



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, October 26, 2011

(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 October 26, 2011, was called to order at 7:00 p.m. by Chair Kathy Narum.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Chair Narum.

1. ROLL CALL

Staff Members Present: Brian Dolan, Community Development Director; Janice Stern, Planning Manager; Julie Harryman, Assistant City Attorney; Jenny Soo, Associate Planner; and Maria L. Hoey, Recording Secretary

Commissioners Present: Chair Kathy Narum, and Commissioners Phil Blank, Greg O'Connor, Arne Olson, Jennifer Pearce, and Jerry Pentin

Commissioners Absent: None

2. APPROVAL OF MINUTES

a. October 12, 2011

Commissioner Blank moved to approve the Minutes of the October 12, 2011 meeting, as submitted.

Commissioner Pentin seconded the motion.

ROLL CALL VOTE:

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

The Minutes of the October 12, 2011 meeting were approved, as submitted.

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 members of the audience wishing to address the Planning Commission.

4. REVISIONS AND OMISSIONS TO THE AGENDA

There were no revisions or omissions to the Agenda.

5. CONSENT CALENDAR

a. P11-0615, Doug Dillenburg

Application for a Conditional Use Permit to operate a massage establishment with up to 13 massage technicians at 3003 Hopyard Road. Zoning for the property is PUD-C-C (Planned Unit Development – Central-Commercial) District.

Commissioner Blank moved to make the required Conditional Use Permit findings as described in the staff report and to approve Case P11-0615, subject to the Conditions of Approval listed in Exhibit A of the staff report. Commissioner Pentin seconded the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2011-39 approving P11-0615 was entered and approved as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

a. PUD-93-02-10M, Arpad Nagy

Application for a Major Modification to extend the approvals for two years, to expire on August 16, 2013, for an approved project located at 2001 Ruby Hill Boulevard (PUD-93-02-09M/PCUP-182) which consists of: (1) relocating the existing sales office building on Ruby Hill Boulevard northwesterly along Vineyard Avenue; (2) changing the existing office use to restaurant use; (3) establishing a pad location and design guidelines for a future single-family residence; and (4) a Conditional Use Permit to allow alcoholic beverage service at the restaurant after 10:00 p.m. Zoning for the property is PUD (Planned Unit Development) – A/OS/LDR (Agriculture/Open Space/Low Density Residential) District.

Jenny Soo presented the staff report and described the scope, layout, and key elements of the project.

THE PUBLIC HEARING WAS OPENED.

Arpad Nagy, applicant, stated that he was requesting an extension for his approval to give him additional time to complete the project and update the building plans to meet current codes and current conditions. He indicated that he and another Ruby Hill homeowner created a focus group of homeowners and molded the project into the shape when originally approved by the Planning Commission. He added that overall, the project has not changed since then. He noted that at the last Commission meeting on October 12, 2011, there was a bit of confusion regarding whether to use the set of plans provided to the Commission or the set submitted by the applicant to the Building and Safety Division; this has been resolved, and the Commission now has copies of both sets of plans.

Mr. Nagy stated that despite economic headwinds against small business owners like himself, he is now ready to develop his project. He indicated that Liliom will be of great value to the Pleasanton area, creating a world class dining venue as well as numerous jobs and substantial tax revenue for the City.

Commissioner Blank asked Mr. Nagy what his confidence level is to begin construction, given the current economic conditions, should the Commission grant the extension.

Mr. Nagy replied that he is very confident. He explained that he is not sure how long it will take to update the codes since a lot of time has changed since 2007, but he hopes to break ground next year after going through the plan check process.

Commissioner Olson asked Mr. Nagy what the primary reasons were that he did not make it initially within the time that was granted.

Mr. Nagy replied that his timing was immaculate the last time because it was right before the economic times went downhill, but once they received approval, and plan check began in mid-2008, traditional financing dried up for any type of hospitality or real estate-related development. He indicated that instead of jumping into unwise loan situations, he decided to hold off until there is proper financing for this type of venue.

Commissioner Olson inquired if financing is available now.

Mr. Nagy replied that are now working with a number of lenders who are willing to move forward.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pentin asked staff, should the applicant come back for another extension in two years, if the project would be presented to the Commission again or could it be approved over the counter at the staff level.

Ms. Stern replied that the extension would need to return to the Commission.

Commissioner Blank complimented and thanked staff for providing the “before” and “after” plans, which was effective in terms of making sure the Commission had the visuals to see the changes associated with the project.

Commissioner Blank moved to recommend approval to the City Council of PUD-93-02-10M, the Major Modification to extend the project approval for two years, subject to the Conditions of Approval listed in Exhibit A-1 and Exhibit A-2 of the staff report for the PUD Major Modification and the Conditional Use Permit, respectively.

Commissioner Olson seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, O’Connor, Olson, Pearce, and Pentin
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2011-40 recommending approval of the PUD Major Modification and Resolution No. PC-2011-41 approving the CUP were entered and approved as motioned.

b. P11-0458, Ron Panich

Application for Design Review approval to demolish an existing duplex structure located on the west side of the property located at 446 Sycamore Road and to construct an approximately 2,739-square-foot addition to the existing residence and related site improvements. Zoning for the property is PUD-LDR (Planned Unit Development – Low Density Residential) District.

(Note: The residence will be used as a congregate living health facility. Such facilities are permitted by State Law, and the City has no land use authority over them.)

Jenny Soo presented the staff report and described the scope, layout, and key elements of the project. She then advised that Julie Harryman, Assistant City Attorney, will talk about the congregate living health facility use and State law.

Julie Harryman indicated that the City does not see many of this type of application for congregate living health facility, and staff has received several emails on the use of this residential structure. She explained that the State of California has determined that there is a shortage of certain care facilities such as daycare homes, nursing homes, sober living homes, congregate living health facilities, and a variety of different facilities, and in response to that, the State has adopted legislation that takes away cities' and counties' land use authority over these uses and businesses and expressly states that these uses are allowed and can be located in residential zones and neighborhoods, and local agencies must treat them as though they are single-family residences. She referred to Health and Safety Code Section 1267.8, which has a variety of language in it regarding Congregate Living Health Facilities (CLHF) being considered a residential use of property with the residents and operators of the facility being considered family for the purposes of any law or zoning ordinance. She continued that CLHF may not be included within the definition of a boarding house, rooming house, institution, or home for the care of minors, the aged, the mentally infirm, or other similar term which implies that CLHF is a business run for profit or differs in any other way from a single-family residence. She added that it recognizes that CLHF may be businesses, but local agencies are to treat them as single-family residences, and no Conditional Use Permit, Variance, or other zoning clearing may be required which is not required of a single-family residence in the same zone; however, cities can adopt a special process that these kinds of facilities have to go through and may place restrictions on building heights, setbacks, lot dimensions, or the placement of signs, but only so long as these processes and restrictions are identical to those applied to other single-family residences. She stated that in summary, the City's role, and therefore, the Planning Commission's role, is limited to overseeing the design of the proposed residence and not the use of the residential structure.

Ms. Harryman stated that to that end, staff has worked with the applicant to come up with appropriate ways to address the use. She noted that as this is a facility that will have staff and presumably visitors, six additional parking spaces that would not normally be seen in addition to a two-car garage in a residential structure are included

in the design, and staff has also conditioned this project to have significant landscaping and walls to screen the parking to the west and along Sycamore Road.

Finally, Ms. Harryman stated that while the use of the residence as a CHLF is not regulated by the City, it is regulated by the State through the California Department of Public Health licensing and certification, who will be in charge of enforcement and licensing. She added that Ms. Soo has included in the staff report the contact information, address, and phone number for the Department for anyone in the public who may to look further into the facility use.

Commissioner Pentin noted that in Exhibit H of the staff report, Code Section 1250 provides that a CLHF can have a capacity of no more than 12 beds, and Code Section 1267.8 refers to six or fewer persons. He inquired if there is a difference between the two types of CHLF and if the City is dealing with one versus the other.

Ms. Harryman replied that the prior proposal was for a six-bed facility, and at the time, the application was only to enclose the deck. She indicated that the current CHLF application is for a 12-bed facility. She stated that she cannot speak to the differences because she is not that familiar with CHLF, but that there are many requirements within that and certain services which they have to provide in order to be able to have those 12 beds.

Commissioner Pentin inquired, if a CHLF were taken straight across as a residence and the resident wanted to put six parking spaces and have this kind of circulation throughout the property, if the Commission could deal with that based on treating it like a residence.

Ms. Harryman said yes.

Commissioner Blank commented that while he appreciates the State providing cities leeway on signs, there are not many residences that have their own signs. With respect to traffic, he inquired if the State is saying that the City must assume the same traffic level as that for a single family home.

Ms. Harryman replied that what the State is saying is that the City should not even consider traffic. She noted that although the City does not see a family of 12 that often, the City does not look to how many persons are in a single-family residence, and the same would apply here; the City does not look at traffic.

Commissioner Blank inquired, for example, if someone who had a car collection were to build a single-family home and wanted to install six parking spaces for those cars in that single-family home, with landscaping around them so they could not be seen, and assuming it received approval, if this would be so far out of bounds that it would not happen.

Ms. Harryman replied that she has thought about this and other larger properties with a Hollywood driveway where six or more cars can be parked on the property, although it would be likely that the cars would not be there all the time, there would be nothing the City could do to prevent the residents from parking their 12 registered working vehicles on the property because this is allowed.

Commissioner Blank stated that he wanted to make sure the Commission understands the limitations it is working under and that the public similarly understands it. He commented that the City would then look at this as a home with six cars, but it cannot really judge the traffic as a business because then the City would not be treating it as a residence. He concluded that, therefore, it does not really matter whether there is a lot of traffic or not.

Ms. Harryman agreed that this is a fair statement.

Mr. Dolan noted that in this case, the Commission would be comparing the traffic to three residential units which are on the site at this point. He indicated that there has not been traffic on the site for a while because the residence has been vacant, but if it were occupied as such, it would be a little more intensive than a single residence.

Commissioner Pearce stated that given that all the Commission can review is the design, she was surprised that there were no color renderings of the property. She noted that it is difficult to judge the design without color photos, although she appreciates the large pieces of concrete that were submitted.

Ms. Stern replied that the Commission would receive color samples if it were a new custom home, but this is an addition, and staff does not usually require renderings for additions.

Commissioner O'Connor referred to the last page of the architectural drawings and on the proposed rear elevation, it looks as though there is stone veneer on the bottom, yet it states "new stucco." He inquired if the arrow were in the wrong place and whether the wall was actually all stucco.

Ms. Stern replied that this is a mistake and confirmed that it is stone wainscot.

Commissioner O'Connor noted that the North Sycamore Specific Plan talks about earthtones, and there are quite a few homes in the neighborhood now, some of which are custom and some are not. He stated that most of the neighborhood homes are in earth tone color with either lap siding or stucco and tiled roofs. He inquired, since this addition is so large at more than 50 percent of the home, if there is a reason the roof was not done in tile to match most of the neighborhood in that Specific Plan area.

Ms. Stern replied that if the Commission were to look at the proposal purely as an addition, it is indeed a very large addition. She noted, however, that there was a unit there, so in terms of additional square footage, not much was being added, if any. With

respect to the roof, she stated that a tile roof was not required; however, the Commission can explore this idea if it so desires.

Commissioner O'Connor acknowledged that the additional square footage was only 300 to 400 square feet but more than what the City would call a typical remodel. He noted that it is a massive change, a large project where part of the house is being destroyed, so many square feet are being added, and the structure is being changed from two buildings to one. He indicated that he knew the City looks at large, extensive remodels, as opposed to small ones, as new construction and holds the applicant to a higher standard. He noted that there was so much new construction in that area and right across the street from that area that he was more concerned that this prominent new building would not fit in with the neighborhood.

Mr. Dolan stated that it is obvious that the neighborhood changes. He noted that the first several homes coming in off of Sunol Boulevard are the older, ranch-style homes, and eventually, there is a transition where the homes are completely different. He further noted that the transition point is right where this particular home is, and beyond it, the homes are larger and of a different style. He stated that staff's thinking is that this home is more consistent with the first homes encountered at the entrance into the neighborhood and matches part of the neighborhood in either direction.

Commissioner O'Connor stated that he believes there are only five older homes pulling in off of Sunol Boulevard and that this one is the closest to all the new development on three sides: across the street, behind it, and to the east. He noted that while it is the last house in the transition, it is a substantial remodel, a major change with a major addition to the house, whereas nothing is being done at this point with the other existing older homes in the area.

Commissioner Blank stated that he thinks the challenge here is that the property is a remodel and is being changed in configuration. He indicated that he did not necessarily agree that it is a substantial remodel but certainly an addition to an existing house and the property re-arrangement is substantial. He asked staff if the addition is 2,100 square feet to the original square footage of 2,600.

Ms. Stern referred the project data on page 1 of Exhibit B, which notes the proposed new floor area at 2,184 square feet with a proposed new garage area.

Commissioner Blank stated that how to count the garage in terms of living space depends upon one's perspective. He addressed Ms. Harryman and wondered if the Commission should urge caution if a residence come before the Commission, if this has to be treated just like a residence. He questioned if the Commission would automatically assume that it had the appropriate size lot and the applicant was in effect doubling the size of the home through an addition; and if the Commission has ever asked applicants to change roofs or do other things that would indicate that this is not unusual for Pleasanton for single-family homes.

Ms. Harryman replied that she would have deferred to staff about how these were treated in the past; however, she recalled that at a recent meeting, the Commission spoke a lot about remodel, and remodel can be a small remodel or a very significant remodel such as that on Spring Street where only a little bit of a wall remained standing.

Mr. Dolan replied that he was not sure if there was a rule of thumb that can be provided here as these all are individual situations. He noted that in some cases, a roof change could be required if it was more appropriate. He indicated that what is being proposed sticks more with the existing ranch style of the older homes, and if the Commission feels that something that looks more like the newer ones is more appropriate, it has the authority to ask for that.

Commissioner O'Connor stated that he has personal experience with the City for a remodel where no square footage was added, and he was actually held to a higher standard. He noted that he was told by the Building Division that he was being held to a higher standard because of the extent of the remodel, where he took sheet rock down, moved interior walls, and added new plumbing, such that the house was down to studs.

Commissioner Blank inquired if the Building Division required a new roof.

Commissioner O'Connor replied that a new roof was put on as it was part of the plan.

Commissioner Blank clarified that he was not required by the Building Division to replace the roof.

Commissioner O'Connor said no.

THE PUBLIC HEARING WAS OPENED.

Ron Panich, applicant, stated that he is the general contractor and construction consultant on the project and that he has been building CareMeridian projects for 21 years and have done so in every major county in the states of California and Nevada. Regarding the color and the texture, he indicated that he has a color and texture board and the wainscot samples which are earthtones. He added that part of the PUD-42 requirements was that the work conform to and consider what was common in the neighborhood, specifically stating not complex roof lines, earthtone colors, and such. He stated that in conjunction with his original submittal which was all stucco and after review and recommendation by Planning staff, it was suggested that stone wainscot be added, which he did. In terms of observations regarding the neighborhood at large, he noted that the design combines some of the Craftsmen flavor of Sycamore Terrace along with the ranch style of the homes approaching Sycamore Road. He indicated that the attempt was to blend the two styles and make it look pleasant. He added that the style of the house is very much old California simple ranch and that there were no plans for making any major exterior modifications that would completely change the motif of the style.

Regarding the roof, Mr. Panich indicated that the comments and observations made are accurate that the existing roof is an architectural composition roof. He stated that because it is a very recent roof and because additions were being made to the building, no consideration had been made to change the roof. He noted that a tile roof would be somewhat problematic and a restriction without completely reframing the existing roof because the house was not structured to take the weight of a concrete tile roof.

Mr. Panich stated that he believes staff has done a comprehensive job of representing the intent of the project. He clarified that this facility is not for patients recuperating from surgery but really for catastrophically-injured or brain-injured individuals who need very-long-term acute care and who want to live in a non-institutionalized environment. He indicated that the CEO and Vice President of CareMeridian are also present to answer operational questions.

Commissioner Olson asked Mr. Panich if the level of care is similar to what would be found in an ICU.

Mr. Panich replied that the level of care is not that high. He indicated that is a non-medical individual and that he would defer similar questions to the actual officers of the company, which might be more appropriate.

Commissioner O'Connor noted Mr. Panich's comment that the building is not engineered for the weight of a concrete tile roof. He inquired if there were other roof materials that could emulate concrete tile but are made of something different and are lighter in weight.

Mr. Panich replied that there are steel roofs that have the same general feel, as well as very upgraded composition roofs that have nice texture. He indicated that because they have people in the facility who are non-ambulatory, they have to make sure that this is a fire-resistant construction and stay with a cement type of materials for non-combustibility, also known as Class A materials.

Commissioner O'Connor added that there is also a Hardie type roofing material.

Mr. Panich indicated that would be a cementitious material.

Commissioner Blank noted that Mr. Panich stated that the roof of the existing building was fairly recent and asked him to quantify it.

Mr. Panich replied said he was not part of the application process, but by looking at the roof and judging its condition, he can tell that the roof is not old architectural composition; however, he cannot tell exactly how new it is.

Chair Narum inquired why the generator was proposed to be located in the northwest corner of the property next to the neighbors.

Mr. Panich replied that the rear yard is fairly small and putting the generator there would reduce the amount of the green area. He indicated that on the other hand, the proposed location is in the flow of traffic, up against the neighbor, where there is a big open piece of property to the west. He added that they were going to control the sound from it.

Mr. Panich pointed out this is a stand-by generator and would be used only in the event of a power outage as there are people in the building who may require assistance with breathing or other bodily functions. He explained that in general, the generator is exercised once a week for 15 minutes and once a month for an hour, and would be used only in the event of a power failure. He noted that these are programmable times and can be done in the middle of the day when people are going about their business. He added that they would also adhere to the City's sound ordinance requirements of a maximum of 60 dBA, which is right in the middle of a normal conversational level of 55 dBA and 65 dBA. He indicated that it would not be intrusive and would be used only occasionally.

Commissioner Blank inquired if the generator is in a sound-proof enclosure.

Mr. Panich replied that it is in a sound enclosure. He clarified that he did not want to say it is entirely sound-proof because it is not one that makes no noise, but it would be in a baffled factory enclosure that would reduce the noise to 60 dBA at the property line. He added that it would be used in conjunction with the wall in the immediate area that would deflect the noise and keep it on the CareMeridian side so as not to exceed 60dBA at the property line.

Commissioner O'Connor noted Mr. Panich's statement that there would be no change to the roofing and would stay as planned, and that it is a newer roof. He inquired if the plan is on the addition to match that roof or would the entire structure be re-roofed with the same new material.

Mr. Panich replied that the intent at this point is to match the roof. He noted that they were able to successfully match the composition shingle for the part of the duplex and garage which was approved last year and which is now going to be demolished. He added that his intention is to do the same; they will not reroof the entire building but will match the addition roofing with what is on the existing structure that is to remain.

Jim Ashby, President and CEO of CareMeridian, approached the podium to answer questions regarding the operation of the facility.

Commissioner Pentin asked Mr. Ashby what their experience is for the per month rate of emergency services provided to a facility like this.

Mr. Ashby replied that it is very low. He noted that they occasionally have an ambulance to transport a patient into the facility or out for a scheduled medical

appointment or scheduled procedure. He indicated that they have 21 facilities, mostly in the State of California, and normally, emergency services occur once every six months.

Commissioner O'Connor inquired whether most of the people who will reside at the facility are ambulatory and are able to get around.

Mr. Ashby replied that it is mixed, with more of them being non-ambulatory. He added that there are also those who come in as non-ambulatory and then leave as ambulatory. He explained that these patients are typically younger people who have been catastrophically injured and are ready to get out of the hospital but are too medically involved to go to a skilled nursing facility or back home without the type of care that this facility provides. He indicated that the licensure was designed to provide a residential home-like setting for people with these diagnoses so the facility can bring the care in, have it there 24/7, and provide as much of a normalized life as possible. He noted that people have come in who have been seriously injured such as by falling off a roof or being in an accident, and have some neurological impairment, and the facility provides care to get these patients as far as they can to get better and move on. He added that some others will not move on, typically the non-ambulatory, and are kept in as stable a state as possible.

Commissioner O'Connor inquired if there would be some kind of physical therapy on-site.

Mr. Ashby replied that they provide therapy on-site. He stated that their focus is to get the brain cells and neurons fired up again so the patient can get as much function as possible.

Commissioner O'Connor stated that he does not know the minute distinctions between facilities like this and rest homes and noted that they usually have outdoor spaces for the patients. He inquired if the patients will actually come out. He indicated that the Commission recently considered a facility on Sunol Boulevard, and there was concern expressed about patients leaving the facility unaccompanied, trip hazards, and the like.

Mr. Ashby stated that the facility is designed and staffing and the elements of the program are set up so that if there is somebody who might be determined as a risk is monitored. He explained that there are monitors on doors, and ambulatory patients have a staff complement so those things do not occur. He added that everyone in the staff is aware of the care plan for each particular patient. He indicated that they like to get the patients outdoors as part of their recuperative powers of being in a homelike environment is getting out of the hospital bed and getting outside. He noted that they have an Activities Director on staff.

Commissioner O'Connor noted in the fairly large sites, there is a lot of driveway and non-landscaped area where cars are driving through. He inquired how much open common area they have for that type of help or exercise therapy.

Mr. Panich replied that there is an approximately 300-square-foot concrete patio in the “U” configuration in the back, several hundred square feet of lawn area, and 120 square feet of outdoor visitation area in the front that is wheelchair accessible for family or staff members who wish to sit outside with the resident. He noted because there is no parking allowed on the streets anywhere in neighborhood, some of the outside space that could have been used as open common area have been taken and utilized as parking on-site and out of sight.

Commissioner O’Connor inquired if the landscaped front lawn area is fenced or walled off.

Mr. Panich replied that it is not and is open to the street.

Mr. Ashby stated that their whole idea is to make these facilities look and feel like homes, that they fit into the neighborhood, and that they are well taken care of, so having a fence or signage up front is not part of their plan. He indicated that he has read some of the neighbors’ concerns and wants to make sure that people have the chance to understand what they are doing here. He noted that they have a long history of being an integral part and fabric of the community, and they have facilities where some neighbors are involved with the program because they find it very therapeutic and is an outreach program for them.

Molly Ziemer, neighbor, stated that one of the big concerns residents have is right at the “Y” intersection at Sycamore Road and Sycamore Creek Way. She indicated that this is a health care facility and inquired where nurses, medical staff, emergencies, and visitors coming into the facility will be parking. She noted that if they park on the street even for just a minute, a fire truck coming down Sycamore Creek Way and needing to make a turn-around at Sycamore Road will not be able to do so, thereby putting residents at Sycamore Creek Way at risk. She stated that there is not adequate parking for this facility and inquired who would enforce parking.

Chair Narum informed Ms. Ziemer that at the end of the public hearing, she will have staff respond to some of the questions that are brought up, such as what she has raised.

Mary Greene, neighbor, stated that she has lived adjacent to the project site since 1956. She indicated that she came in to Planning to find out what was going on, and each time, she thought we had a government of the people, by the people, and for the people and that Planning is supposed to do the best for them, but it appeared that this was already a done deal and that makes her very upset. She stated that the generator should be located not at the north side of the property but out toward Sycamore Road where no neighbors will hear the noise. She added that the cyclone fence will be removed and stated that she owns the fence, it is on her property, and she does not want anything done that will damage her fence. She further stated that the trees that will come down will have to be those on the east side of the fence and not on the west side which is her side. She noted that a big beautiful house can be put on the site even

if there is a need for what is being proposed. She indicated her opposition to the project and submitted a petition signed by many of neighbors who are opposed to it as well.

Katherine Ferreira, neighbor, stated that she and her husband purchased their home in 1985 and their southern property line borders Parcel Four the Bach/Lamb development. She read from a written statement and made additional comments *[shown in italics and in brackets]* as follows:

“When we purchased our home in 1985, Mr. Bach lived in the existing residence on parcel one. That majority of the property was used for land for his horses.

“The North Sycamore Specific Plan allowed for the subdivision of Mr. Bach’s property into four parcels. An application for PUD approval was filed by Earl and Karen Bach, and Ed Lamb, Sr. and Ed Lamb, Jr. Public hearing testimony and comments in the staff reports for this PUD indicated that Ed Lamb, Jr. planned to build a home for his family on one of the subdivided lots and that Ed Lamb, Sr. planned to construct a new home on parcel one *[the parcel that we are talking about tonight]*. Following approval of the PUD, Ed Lamb, Jr. moved from the area and three of the lots were listed for sale.

“It is my understanding that the current property owner of parcel one originally proposed a six-person residential care home for the existing single-family home. The applicant has indicated that residents on parcel one will now be used for a 12-bed congregate living health facility. Staff advises that the City has no land use authority over this use; however *[you need to know that when I looked it up, there are three levels of service: Level A, B, and C; and the Health and Safety Code Section 1267.16C says that]* if the level of service for this facility changes from level of Service A to level of Service B and C, the facility SHALL be subject to the ‘conditional use permit’ requirements of the city or county in which is it located. *[And I think I heard tonight the applicant say that they are planning a level of Service B or C. So that was not clear initially from the staff report.]*

“[So we presume there is no land use authority over service of Level A and that is what they are going to do. So I will direct my comments to the design review application. The property is zoned Low Density Residential.] The PUD Conditions of Approval require that all house designs be brought to the Planning Commission for approval. *[And I think]* there are several issues that I feel the Planning Commission members may have with the proposed design plans and elevations.

“First of all, the front elevation shows two front doors for this single-family residence, in addition to a third door on the front of the home. While this elevation is comparable to many of the medical office facilities *[that we see]* in our city, it does not replicate most of the single-family residences.

“Second, the plans for the home show ten bedrooms. I am not sure that we can find another single-family residence in the entire North Sycamore Specific Plan area, and probably not in the entire City, that has ten bedrooms.

“Third, the proposed left and right elevations show two flat walls with a series of windows on each elevation. Those of you who are familiar with the Parkview assisted living facility on Valley Avenue, will recognize this same architectural design as the east-side elevation of the memory care unit. The Parkview is not a single-family residence.

“The site plan also shows a driveway access from Sycamore Creek Way to accommodate the six on-site parking spaces and two-car garage for the single-family residence. The driveway exits onto Sycamore Terrace. In the ‘Analysis’ section pertaining to Site Design of the February 9, 2005 Planning Commission staff report for the PUD approval, it clearly states that ‘Parcel One, the existing Bach home, would be accessed from Sycamore Creek Way. Parcels Two through Four would be accessed from Sycamore Terrace.’ This would prevent the applicant from constructing the drive-aisle to accommodate the needed parking.

“I question the need for the installation of a generator for a single-family residence. And, I would like to know if it is the intent of the applicant to use over-head lights to illuminate the parking area at night.

“I think it should be noted that two of the proposed conditions of approval for the Design Review application are in direct conflict with two of the Conditions of Approval for PUD-42. Those are conditions number 36 and 37. The conditions shown on Exhibit B of Ordinance No. 1914 approving the Bach/Lamb development plan excludes any earlier ‘start times’ or later ‘stop times’ for construction activities. The conditions also do not allow any ‘sleeping quarters on the construction site.’ A modification to the PUD would need to be processed in order to modify the conditions of approval set forth in the ordinance for this planned unit development.

“In the ‘plan overview’ of the North Sycamore Specific Plan it states that: ‘The plan recognizes the unique character of this area and responds to the concerns of the local residents that the rural character of the area be preserved to the extent possible and that the development be designed so as to minimize the potential for adverse impacts on the surrounding areas.’ I do not believe that the applicant has met the intent of the Specific Plan in designing this single-family residence.

“I hope that the Planning Commission will look at this design review application and recognize that there are several reasons to deny the proposal.”

Gurdip Sahota, neighbor, stated that he lives right across from the concerned property, and he built his house two years ago. He indicated that his biggest concern is traffic and the 24-hour service. He added that the gross scenario should be looked at and that it is possible to have an ambulance almost every week or every other week, or in the

middle of the night, as no one knows when that service will be needed. He expressed concern about the traffic pattern and where the visitors will park when they come as there is no parking space. He noted that this does not look like residential but more like a business to make profit and that this is not a desirable location for this kind of project as it is a small lot and has no yard. He indicated that the application should be denied.

Janny Rocha, neighbor, stated that the North Sycamore Specific Plan states that the property must blend in with the natural environment of the neighborhood. She noted that when she looks at the neighborhood, most homes are set back farther than the 25-foot front yard setback with very few properties having a 25-foot setback from the sidewalk; however, this property is basically building an addition right at the 25-foot setback, so it does not blend in with the natural environment of the neighborhood.

Ms. Rocha stated that she was told the State considered the health facility as a single-family residence, and if a business is being operated from there, the City should require that the applicants complete an application to conduct a business at home. She noted that she personally has a home office at her single-family residence, that she has an application and a license to have a home office, and there are ten rules for running a business in a single-family residence, including no clients and customers on the premises; only activities related to office use, computer, telephone, bookkeeping, or filing; and only one resident of the dwelling employed in the conduct of the business. She indicated that the facility has a 4-to-1 resident-to-staff ratio as advertised, and if they have 12 beds, there would be four caretakers, a receptionist, a cook, a janitor, and a therapist, so this is not really a home business. She added that if the business cannot meet one or more of the regulations, the applicant should file for the appropriate zoning approval. She indicated that it is zoned for single-family residential and it is being used as a business; so if the applicant can have a business without following the rules of Pleasanton, then all those who have a home office do not have to abide by the rules of Pleasanton.

Ms. Rocha stated that as mentioned by another neighbor, the lot is very small at only 19,000 square feet with a building with a square footage of almost 5,000 and no lawn area. She noted that when the homes around the neighborhood were built, the owners were told by the City that they have a lawn, which trees to plant, what kind of fencing have to put in, and it has to look a certain way. She stated that contrary to that, this building looks like just one plan building with no landscaping, just some bushes and greenery in the front.

John Serri, neighbor, stated that he lives about 100 feet from the proposed project. He noted that some issues were raised about traffic and stated that Sycamore Terrace is a private road with a width of about 12 feet, and two cars cannot go by at the same time. He added that this presents incredible parking problems which have not been addressed in any of the Planning documentation. He added that children walk down this street, and there is a real traffic hazard coming on or off the street as there are no warning signs. He indicated that having been living there over a year, he still misses the street at times because it is hard to find, and sometimes he has had to make sharp

turns and almost had an accident. He expressed concern about visitors coming into the street and noted that it is asking for trouble and an accident waiting to happen. He emphasized that something will need to be done about this if the proposal is ever approved.

Mr. Serri stated that he has many concerns about this project. He indicated that he believes this format is not sufficient to address many of the aspects of this facility and he would like the opportunity to ask more questions. He noted that there are different classifications for a congregate living health facility, and he asked the Commission to confirm whether this is an A, B, or C level facility. He added that he believes the City does have some say over the different types of facilities. He indicated that at first he heard it would have eight beds, then it became 12. He inquired what assurances the community has that this will not morph into something else, as it is very possible that it will.

Mr. Serri stated that the building has been open for a year and has been stripped down to a disastrous state with rodents, garbage, a port-a-potty on site, which he had to look at every day for a year. He voiced concern over how much mold has developed in the building and hopes that the Commission will require an inspection as this is a serious problem, especially for a facility which serves as a home for disabled people. He further noted that the project documents do not include an estimate on the traffic it will generate in quantitative terms, the number of staff who will be working there, the drug wastes created and its disposal, how medical waste is being treated. He indicated that he believes that living 100 feet from the place, he and everyone else living close to the facility have every right to know about these issues.

Sam Roham, neighbor, stated that some of his concerns have already been mentioned, but he would like to address traffic. He indicated that Sycamore Terrace is just a driveway and cannot handle this type of traffic; it is a small easement that really handles only one car in and one car out and cannot accommodate one ambulance and one car going back and forth at the same time without creating a miniature traffic stoppage. He stated that going to a 10-bed facility is an obvious expansion and traffic is an obvious concern that must be considered.

Frank Brandes, Pleasanton resident, stated that he understands the frustration of citizens and that it dates back 25 years ago when these types of facilities were allowed, which are difficult to deal with because they usurped the local ordinances. He inquired if the State has requirements or licensing laws that limit the number of beds for facilities like this; if special permits were required; whether this is being done as an addition to avoid connection fees; if it shows proper access into the property for a fire engine or emergency response vehicle; if the building will be sprinklered; and whether there will be a Registered Nurse on duty for that type of care. He indicated that the Commission has the ability to determine where on the property the house should be located and to require the building to look the way the Commission wants it to look.

Jeff Tarpley, neighbor, stated that he lives on Sycamore Terrace. He indicated that he has two concerns that have already been addressed but that he would like to re-emphasize. He indicated that he has three children and was concerned about traffic safety. He inquired if the facility has a one way in on Sycamore Road and one way out on Sycamore Terrace and what people would do if they missed this turn as it comes up pretty quickly; if they turn up Sycamore Terrace where there is nowhere to turn around, they would have to go to the top of the hill and turn around there, come back down and out at Sycamore Road, and then go in through the front entrance. He stated that his second concern is about the existing state of the house on the site. He stated that when they built their home two years ago, they were given very strict guidelines regarding when they needed to complete their project. He indicated that they built this house they are proud of on top of the hill, and when guests come, they must pass by this building that is an eyesore and looks terrible. He noted that while he does not agree with the plan, the one good thing about it is that it will clean up the dump at the bottom of the street.

Grace Tian, neighbor, stated that she thinks the City should care about the safety issue more than the health care facility. She noted that the purpose of the facility is to help people; however, the problem it will create will be much bigger in terms of safety. She indicated that the road is narrow, and there are many pedestrians, including small children and people walking their dogs. She added that if the City approves this project, traffic will be increased dramatically, and it would be very dangerous street with a big potential for accidents.

Sylvia Englert, neighbor, stated that she lives in one cul-de-sac over from Sycamore Terrace. She noted that this is to be considered a single-family residence, which she does not think it is but apparently the State thinks so. She inquired, if she would submit this plan to the City as it is, with all the concrete everywhere, with ten bedrooms, and six parking spots as a single-family residence, if the Commission would approve the plan.

Phyllis Lee, neighbor, voiced concern with the location of the project as there is no park in the nearby vicinity. She inquired whether other properties have been considered for this type of facility and if this could be moved to a location closer to a park since it has no courtyard.

Mr. Panich stated that he took down some notes and would try to answer some of the concerns. With respect to traffic, he indicated that of the 21 facilities that exist in California today, virtually all of which are in residential neighborhoods, all traffic engineering by jurisdictions have never found in any instance any significant traffic impact. He noted that people come to work at 7:00 a.m. and leave at 7:00 p.m., so there are cars coming and going at that point, but interim during the day but never a significant impact, and he wanted to allay any fears in that respect. He added that their facilities have always been very cognizant and respectful of local ordinances. He indicated that there is no parking on the streets contiguous to this property or surrounding the property, and no one from the facility will park in a no-parking zone and

intentionally break the law, and if somebody accidentally does, they will be notified by the facility or by the ticket they will get on their vehicle from the local police. He indicated that it is a one-way design with the egress on Sycamore Terrace which is nearly not as busy as Sycamore Road, and will give a chance for a very conventional approach onto Sycamore Road from Sycamore Terrace at the stop sign on the corner.

With respect to setbacks, Mr. Panich stated that the design conforms to the setbacks set by the PUD and by the local ordinance and have not violated any of them. Regarding lawns, he indicated that they are discouraged in this day and age by Green Building practices because they consume water, which is a precious commodity. He indicated that he was asked to meet Green Building standards on this by the Planning staff, and one of the things to achieve compliance is to confine and limit the grass to several hundred square feet, which he did.

Mr. Panich apologized for the current state of the property and the lack of maintenance and indicated that it will be remedied immediately. He stated that he knew the property was in disarray when they decided to change direction and go from six beds to 12, and he felt that based on his conversations the process would be more rapid, but it has taken longer. He noted that whether or not they remove trees and whatever else they do at the site is contingent upon the outcome at this Commission meeting.

Mr. Panich indicated that the property has been fenced the entire time with a construction cyclone fence to keep people out. He stated that he was not aware of any garbage as most building materials are picked up, although from a landscape standpoint, it needs immediate attention.

As regards medical waste, Mr. Panich indicated that medical waste is taken care of when the facilities function by appropriately licensed medical waste businesses that visit the site. He explained that materials are collected and put into appropriate containers and identified as medical waste; they are collected at intervals that are appropriate for the facility and they keep everything empty.

Mr. Panich stated that with respect to the State licenses for specific number of beds, there is no chance that the size of the facility could ever get past 12 beds without a Conditional Use Permit, which would open it up to another process. He noted that the permit by the State to function and be considered as residential use is limited to 12 beds and is not allowed to exceed that number without the Conditional Use process.

Mr. Panich indicated that in preliminary meetings when the idea of the project was first generated, he met with staff, including the Fire Marshal, who looked at the ingress and egress that were proposed and was quite satisfied that in case of emergency, the Fire Department would not need to come on to the site to fight a fire, and, therefore, the traffic flow and the one-way lane was quite satisfactory to the Fire Marshal. He added that the building is sprinkled; the building is considered a Type 5 one-hour type building, which is protected.

Mr. Panich stated that the people becoming accustomed to the traffic are the same employees who will be there every day. He pointed out that none of the patients or the residents drive vehicles as they are severely handicapped and do not have a car in the premises. He noted that by virtue of the fact that it is the same people coming and going every day, there could be a short learning curve, and after that, with important safety information imparted to them, they will understand the implications of pulling onto Sycamore Road.

In conclusion, Mr. Panich stated that he is aware of no safety issues that have ever been associated with the CareMeridian facility in the State of California.

Commissioner O'Connor asked Mr. Panich if he is in charge of all construction, as well as the new landscape plan.

Mr. Panich said yes. He added that he hired a local landscape architect, Martin Hoffman, to design the new landscape plan.

Commissioner O'Connor stated that sometimes, even when approvals have been given, there are other steps that the applicant will need to working on with staff before things get moving on the project. He noted that he is not sure, if given approval, how fast the project would start, and asked Mr. Panich, should there were a delay, if he would agree to clean the landscape look that is on the site now. He clarified that he is not asking for new plants but to clean up the weeds.

Mr. Panich agreed that he would take care of this immediately and that the maintenance would be acceptable by the end of next week. He apologized that he was a bit too focused and did not expect the process to go this far.

Commissioner O'Connor commented that on the final landscaping plan, it looks like part of the house will be shielded. He recalled a comment made by one of the neighbors regarding having three front doors, and noted that one of the three doors appears to be a utility room which houses a water heater. He inquired whether this door could be moved from the front of the house to the side to help alleviate that look.

Mr. Panich replied that from a physical standpoint, the door can be moved. He indicated that the house was occupied at a different location, was then moved back 75 feet to 100 feet from its original location, was added on to a few times, and has a few Winchester House-type characteristics; and this small residual closet with a water heater and a central vacuum is one of them. He noted that while it can be done, moving the door to the side would mean adding some concrete surface to access it, which has a negative impact from a Green standpoint.

Commissioner O'Connor observed that the other front door that is not really a front door looks like an exit door. He inquired if that is to be used for exiting in case of fire, in which case it is an exit-only door and is not anticipated to be used by people for entry.

Mr. Panich replied that the primary entry would be through the door to the easterly side that has a Craftsman-like cover, and the other door would be an occasional egress in case of an emergency. He noted that this is required by the State when there are buildings that are protected, where the building could be bisected and have several paths of egress such that if one section of the building has a problem, people in the other section can be protected and evacuated.

Commissioner O'Connor inquired if that door is not being planned for ingress and that it is only for egress.

Mr. Panich replied that the door will be there and, he suspects, could be used occasionally for ingress. He noted that primarily, the people who access the building will not be doing so from the front but from the back, because following the one-way traffic pattern, when they come in, they will come around to the patio where there is a ramp off the back, and off of one of the doors is a modest little vestibule, and that will really be where a vast majority of the access to the building and the egress will be occurring. He indicated that very little will be done from the front.

Commissioner O'Connor stated that the concern he heard, and to which he agrees, is related to the aesthetics of seeing these three front doors, so without removing that door as it is required for egress, he inquired if there is a way to change its look so it doesn't look so much like the front door and there will be no question as to which one is really the front door.

Mr. Panich replied that he will have to give that some thought. We have a minimum door sizes for handicap accessibility, and the increased size there is in case somebody had to come out in a bed who is not in a wheel chair.

Commissioner O'Connor explained that he is thinking of a plain door rather than something fancier that looks like a front door and there are two matching doors.

Mr. Panich replied that he could certainly change the door style, maybe have glass in it and make it a French-style door.

Commissioner O'Connor noted that a speaker mentioned the cyclone fence and asked Mr. Panich if he knew where the property line is and whose fence this is.

Mr. Panich replied that he did not know where Ms. Greene got that notion. He indicated that he certainly, under no circumstances, would ever remove something that was not on the property that they were working on. He stated that his plan would likely be, if the neighbor did not want that fence impacted, to install a fence on the CareMeridian side along that property line which would help to accomplish the screening, which was the whole intent in the first place, so that other than when the gate is open to allow a car in, the parking would not be seen and would have a much more private and residential feel.

Commissioner O'Connor inquired if it was part of Mr. Panich's plan to remove the fence.

Mr. Panich said no, and certainly not unauthorized.

Commissioner O'Connor stated that there has been a lot of discussion around inadequate parking. He noted that people were talking about six cars but it actually looks like an eight-car stall down the driveway, plus a two-car garage.

Mr. Panich replied that it is really six because one of them is a handicap space, and there are two for the garage.

Commissioner O'Connor commented that out of the eight spaces, one is a handicap so there are still seven others.

Mr. Panich stated that he believes there are eight total, including the handicap. He noted that there are other places where someone who needs a short access might be able to pull onto the apron in front of the garage for a few moments, which would increase immediate access. He explained that ultimately, if accessibility or parking became a problem for special events, the company would be inclined to find a place off-site where parking could be accomplished and bring over people.

Commissioner O'Connor inquired how many employees on the average would be at the facility each day and how many of those spaces will be taken up daily other than by visitors.

Mr. Ashby replied that typically, there would be four to five employees each day. He indicated that some employees will get driven in, dropped off, or come together. He recognized that parking is tight but emphasized that what they will not do is create traffic issues or violations to the Code on where parking is. He reiterated that, as mentioned by Mr. Panich, they will find space off-site if necessary and bring the people in.

Commissioner O'Connor noted that there will be 12 hour shifts and inquired if there will be some overlap.

Mr. Ashby replied that typically, there will be some overlap on the RN coverage so that the lead nurse will come in before one shift ends and the other one begins. He noted that it is even smaller at night where there are typically three on staff.

Commissioner O'Connor inquired if the residents get very many visitors.

Mr. Ashby replied that it depends. He explained that they might see more upon admission but then they tail off. He noted that some of these patients have been living 24/7 at the hospital, so they are ready to take a break and so do their loved ones.

Commissioner O'Connor indicated that he understands what staff was saying about parking and regulations and treating it like a home, but other than this facility, he sees people violating parking all the time along that road, and he does not think the police or

Code Enforcement police that. He noted that with the long stretch and so limited parking other than a driveway, he would actually suggest that maybe the City or the Traffic Engineer could revisit restriping the road for a bike lane/parking and make room for parking on the street for homeowners because it is problematic.

Commissioner Pentin inquired what the volume of deliveries is on a daily or weekly basis.

Mr. Ashby replied that they typically buy on a two-week cycle, so a mid-line truck may come in; a UPS van is not frequent, and occasionally labs come in but they are typically not a truck load. He noted that there is a fear that this will be highly trafficked, but deliveries are not as often as it might seem. He indicated that it does fit or they would not have proposed it. He added that having done 21 of these facilities, they have never had one where deliveries could not get through and they have never had one where the neighbors complained to the City after the facility has opened.

Commissioner Blank noted that if restocking occurred only every two weeks, disposables would then have to come in three-quarter ton trucks. He inquired what the facility's consumables are.

Mr. Ashby replied that they are pretty small and include such things as syringes and medical supplies.

Dr. Mohammed Khalifa, Occupational Therapist and CareMeridian Regional VP for Operations, indicated that there are very few drop offs and deliveries. He stated that medical supplies are delivered more along the lines of once a month if they order correctly, so there is a very minimal impact. With respect to UPS, he stated that the facility utilizes On-Trac and they use their own small vehicles. He noted that they do not have big packages being delivered to the facility, and there is not a lot of traffic with regard to dropping off equipment.

Mr. Ashby indicated that he wanted to respond to a couple of other questions relating to operations. He stated that as mentioned earlier by staff, CLHF is governed by the California State Department of Public Health (CSDPH), which is the same agency that surveys hospitals, skilled nursing facilities, and long-term acute programs. He noted that these facilities are held to a very high standard, and the CSDPH ensure that they have adequate levels of staffing who follow policies and procedures and that everything meets the code. He continued that these facilities must obtain a license with the State once the facility is complete, and the facilities cannot operate without that license.

Mr. Ashby stated that CareMeridian has also elected as a company to be accredited by JCAHO, a joint commission accrediting body, one of only two in the nation that accredit hospitals and care facilities. He explained that it is a standard that is actually higher than the State that have an ongoing independent policing to make sure the facilities provide the highest level of care. Mr. Ashby indicated that all their facilities are accredited by JCAHO.

Commissioner Blank stated that this was brought up by some of the speakers and for the record, he asked Mr. Ashby if the facility is a level of Service A, B, or C facility.

Mr. Ashby replied that they are licensed as both A and C in certain instances and that this facility would probably also be licensed as an A and C. He indicated that they can actually get both licenses from the State, and the CLHF section code that has been referenced by staff earlier has deemed this consistent in application for these subcategories.

Commissioner Blank inquired what the level of licensing will be for this facility.

Mr. Ashby replied that their intention is to have licenses A and C.

Commissioner Blank asked Mr. Ashby to help him understand the advantages of having the facility licensed as both.

Mr. Ashby replied that it is really fuzzy. He indicated that level C is a catch-all category, but in some cases, there is a payer source who prefers to use the A category because it includes certain services that C does not have.

Commissioner Blank inquired if A provides more services and is more strict than C or if it is the reverse.

Mr. Ashby replied that A is more of a smaller subset of what could be included in C level, which is a broader categorization.

Chair Narum asked staff to answer some of the questions raised by the speakers.

Ms. Stern stated that a couple of questions were raised pertaining to Planning issues, the first of which was raised by Ms. Ferreira regarding conditions related to construction hours. She indicated that she just compared them and believes that the construction hours are the same. She noted, however, that in the condition relating to having trailers on site, there is a slight word difference between the PUD-42 condition, which states that nothing shall remain on site at the end of the day, and the condition proposed for this project, which states that something could be retained there for a security guard. She stated that staff can change the proposed condition so it is the same as the PUD-42 condition so no overnight construction trailer would be allowed on-site.

Ms. Stern stated that Ms. Ferreira also raised an issue relating to the circulation on-site leaving on Sycamore Terrace and the fact that the North Sycamore Specific Plan or the PUD states that they could not have access from that. She indicated that staff researched the easement on Sycamore Terrace, and it does allow Lot 1 access onto Sycamore Terrace; hence, this does not require correction.

Chair Narum indicated that there was a question about the need for a business license.

Ms. Stern replied that because the facility is being treated as a residential use, it would not be required to have a business license.

Mr. Dolan stated that there was also a question about why they do not have to comply with the City's requirements for home occupations, and this relates to the fact that the State has specifically addressed this use and they are not subject to the City's requirements.

Commissioner O'Connor indicated that he asked one other question regarding whether the Planning Division would approve this construction if it came in as a single-family home as opposed to this use.

Mr. Dolan stated that was a good question. He explained that if someone were adding onto one of these older ranch homes in this part of the neighborhood and proposed these types of improvements, he does not see how staff would not support it. He noted that it would be an improvement over what was there, and it would be, as someone mentioned, the blending of the two neighborhoods with the styles. He stated that the tricky part comes in when staff is tried to balance the issue of parking. He indicated that nobody who was really just occupying a single-family home would present this problem of needing this parking. He noted that staff has had to struggle with the balance to try and make the use blend in and continue to look like it but without creating a parking problem. He stated that he thinks staff has done a good job of this with the six parking spaces plus a two-car garage and the apron. He noted that if it is a holiday and there is a sudden rush of visitors, it would not be out of the question that the entire loop could not be parked with cars. He added that he doubts there is ever going to be a day that would occur, but there is a lot that could be just done in the driveway; not unlike if a resident had a large gathering at his home and he had a loop driveway, that's exactly how they would park.

Commissioner O'Connor noted that a speaker addressed the size of the home and the size of lot. He inquired if the application meets the floor area ratio (FAR) for the PUD and if no variances were needed for the setbacks.

Mr. Dolan replied that the application does meet the FAR and that no variances were required.

Ms. Stern clarified the condition related to construction hours. She indicated that there is one condition that does have a phrase at the end that talks about allowing earlier start times with the Community Development Director's approval. She stated that staff can remove that last part because it is not consistent with the PUD-42 conditions, and the first part will remain that construction hours will be from 8:00 a.m. to 5:00 p.m. Monday through Friday.

Commissioner Blank noted that it also says that construction is prohibited on Sundays and holidays but it does not say that it is prohibited on Saturdays.

Commissioner Blank expressed that he is a little bit concerned about operation and would like some clarification. He stated that as he understands it, the A category is relatively narrow and the C category sounds like it is broader. He added that it sounds like under category A, the Commission is prohibited from treating this as anything other than a residential; however, the applicant appears to be saying that they will be operating as both an A and a C. He inquired if operating this as C would not give the Commission a right to treat it as anything but residential. He further inquired how a facility can have both categories.

Ms. Harryman recommended that the applicant talk more about the A versus the C category. She indicated that the Section 1267.8 she was quoting from earlier does not talk about categories. She continued that if the Commission is referring to Ms. Ferreira's comments about Section 1267.16 of the Health and Safety Code which Ms. Ferreira asserts talks about B and C requiring a CUP, Ms. Harryman indicated that she has not seen that provision.

Commissioner Blank requested that staff do further research on this.

Ms. Harryman said yes.

Chair Narum stated that this discussion is potentially very important to the decision and proposed that it might be appropriate to take a break at this time.

Ms. Harryman stated that she does not have a copy of the referenced code at hand, and if there will be a break now, she can take a look at Ms. Ferreira's copy. She added that it would also be helpful to talk to the applicant because this is what they may already be doing in some of their 21 other facilities.

Chair Narum called for a break at 9:00 p.m. and thereafter reconvened the regular meeting at 9:23 p.m.

Ms. Harryman explained what was reviewed over the break. She stated that the statute discussed earlier, which was adopted by the State Legislature in 2006, clearly states, among other things, 12 beds and no CUP, and the code section cited by Ms. Ferreira, Section 1267.16 talks about 6 beds requiring a CUP. Ms. Harryman confirmed that Ms. Ferreira is absolutely correct. She explained that this is an older statute but it is still on the books, so both sections are in effect. She stated that she believes the legislature amended one section and did no clean-up on the other. With this said, Ms. Harryman stated that it still is on the books that 6 beds requires a CUP, so what she would need, after discussing this with the applicant, is an opinion from the applicant's legal counsel to consider as to why Section 1267.16 does not apply. She indicated that this might be, for example, a case law where court has said yes it says 6 beds but does not apply, but because of reason X, Y, and Z, the new statute actually applies. She stated that she was not sure the applicant will be able to produce this, but the City needs to give them time to research that issue and City staff to look at the issue some more, because she

cannot definitively state tonight that a CUP is or is not required, based on that the applicants do want to have A and C. She noted that she asked if the applicant would be willing to limit to A, and they seem to want both A and C and perhaps a combination of 6 beds at A and 6 beds at C, but she is not sure if that will work. She indicated that the statute does not say that; it just does not cover that; it remains silent on whether a mix would work.

Ms. Harryman concluded that more work needs to be done on this, and based on that and on talking with the applicant, both the applicant and staff were in agreement on continuing the item.

Chair Narum advised that the item is being continued. She asked the Commissioners if they have any other issues they would want staff to return with when it comes back to the Commission.

Commissioner Blank requested to have the Minutes of the previous Commission and Council meetings where the original PUDs and any modifications were considered so the Commission can have a full history of the event. He also requested the applicant to consider providing full color elevations of what the building would look like. He agreed with staff that this is not normally required for a remodel; however, this is a fairly significant remodel and because of the sensitivity of the neighborhood and that some of the discussions were held four or five years ago, it would be very helpful if the applicant could provide this. He also requested staff to provide copies of the ordinances pertaining to level A, B, and C for background information.

Commissioner O'Connor requested that he would like color elevations of the building with and without landscaping.

Commissioner Pearce stated that she would also like to see pictures of the surrounding houses if the Design Guidelines of the North Sycamore Specific Plan does indicate that the home has to be compatible with the other homes in the immediate neighborhood.

Commissioner Pentin indicated that one issue he would have brought up in the discussion would have been an alternate siting for the emergency generator. He added that he does not recall reading in the staff report a report from the Fire Department report about accessibility and circulation to the property, and he would like to receive that report as well.

Commissioner Blank requested a couple of clean-up work with respect to the Conditions of Approval: (1) Condition No. 13 on page 3 incorporates the fire sprinkler language, but there is a different condition also relating to sprinklers on page 13 which should be checked. (2) Include in Condition No. 36 that Saturday construction also be prohibited.

Commissioner Blank agreed with Commissioner Pentin regarding an alternate siting for the generator and asked that the alternatives include a sound proof enclosure such that

the noise would be 50 decibels. He stated that he realizes this will require a little more work, but the Commission is looking at fitting into the community.

Chair Narum concurred with the generator relocation as well and would like to see it moved closer to the house and away from the property line of the neighbors.

Mr. Ashby stated that he believes that they met the requirement of the Municipal Code with respect to the generator and that asking them to go to 50 dBA is more stringent than the ordinance dictates. He added that regarding comment made about the construction trailer, he indicated that there currently are two trailers on the property, one for storage and another for management of the job. He clarified that for anyone who is under the impression that somebody is staying in those trailers overnight, the trailers are strictly for day-to-day operations, a place for the phones and blueprints and for meetings with subcontractors.

Ms. Stern clarified that the concern was simply the wording of the condition and did not pertain to the specific trailers currently on the site.

Chair Narum advised that the item will be continued but does not know when that date would be as the agendas for the future meetings are already impacted.

Mr. Dolan stated that it will be difficult for the remainder of the year. He indicated that a Special Meeting is scheduled for November 30, 2011, which would place the item on the same agenda as the consideration of the BRE project. He added that it is also possible that not everything that needs to be done between now and November 30th would happen, but he could not see how it could be done sooner than that.

Commissioner Blank indicated that he was willing to give it a try for November 30, 2011.

Chair Narum likewise stated that she was fine with the date. She then thanked those who came to the meeting and advised that the earliest this can be heard will be at the Special Meeting on November 30, 2011.

Mr. Dolan clarified that if the item is continued to a date certain, no notice would be sent out; however, if the item will not be heard on November 30, 2011, notices would be sent out.

Commissioner Pearce expressed concern that if the item is not noticed for November 30th and people have planned to come then; if that meeting does not occur and is continued to a date far into the future like January, people will not be noticed until two weeks before that date. She indicated that she would hate to have people come back on November 30th and it is not on the agenda. She inquired if an exception could be made and have notices sent out anyway either way.

Commissioner Blank agreed with Commissioner Pearce and stated that there could be people who could not make it tonight but can actually make it on November 30th. He noted that this is important enough that it should be noticed.

Mr. Dolan stated that it really would not be any more convenient if staff says we do not know when it will be and we will send you a notice, it will show up 10 days before.

Commissioner Blank inquired how people who are not here find out that the meeting is continued to November 30th.

Commissioner Pentin replied that the agenda is published.

Mr. Dolan advised that if the item is not going on the November 30th, a notice will be sent out. He stated that every time an item is continued to a date certain, no notices are sent out.

Commissioner Blank commented that the item is controversial enough and additional neighbors who are not present tonight may want to attend the meeting. He stated that he thinks the City owes it to the public to notice the item as broadly as possible, but he left the decision to staff's discretion.

Commissioner O'Connor stated that it would be a nice gesture.

**c. PGPA-17, City of Pleasanton, Housing Element and Climate Action Plan
Receive comment on the Draft Supplemental Environmental Impact Report (DSEIR) for the Housing Element Update (including 17 sites for rezoning) and the Climate Action Plan, both of which apply citywide.**

Janice Stern presented the staff report and stated that the objectives of tonight's meeting are to describe the Environmental Impact Report (EIR) process and mainly to provide comments for the Draft Supplemental EIR. She noted that staff does not intend to answer questions or address comments tonight, but rather to fold the comments into the Final EIR which will be prepared at the end of the comment period, which is on November 14, 2011. She indicated that Leslie Lowe from ESA, who is one of the authors of the Draft EIR and who will assist staff in preparing the Final EIR, is present to take notes.

Ms. Stern described the project for the Draft Supplemental EIR, which consists of the Draft Housing Element, the potential rezoning of the 17 sites to accommodate the additional multi-family residential development that we need to accommodate for our share of the regional housing needs, and the Draft Climate Action Plan. She explained that the Draft Supplemental EIR augments the EIR already prepared for the updated General Plan certified in July 2009, and the proposed project would amend the adopted General Plan by updating the Housing Element and by incorporating the Climate Action Plan by reference. She added that the remainder of the General Plan remains in effect as previously adopted. She noted that based on the scope of the General Plan

amendment, the City determined that some changes to the previously certified General Plan EIR were necessary, and this is the reason for the Supplemental EIR. She indicated that the comment period for the Supplemental EIR is November 14, 2011, and staff will be taking comment on the Housing Element and the Climate Action Plan until they are adopted in early 2012.

Ms. Stern summarized the EIR process steps going forward, stating that the public comment period closes on November 14th, after which staff and the consultant will prepare the Response to Comments. She indicated that the Final Supplemental EIR will be completed by early December 2011 in order to give the Planning Commission and the public enough time to consider the document prior to the Planning Commission hearing on the General Plan Housing Element Update and the Climate Action Plan and the rezonings on December 14, 2011. She added that the City Council would then certify the Final Supplemental EIR and adopt the Housing Element, rezonings, and Climate Action Plan in January 2012.

Ms. Stern stated that analysis will also need to be done on the “No Project Alternative,” which means not updating the Housing Element, not doing the rezonings, and not adopting the Climate Action Plan; it will basically be the General Plan as it was previously. She indicated that there were four other alternatives that were analyzed which mainly involve differences in density, and subsets of the sites were selected and given particular themes such as “Large Parcel Alternative,” “High Density Alternative,” and “TOD Alternative.”

Ms. Stern then briefly described the environmental topics covered in the Draft EIR, and noted that mitigation measures were prepared for some of the topics in order to have them at less than significant levels. She explained that these topics are generally the same as those of other EIRs that have been reviewed by the Planning Commission and the Council, such as maintaining view corridor of the Ridge; dust control during construction; preconstruction surveys on birds, bats, and burrowing owls; protection of creeks and riparian vegetation; preparation of health risks assessments related to development where 60 percent is located on highly travelled roadways; archaeological monitoring of certain sites; Phase I environmental assessment where appropriate; limitation on hours of construction, which is probably true of most of the sites; noise mitigation measures, mostly from nearby traffics and which many of the sites will require after construction on those; noise mitigation at the time of construction; and payment of impact fees for other impacts.

Ms. Stern stated there are two areas where there are significant and unavoidable impacts:

- The first is within the cultural resources topic which relates to development facilitated by the General Plan Amendments and rezonings and the fact that it could have the potential to adversely impact the significance of historic resources. There are approximately three sites where there are potential historic resources, and staff would require evaluations of those to determine whether or not they are historic. A future developer would then make a determination as to

whether there is any feasibility of retaining those resources, and if there is none, this EIR covers that potential impact and identifies it as a significant and unavoidable impact.

- The second is development facilitated by the General Plan and rezonings which has the potential to affect the Regional Roadway Network. This is not related to the City's specific Level of Service standards but to the regional network. Again, there are some potential roadway effects that may not be mitigated because the City pays the regional roadway fees for the Tri-Valley Transportation Commission, but the City is not the lead agency in terms of which projects move forward on that.

Commissioner Pearce stated that she understood Ms. Stern to say that if any historic resources could be saved, it would be saved. She indicated, however, that the EIR says there will be an evaluation based on current State and Federal standards to determine whether or not the resources are historic, and the second mitigation was that if it turned out that it was not going to be saved, a picture of it would be taken, and that was the mitigation. She asked Ms. Stern if that has changed.

Ms. Stern replied that it has not changed. She confirmed that is the mitigation included in the document, which is not mitigation sufficient to reduce the significant impact. She clarified that what she was describing was that staff would obviously encourage any future developer to consider the feasibility of retaining the resource if it were so identified, but the EIR covers the case wherein the resource was eventually demolished.

Commissioner Blank inquired how taking a picture could be considered mitigation. He stated that it is a *non-sequitur* and does not make sense, and he would prefer that it just said it cannot be mitigated enough.

Mr. Dolan stated that it is a mitigation that is used and is more than taking a picture; it is an architectural documentation of the resource. He explained that nobody is suggesting this is the equivalent of saving the resource, but it is something that can be done and provides some of the value that saving the resource would. He indicated that in this particular case, CEQA asks that mitigations be considered even if it cannot get to a level of less-than-significant, and it obligates the Commission to explore those. He stated that no one is saying this is good enough. He noted that there are many "maybe's" here so when projects come forward, they will be evaluated and a determination will be made regarding whether or not there is a resource. He added that even if there is no resource, the City has all kinds of discretion in terms of how it wants to work with the project if it wants to save something. He noted that conclusions of the EIR do not necessarily dictate the future of these structures; the City's process will. He explained that the approach taken in the EIR tries to cover all eventualities, and one of them is the possibility that it would be torn down and that it would be a loss of significant and avoidable impact; and because it has been addressed in the EIR, it gives CEQA clearance to take that path.

Commissioner Blank commented that this is what is troubling from a historical perspective. He stated that there could be a future Planning Commission which could be faced with a developer who says that the EIR requires a picture be taken and it's done, so why is the Commission requiring that the resource be moved, the entire development rearranged, or do something unnatural when the EIR states it is okay.

Mr. Dolan stated that he sees this and hopes that staff and the Commission understand there is no obligation to do this. He explained that the alternative would be that there is a project with CEQA clearance for every other issue, and the City decides it is okay to lose the historic resource, that whatever is proposed is better for the City than the historic resource. He indicated that the City is then confronted with doing an EIR just on that one issue down the road or take this approach that staff has taken of using this opportunity to cover it now.

Commissioner Pentin stated that in defense of professional photographers, there is a National Archive in America that is full of rich history of the country's historical past and it is utilized consistently.

Ms. Stern concluded her presentation by stating that comments on the Draft Supplemental EIR will be addressed in the Response to Comments document to be prepared by staff and the consultants.

Commissioner Blank requested clarification on the deadlines for submitting comments.

Ms. Stern stated that the deadline for comments on the Draft EIR is November 14, 2011, and comments on the Housing Element and the Climate Action Plan will be received until they are adopted in early January 2012.

THE PUBLIC HEARING WAS OPENED.

Daina Schlegel, Pleasanton resident, read a statement into the record regarding the Housing Element in general

"I would like to talk about the results of the Health and Human Services Commission's Need Assessment Report in regard to the City's Master Plan and how many of those identified needs are being addressed through the Housing Element. The obvious needs that relate to rezoning of these sites are housing needs for lower income, special needs, and senior communities. However, there is another need that was identified in the final Needs Assessment Report that I believe can also be addressed through the current zoning process, and that is the lack of K-12 educational options in the Tri-Valley area for children with learning disabilities, particularly autism. Recently, the City of Dublin celebrated the grand opening of a Pre-K and Kindergarten school that serves the autistic and learning-disabled community. The school can to fruition because a developer initially donated a parcel of land to the city, and from there, Federal education grants and private funding made this school a reality. I am hoping we can use this same creativity to make a

quick K-12 school in Pleasanton a reality. While the numbers for autistic children are currently 1 in 110 nationwide; the statistics in the Bay Area are 1 in 90, with the number of diagnoses increasing 10-17 percent every year. Meanwhile, our public schools are losing funding and do not have the resources to help the influx of learning-disabled students. In addition, the Pleasanton School District has to pay to transport many of these students to schools in outlying communities since there is no local resource. Many other Bay Area communities are already planning ahead and have built or are building schools, and I'm curious why Pleasanton is not proactively addressing this epidemic as well. I know some of the site developers have very thoughtfully planned out communities that are beneficial not only to their own financial interest but also take into consideration the benefits to Pleasanton and its citizens. My hope is that there can be some discussion regarding setting aside a parcel of land that could eventually be used as a site for state-of-the-art text-savvy school for kids with autism and other learning disabilities. Thank you."

Rebecca Walker, Pleasanton resident, stated that she lives on Site 20 and indicated that if this process goes through, she will be booted off the property and will have to look for a new place in which to live. She added that she would like to know when the rezoning occurs, if it does, or what the process is. She noted that she has lived on this piece of property for seven years and is willing to go for the good for the multi-family housing units, but she wants to know when she will have to go.

Ms. Walker also inquired, should multi-family homes be built on this property, if the City is considering extending the bus service to Sunol Boulevard and Sunol Road because it is basically inaccessible right now to anyone who lives over that way. She added that if it does have lower-income people coming in, it would be nice to have bus service there for access purposes.

Monica Needoba, representing Pleasanton Garbage Service (PGS), indicated that they do not have comments on the EIR yet but would like to provide their comment of support for the Climate Action Plan. She stated that PGS has been an integral part of this community, and they look forward to working with the City on integrating many of its programs and policies over the next several years. She noted that for the past few years, PGS has worked toward reducing its green house gas and air quality emissions by using compressed natural gas vehicles. She added that they are also looking to installing solar panels on their buildings and installing light retrofits to reduce personal GHG emissions. She indicated that they are looking forward to working with the City on everything they are doing with the Climate Action Plan and being part of the zero-waste program the city has proposed.

Commissioner Pentin indicated that he is recusing himself for Site 19, as he has done in prior meetings.

Chair Narum requested staff to respond to the question regarding the timeline for Site 20.

Ms. Stern stated that Site 20 is one of the 17 sites which will undergo a selection process for rezoning. She explained that not all of the sites will be chosen for rezoning, and the first hurdle is if it would be rezoned. Ms. Stern stated that whether Site 20 will be rezoned or not will happen when staff gets a recommendation from the Planning Commission in December, and it would be adopted by the City Council in January 2012. She noted that it will then be up to a developer as to whether or not there is an interest in developing the site. She added that it is also speculative when the actual project would move forward.

Ms. Stern requested Ms. Walker to provide her contact information so she can be added to the mailing list for this item.

THE PUBLIC HEARING WAS CLOSED.

Commissioners Olson, Pentin, and O'Connor indicated that they have no comments.

Commissioner Blank stated he would put his comments in writing.

Referring to the Table of Project Build Alternatives on page 5-4, Chair Narum stated that she does not understand why Site 7 is not part of Alternative 2; Transit-Oriented Development since it is right by the freeway. She recalled that it was rated high in the Task Force meetings because it is near a freeway.

No action was taken.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Commissioner Blank commended and thanked staff for providing “before” and “after” photographs and encouraged staff to continue to include these in staff reports for major modifications because they really help in visualizing what is being modified.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Update on the El Balazo Restaurant CUP, July-September 2011

The Commissioners expressed appreciation for the update and thanked staff, particularly the Police Department, for the report.

Commissioner Pearce inquired if this was an onerous task for the Police Department.

Mr. Dolan replied that the Police Department is happy to do this for this particularly outlet, and they will continue to assist the Planning Division.

Commissioner Pearce inquired if the Commission wished to have another report in six months or earlier?

The Commissioners expressed their preference for six months.

- b. Selection of Two (2) Planning Commissioners to serve on the Ad Hoc Task Force to review the Downtown Specific Plan and Design Guidelines as they relate to Historic Preservation and the Development Review Process**

Commissioner Pearce moved to nominate Commissioner Blank to serve on the Ad Hoc Task Force to review the Downtown Specific Plan and Design Guidelines as they relate to Historic Preservation and the Development Review Process. Commissioner Pentin seconded the motion.

ROLL CALL VOTE:

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

Chair Narum moved to nominate Commissioner Pearce to serve on the Ad Hoc Task Force to review the Downtown Specific Plan and Design Guidelines as they relate to Historic Preservation and the Development Review Process. Commissioner Blank seconded the motion.

ROLL CALL VOTE:

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

- c. Future Planning Calendar**

No discussion was held or action taken.

- d. Actions of the City Council**

No discussion was held or action taken.

- e. 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

Commissioner Pearce reported there was an outstanding Johnny Cash Tribute Band at the CLC Groundbreaking.

12. ADJOURNMENT

Chair Narum adjourned the Planning Commission meeting at 10:00 pm.

Respectfully,

JANICE STERN
Secretary