Rocha, is misrepresenting his intent to occupy the property at 547 Sycamore Road. He indicated that if this application is approved, there is little that can be done when Mr. Rocha violates his promise to comply with Code requirements. He noted that Mr. Rocha currently violates the residential business restrictions by continuing to employ an assistant in violation of the City Code, as evidenced by a brown Toyota parked on a full-time basis in front of Mr. Rocha's house, and Pleasanton Code Enforcement has failed to gain his compliance. He expressed concern that neighbors of Mr. Rocha's property will be left to control code enforcement compliance, with yet

another series of violations if this building is approved while Mr. Rocha lives in his newly renovated residence at Callippe Golf Course.

Mr. Hirata stated that if the Planning Commission fails to take Mr. Rocha's obvious deception into account and the building application is approved, he would like the access to the second unit to be off of Sycamore Road rather than Pioneer Trails Place. He pointed out that Pioneer Trails Place is a narrow, private road, much smaller than Sycamore Road, and made even smaller by Mr. Rocha's mature Redwood trees which create a blind spot at the Amber Lane/Pioneer Trails Place corner, and the City of Pleasanton's oleanders which border the Amber Lane property and also create a blind spot along the exit off of Amber Lane onto Sycamore Road. He added that limiting access entering to and from Amber Lane is always a huge factor in preventing automobile accidents, and it makes perfect sense to have access directly off of Sycamore Road and avoid the two blind turns. He stated that garbage trucks do come onto Pioneer Trails Place, but they back into the neighborhood because it is too narrow to negotiate the turn to exit the property without backing out. He noted that while it is true that the roadway has the ability to carry the weight, it barely has the ability to allow construction vehicles and other trucks to get in and out readily. He added that the building application currently has two parking spaces, but there are no public parking spaces within a quarter mile of 547 Sycamore Road. He indicated that the City bisected Amber Lane, and there is no parking along the south portion of Amber Lane that empties out onto Hamilton Avenue. He noted that even the residents there park on half of the sidewalk and halfway in the roadway. He further noted that because there is no parking on Sycamore Road, he regularly has vehicles parked in front of his house on Pioneer Trails Place, with the people walking along the pathway onto Amber Lane. He pointed out that it is an unusual situation to have only two parking spaces when it can be assumed that there will be more than just two vehicles at the house at any time, that they will have visitors and guests, that the driveways are not longer than one car space, and the garage can accommodate only one vehicle.

Mr. Hirata stated that Pioneer Trails Place is much too small to be accommodating graders, backhoes, cement trucks, and large flatbeds, in addition to all private vehicles for the electricians, plumbers, finishers, and general contractors. He indicated that under his proposal, construction vehicles for the proposed residence would access the site off of Sycamore Road. He stated that he understands this would require a variance to the North Sycamore Specific Plan, but noted that there are about 15 driveways along Sycamore Road from Sycamore Creek Way just south of Amber Lane. He added that if Mr. Rocha is not granted the variance, then he can create the new driveway off of his existing circular driveway if he decides to build this project.

In conclusion, Mr. Hirata stated that his main concern is the traffic. He noted that the City has continued to allow Sycamore Road to be used instead of Sycamore Creek Way for the Callippe Golf Course, and this is an opportunity to correct part of that by requiring that this project use Sycamore Road instead of Pioneer Trails Place to access the property.

Amirra Besh stated that she lives in the area and frequently walks along Sycamore Road as well as down Amber Lane. She noted that she has walked past the Rocha residence, which is rural in nature and definitely in-line with the North Sycamore Specific Plan. She pointed out that the Rochas have a well-designed property and a plan for their 1,200-square-foot guest home that complies with the Specific Plan. She added that she believes the neighbors' allegations are not relevant to the argument and that she supports the application.

Kimberly Connors, Appellant, stated that their concern at this point is really public safety. She indicated that construction traffic is going to get in and out of here, and there will be workers there every day with nowhere to park their vehicles, neither on Sycamore Road nor on Amber Lane. She noted that what they are really asking for by asking for the variance to add a driveway is also for construction parking as well as for the future residents of that second unit. She indicated that it is really a matter of functionality and public safety to put that variance in or some other form of parking because, otherwise, it will be a situation where if there was a medical emergency, an earthquake, or anything during the day, and there is construction parking that is backed in, emergency vehicles will not be able to get in.

Mr. Townsend clarified that there was mention of a 1,500-square-foot building; this is a 1,200-square-foot home, the maximum allowed for a second unit. He indicated that this is a small project with probably a slab foundation so there will not be any excavators or heavy equipment in there. He noted that it is a flat lot, so there will be these small construction pick-up trucks. He added that there are two driveways and a swing drive already there, which would be additional areas for these small trucks to park during construction. With respect to parking, he stated that the ordinance requires one spot, and the proposal provides for an enclosed and an outdoor spot for the finished unit. He added that there is a lot of off-street parking available on the driveway in front of the existing garage where three cars can park, and a swing drive that can accommodate eight cars.

Commissioner O'Connor asked Mr. Townsend to confirm that if this second unit were to be built where it is proposed, there will be adequate space available on-site for construction trucks to be able to park as opposed to on the roadway, such that they would be off the road for emergency vehicle and fire truck use.

Mr. Townsend replied that they have 20 feet in front of the entire building adjacent to the driveway, so obviously they will need the road to get there, deliver the materials off the road, and then exit. He added that anybody doing the work would use small vehicles and can park in the driveway in front of the residence during construction and on the garage driveway to the rear, without having to park on Pioneer Trails Place.

Commissioner O'Connor asked Mr. Townsend if he has ever needed extra space or if he has seen the owners of the home use their garages and leave space available.

Mr. Townsend said yes. He reiterated that there is the 20-foot setback at Pioneer Trails Place where Mr. Rocha currently has a vegetable garden. He noted that that is another adjacent spot for parking or storing construction materials.

Commissioner O'Connor noted that Mr. Townsend mentioned that Amber Lane and Pioneer Trails Place are private streets and that maintenance is shared by the four properties based on ownership to a certain spot.

Mr. Townsend replied that is correct. He added, however, that he is not sure if the maintenance percentages among the four owners are an equal split.

Mrs. Rocha stated that it is 25 percent to each home.

Commissioner Piper inquired if the Maintenance Agreement is for both Amber Lane and Pioneer Trails Place.

Mr. Townsend said yes.

Chair Allen inquired if there would ever be a time when construction vehicles would be blocking the road, and if so, when that would be.

Commissioner Balch pointed out that the picture on display shows an RV blocking the road.

Commission Piper stated that she believed it is on the private driveway.

Commissioner Balch stated that the driveway is part of the common private drive, Pioneer Trails Place.

Commissioner Connor stated that it is inside the property lot line.

Commissioner Balch pointed to the V-ditch right on the asphalt pad on which the RV is parked. He noted that according to the project plans, that is part of the common private drive with an eight-foot public service easement across or right around it. He further noted that that would be a hammerhead for turning around, for the use of the other three residents as well.

Mr. Townsend confirmed that the asphalt pad is part of the private drive, and that the easement that runs around the perimeter is a turn-around hammerhead, also for the use of the three residents.

Commissioner Balch continued that if it is a public street, then the RV would be parked on a public street right in the middle of the road because that is called a hammerhead so the fire truck can come in, pull in, back out and then come around.

Commissioner Piper commented that it is not his driveway then and the RV is parked on a private street.

Commissioner Balch noted that it is not the owner's particular driveway; his driveway as shown on the plans is off to the right and left.

Chair Allen reiterated her question to Mr. Townsend that construction vehicles would never be blocking Pioneer Trails Place or Amber Lane for access.

Mr. Townsend said yes.

Chair Allen inquired if there would be any situation where that would ever be required.

Mr. Townsend replied that there would be a temporary blockage when trucks come in to drop materials off; they would be parked on the street for a short duration while they unload, and then they would leave.

Commissioner O'Connor noted that it sounds like a truck would pull in and double park for five minutes while they are unloading.

Chair Allen asked staff if they are comfortable with that.

Mr. Weinstein said yes.

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

Commissioner Balch apologized to the appellant that he does not agree on the access off of Sycamore Road and that he actually personally believes this is a better location for a second unit or lot. Before moving on, he asked staff to clarify what enforcement measures the Code provides with respect to residential business activities.

Ms. Wallis replied that the person who believed an illegal business was being operated out of the home would call the City, and the Code Enforcement Officer would go to the residence and check it out. She indicated that the City's Code Enforcement Officer has made approximately four trips to the area at this point to conduct a visually inspection to determine if there are any traffic or parking concerns out of the ordinary for a residential neighborhood, and none of these unordinary concerns or parking patterns have been identified at this location.

Commissioner Balch inquired if this inspection will be ongoing, regardless of the outcome of this application; that if the neighbors notice something unusual, they can call Code Enforcement and the officer will come and investigate.

Ms. Wallis replied that is correct.

Commissioner Balch referred to the parking concerns and stated that he assumes the construction traffic would be parking in front of the existing garage driveway, which appears to be able to hold three cars, or in the new parking stall/garage that would be here, for a total of four construction vehicles that could easily fit solely on the Rocha property.

Ms. Wallis replied that is her understanding and that if there are additional employees who come for construction work for the day, they can park on the circular driveway as well and just walk back to the site.

Commissioner Balch noted that someone brought up the rural-in-nature comment, and the staff report also mentions that a second unit is actually something strongly supported in a lot of codes.

Mr. Dolan replied that it is a requirement of State law that second units be allowed. He advised that it is not a matter of if it can or cannot exist and that the Commission's purview is somewhat limited to a physical review in terms of location and design review.

Commissioner Piper noted that she read that it is also encouraged.

Ms. Wallis confirmed that it is also encouraged within the City's Housing Element that includes a policy on the construction of second units.

Commissioner Balch noted that there was one other concern regarding the obstructed view of the driveway, and since there is a Maintenance Agreement, he believed that the residents would have to work that out amongst themselves because it is a private street and the City is not cutting back their trees or pruning them.

Ms. Wallis confirmed that was correct. She indicated that part of the Maintenance Agreement is that it would be privately enforced among the residents.

Commissioner Balch stated that he personally thinks the location is actually a very good choice and that he does not believe the impacts of the construction are going to be so significant as to be a problem. He added that he is certain the RV will be relocated and that he is comfortable with moving forward.

Commissioner O'Connor noted that the RV has been moved because it was not there when he visited the site. He then asked staff if they know the order by which the four homes on Pioneer Trails Place were built, whether they were built all at the same time or if the front houses were built first and the back ones second.

Ms. Wallis replied that she was not positive. She indicated that she believes the front home was the original property and that the back three were approved and built later, but she cannot confirm that and she does not know the difference in the timing.



Commissioner O'Connor stated that he was curious because he was certain they have been through this before if some construction was going on next door to them. He indicated that he also believes that putting the second unit back here in the rear keeps the rural environment look and feel to that whole area. He added that he is also comfortable with moving the project forward and that the 20 feet that goes around both sides of the home that will be constructed, plus the existing driveways, provide more than sufficient parking for something that size. He indicated that he is supportive of the project the way it is designed.

Commissioner Piper agreed and indicated that she is also supportive of the way that it is located on the existing land. She stated that construction is always unfortunate for any neighbors, but the applicants are complying with everything. She noted that the location makes sense and that it would create a higher impact if construction is on Sycamore Road because it would block so much traffic as it is really narrow and there is nowhere to park to deliver materials. She indicated that her biggest concern is occupancy and the possibility that Mr. and Mrs. Rocha do not intend to occupy the property if they truly bought a home elsewhere. She added that she does not know if that is something that can be discussed here.

Commissioner Balch noted that they talked about it a little bit and that it would be a code enforcement item as well.

Ms. Wallis confirmed that it would be.

Commissioner Balch noted that one of the questions asked earlier was whether the owners could rent out the entire property and have the teenage son move to the second unit, and that would be compliant.

Commissioner O'Connor replied that the owner is allowed to rent to only one person or one family, and it cannot be assumed that there is going to be a violation until there actually is one.

Commissioner Balch noted that it would be difficult to enforce because there is no way to know that they are all part of one family.

Chair Allen asked staff to clarify what the procedure would be for handling a situation if it was found to be in violation and is brought to Code Enforcement.

Mr. Weinstein replied that if a complaint is made to Code Enforcement, the Officer would come out and observe what is happening on the site, and if a violation is found, a fine can be imposed on the property owner in this case; and if after a certain period of time, the issue was not rectified, the Officer could impose additional fines on the property owner.

Ms. Harryman added that if compliance is not ultimately attained, the City could take legal action. She noted that this has not happened because the City usually gets voluntary compliance because citations ramp up and are usually effective.

Commissioner Balch added that it would be a Condition of Approval and so someone could be directly in violation of those conditions.

Ms. Wallis said that was correct.

Commissioner Piper stated that it sounds like there is really not much that can be done unless there is a violation in the future. She noted that it would be unfortunate if there is a mis-intention; but otherwise, everything looks good to her and is done to compliance at this point.

Commissioner Nagler agreed and stated that he thinks it is a mystery why this is being built, that it is clear in the correspondence that there is a suspicion that the Rochas are moving, and considering the money that is going to be put into this construction on the idea that it is going to generate revenue in some way if they are not going to occupy it; but that is not the Commission's business other than making sure that the City's policy is clearly stated as a condition of approval. With respect to the location on the property, he stated that he does not think it is reasonable to request that it be elsewhere on the property for all the reasons that everyone already stated. He added that to suggest that the egress and regress of vehicles to this property be off of the circular drive is unreasonable because it will create more of a traffic hazard coming in and out of the driveway on Sycamore Road. He pointed out that it appears trees would have to be removed from the property in order to make for that additional driveway, which would completely change the aesthetic of the property for no particular reason since there is perfectly good access off of Pioneer Trails Place. He indicated that the only question he has goes back to the construction vehicle business, and if it is a private road and the maintenance is shared in quarters by the four property owners, he would think it would be reasonable to make it a condition of construction that if, somehow, the construction did damage to this private road, the applicant would be responsible for the repair of the road to protect the road ownership interest of the other three property owners. Chair Allen inquired if that is something that could be added as a condition.

Ms. Wallis stated that it was brought up by the Engineering Division to ask for some type of initial baseline measure to determine where it is now and added that it is something the Commission could discuss including.

Chair Allen inquired if the applicant would pay for the baseline measure.

Ms. Harryman replied that she is not certain the City could do that. She stated that if the Commission were inclined to include something like that, her preference would be to say "*If it is determined if that could be done.*" She indicated that she would like to have more time to consider this because she did not think the City can do that because it is a private road, and their construction vehicles could knock down ten trees on the way in. She stated that she thinks the City could probably condition it to say that construction parking must stay on the property and not be parked on the private road, but the condition of the road is a private matter that the City cannot condition.

Commissioner O'Connor added that it can also get sticky as the damage could have been due to when somebody else's pool or home was constructed. He noted that when he was looking at the property, it looked to him like there was a lot of water damage on the road in front of the other three homes, and he was not sure they maintained this road 25 percent regardless of whose water did the damage. He asked staff if there is a condition about construction traffic staying out there, or if there is no parking sign posted on that road even though it is private.

Ms. Wallis replied that there is none posted to her knowledge and that she is not sure how that would be possible since it is a private street.

Mr. Weinstein stated that there is a sign on Amber Lane that prohibits parking and that he believes that is intended to extend all the way up.

Commissioner Piper asked Commissioner O'Connor if his intention is that vehicles be parked on this hammerhead which is part of the private road.

Commissioner O'Connor said no; there is ample parking on the property on the 20-foot setback around the building, plus the owner's driveway.

Chair Allen asked staff if that condition is currently included as it sounds like all the Commissioners appear to think that it makes sense.

Ms. Wallis said no.

Commissioner O'Connor commented that if that is the biggest concern, he is sure it would be amenable to the owners.

Commissioner Balch noted that the applicant technically also owns the road if the condition will say parking has to be on his property.

Chair Allen stated it would exclude those shared private road.

Ms. Wallis stated that there is a private access easement over the road, and staff could craft a condition that indicates that vehicles have to be parked outside of the common private drive and only on private drive areas.

Commissioner O'Connor inquired if there is a way to craft it so that it would not be a problem if a truck comes in with a load of lumber that takes about ten minutes to unload, as opposed to parking there for the day.

Ms. Wallis replied that the condition could exclude while loading and unloading.

Commissioner Piper inquired if there is a length of time for the project to be built, how long the construction would take.

Ms. Wallis replied that she is not sure.

Commissioner Nagler commented that it seems the property owner would be vested in getting it done quickly.

Chair Allen stated that she thinks the location is appropriate; it protects the views and safety on Sycamore Road. She indicated that she rides her bike there all the time and thinks there is a reason why driveways and construction trucks are minimized on Sycamore Road. She indicated that her biggest concern my biggest concern on this is that she hopes she does not see the Rochas back with Code Enforcement because she trusts they are going to follow the guidelines. She added that she thinks the project makes sense, the location is right, and the design is good; and she supports the additional consideration on the construction parking.

**Commissioner O'Connor moved to deny the appeal, thereby upholding the Zoning Administrator's approval of Case P15-0010, subject to the Conditions of Approval listed in Exhibit C of the staff report with added condition that construction vehicles are prohibited from parking on Amber Lane and Pioneer Trails Place at all times except for brief loading and unloading. Commissioner Balch seconded the motion.**

**ROLL CALL VOTE:**

**AYES: Commissioners Allen, Balch, Nagler, O'Connor, and Piper**  
**NOES: None**  
**ABSTAIN: None**  
**RECUSED: None**  
**ABSENT: Commissioner Ritter**

Resolution No. PC-2015-06 approving Case P15-0010 was entered and adopted as motioned.