



PLANNING COMMISSION MEETING MINUTES

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

APPROVED

Wednesday, January 27, 2010

(Staff has reviewed the proposed changes against the recorded proceedings and confirms that these Minutes are accurate.)

CALL TO ORDER

The Planning Commission Regular Meeting of January 27, 2010, was called to order at 7:00 p.m. by Chair Olson.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Community Development; Julie Harryman, Assistant City Attorney; Donna Decker, Principal Planner; Marian Pavan, Associate Planner; Shweta Bonn, Assistant Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: Jerry Pentin

2. APPROVAL OF MINUTES

a. November 5, 2009

Commissioner Blank requested that the first sentence of the fourth full paragraph on page 15 be amended to read as follows: "Commissioner Blank stated they do not look very pleasant Pleasanton-like to him." He further requested that the last paragraph on the same page be amended to read as follows: "...the combination of the color and form do not look like Pleasanton-like type projects."

Commissioner Blank requested that the seventh full paragraph on page 7 be amended to read as follows: "Commissioner Blank inquired if the Commission will be able to discuss the development agreement before it was signed."

Commissioner Pearce advised that Commissioner Pentin had indicated to her that he had no corrections to the Minutes and asked that they not be deferred because of his absence.

Commissioner Pearce moved to approve the Minutes of November 5, 2009, as amended.

Vice Chair Narum seconded the motion.

ROLL CALL VOTE:

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioner Pentin.

The Minutes of the November 5, 2009 meeting were approved as amended.

b. November 18, 2009

Chair Olson indicated that he would abstain from voting due to his absence at the November 18, 2009 meeting.

Commissioner Blank moved to approve the Minutes of November 18, 2009, as submitted.

Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, O'Connor, and Pearce.

NOES: None.

ABSTAIN: Commissioner Olson.

RECUSED: None.

ABSENT: Commissioner Pentin.

The Minutes of the November 18, 2009 meeting were approved as submitted.

c. December 9, 2009

Referring to the first paragraph following the closing of the public hearing on page 8 regarding his question on the extra 1 and 3 dB from the airport and Mr. Dolan's response, Commissioner Blank inquired what the process was for responding to questions.

Ms. Harryman replied that she believes the questions would be gathered and responded to by staff as part of the Final Supplement to the Environmental Impact Report.

Commissioner Blank moved to approve the Minutes of December 9, 2009, as submitted.

Vice Chair Narum seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, Pearce.

NOES: None.

ABSTAIN: Commissioner O'Connor

RECUSED: None.

ABSENT: Commissioner Pentin.

The Minutes of the December 9, 2009 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

Chris Studzinski, Valley Business Park property owner, stated that he had protested and appealed the Conditional Use Permit for the music school at Valley Business Park when it came before the Commission. He noted that one of the conditions of project approval was that loitering would not be allowed. He indicated that loitering does occur in the premises and that on one occasion when he called the police, he was told that he should complain to the Planning Commission. He inquired how he could put on record that he is lodging a formal complaint. He further cited that sprinkler heads have been broken and landscaping destroyed and that he is considering installing a fence which he believes should be paid for by the music school and gymnastics/martial arts school in the Park.

Mr. Studzinski added that the two applications for consideration at tonight's meeting were acceptable to him.

Chair Olson informed Mr. Studzinski that by virtue of his appearance before the Commission, his complaint is on the record.

Commissioner O'Connor inquired what the procedure is for reporting such problems relating to a Conditional Use Permit as the Police Department would not know the conditions of approval for a project's approval.

Mr. Pavan replied that he would ask the Code Enforcement Officer, Walter Wickboldt, to investigate the concern.

Commissioner O'Connor stated that, for future reference, the public can contact Code Enforcement Officer directly and does not have to wait for a Planning Commission meeting.

Commissioner Blank inquired if Planning gets a copy of the Police report.

Mr. Pavan said no, but Planning can request a copy.

Ms. Decker stated that anyone can contact the Planning Division or Code Enforcement directly for any complaint or non-conformance to a condition of approval. She added that Code Enforcement would process the complaint by determining the validity of the complaint and what has been approved for the project; he then conducts a site visit to ensure compliance. She continued that a violation would entail an initial letter to the applicant to comply, and if nothing is done, it would be followed by two more letters. She added that if no resolution is reached after the third letter, the matter can go to an administrative hearing. Ms. Decker noted that the City typically works with both the business owner and the concerned citizen to facilitate a solution after the first letter is sent out.

4. REVISIONS AND OMISSIONS TO THE AGENDA

There were no revisions and omissions to the Agenda.

5. CONSENT CALENDAR

There were no Consent Calendar Items.

6. PUBLIC HEARINGS AND OTHER MATTERS

- a. **PCUP-260, Scott Murphy, Phoenix Flooring Systems**
Application for a Conditional Use Permit to allow a concrete floor contracting business at 1048 Serpentine Lane, Suite 308, in the Valley Business Park. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District.

Marion Pavan presented the staff report and described the scope and key elements of the application.

Commissioner Blank noted that the staff report indicated that the applicant signed a lease without knowing he needed a Conditional Use Permit. He inquired how long the applicant has been operating his business at this address.

Mr. Pavan replied that he has been there for 18 months.

Commissioner Blank inquired how staff discovered that the applicant did not have a use permit.

Mr. Pavan replied that the City discovered during one of its periodic record audits that the business had no use permit, after which the applicant was contacted and alerted that he needed to file an application.

Commissioner Blank inquired whether Mr. Murphy had a business license.

Mr. Pavan replied that he was not sure but that one would need to be obtained if it has not already been secured.

Commissioner Blank inquired where the business was located prior to its move to Pleasanton.

Mr. Pavan replied that it was located in Hayward.

Commissioner Blank noted that on page 4 of the staff report, it states that 75 dBA is the maximum permitted noise level. He inquired if the noise was measured from Kolln Street.

Mr. Pavan replied that the noise was measured from the property line of the business.

Commissioner Blank noted that Condition No. 9 states that 90 days following Planning Commission approval, the applicant would have to contact the Building and Safety Division and Fire Department to determine all applicable requirements. He inquired if staff monitored this through a tickler.

Mr. Pavan replied that was correct.

Commissioner Blank indicated that this requirement should be institutional rather than personal and inquired what would happen if the planner were on vacation.

Mr. Pavan replied that the Planning Division has a system in which a planner who goes on vacation designates a "buddy" who is briefed of items that need follow-up and acts as a back-up during the project planner's absence.

Commissioner Narum noted that Condition No. 5 states that truck pick-ups and deliveries are limited to the hours of 8:00 a.m. to 5:00 p.m. She inquired if this was only on weekdays or also on weekends.

Ms. Harryman replied that if the condition does not designate days, it would legally mean seven days a week.

Commissioner Narum inquired if staff is trying to limit deliveries to Monday through Friday and if the applicant requested deliveries seven days a week.

Mr. Pavan replied that deliveries were not being limited to weekdays and that this was discussed with the applicant. He added that the delivery hours is a standard condition and that the office hours of operation of 7:00 a.m. to 7:00 p.m. is to allow the applicant to go to his office to conduct office work.

Commissioner O'Connor noted that Condition No. 4 states that the hours of operation are from 7:00 a.m. to 7:00 p.m. Monday through Friday, but deliveries are allowed seven days a week. He inquired whether Condition No. 5 should be modified to limit deliveries to Monday through Friday or Condition No. 4 to allow the utilization of the office on weekends as well.

Mr. Pavan replied that for this type of business, deliveries should be allowed seven days a week.

Commissioner O'Connor inquired if this is standard for this type of business.

Mr. Pavan said yes.

Ms. Decker stated that deliveries are generally not allowed from 10:00 p.m. to 6:00 a.m. in commercial properties and industrial parks, particularly those proximate to residential areas. She explained that the intent of this restriction is to limit truck traffic to 8:00 a.m. to 5:00 p.m., Monday through Friday, so noise does not resonate into the neighborhood. She recommended that truck delivery hours be made consistent with the hours of operation.

Commissioner O'Connor inquired if Condition No. 5 would be modified, limiting deliveries to 7:00 a.m. to 7:00 p.m., Monday through Friday, to be consistent with the hours of operation stated in Condition No. 4.

Ms. Decker said yes.

Chair Olson referred to Condition No. 3 and inquired if the conditions of approval of PUD-80-1 are those for the Valley Business Park.

Mr. Pavan said yes.

Referring to Condition No. 9 regarding storage requirements, Chair Olson inquired whether hazardous materials or flammables were used in the business of refinishing concrete floors.

Mr. Pavan suggested that the question be referred to the applicant.

Ms. Decker called the Commissioners' attention to Condition No. 12, stating that there have been a couple of projects in Valley Business Park that have recently come before the Commission where the business owners have applied to relocate their businesses from one tenant space to another. She added that staff has also been processing

conditional use permits to run with the land, and in this case, with the suites. She indicated that staff has been sunsetting original use permits in the original suites or parcels, and she requested the Commission to consider adding language requiring the applicant to secure a new conditional use permit or transfer the existing conditional use permit. She explained that this is a new process that does not happen very often but which staff has done a couple of times, and staff wants to ensure there is not a lot of duplication.

Commissioner Blank indicated his support for this process and believed it was cleaner than having expiration dates on use permits.

Chair Olson agreed.

Commissioner Narum noted that the condition does not specify whether the use permit would be for a new address or tenant suite and inquired if the new tenant space would have to be in the same business park or whether it could be elsewhere.

Ms. Decker replied that in the past two projects where this has been done, tenants actually went from one industrial park to another or from an industrial park to a commercial site or vice versa. She added that the transfer would still come before the Planning Commission just as if it were a new application. She explained that staff is looking for a tool to have the original use permit at the current location expire and then be moved essentially to the new location, whether in the same building, the same complex, or at another site altogether.

Commissioner Blank inquired if it would not cause a problem if the additional language included a clause that it would be subject to the approval of the Planning Commission.”

Ms. Decker replied that would not be a problem.

Ms. Harryman stated that it was staff’s intent to have the use permit transferred, but the condition does not indicate that the use permit in the original site would cease. She added that staff does not want to have a situation wherein a use permit is left at the original suite when its tenant is moving to another location. She suggested that language be added to clarify that when a use is transferred to another location, the use will terminate at the original location and a new one approved for the new location.

Commissioner Blank stated that if the original use permit is terminated, then it cannot be transferred and that if it is transferred, it does not terminate. He added that he believed a new conditional use permit cannot be transferred to another location.

Ms. Harryman suggested that the language include the phrase “secure a new conditional use permit” or a phrase that indicates that the original use permit lapses upon transfer to another location.

Commissioner Blank suggested not to use the word “transferring” and requested that Ms. Harryman attempt to craft new language while the meeting continued.

Commissioner Narum suggested that language also be added that this be subject to the approval of the Planning Commission.

Commissioner Blank stated that there are three things being considered here: (1) staff is proposing adding language that would end the life of a use permit and create a new one upon the transfer of the business to a new location; (2) staff is also proposing that the phrase “another site” be added to “building or tenant suite”; and (3) the Commission is proposing to add language that the process be subject to Planning Commission approval.

Ms. Decker agreed that the word “transfer” leaves the condition open. She added that it was also staff’s intent to acknowledge and inform the Planning Commission that the tenants have a use permit and have been in business in the center, but now want to move to a different site.

Commissioner Blank stated that he agreed and supported the concept and language to end the life of a use permit.

THE PUBLIC HEARING WAS OPENED.

Scott Murphy, applicant, indicated that he was available to answer questions.

Chair Olson asked Mr. Murphy if he works with hazardous materials such as epoxy.

Mr. Murphy replied that there has been an effort to “go green” over the last couple of years and that they use products that meet or exceed California standards which are some of the most stringent in the country. He indicated that they have moved to using products that are water-based and have no odors, have zero or low volatile organic compounds (VOCs) and are not harmful to their clients or as well as to their employees.

Chair Olson inquired if the Fire Department could check on the products.

Mr. Murphy agreed and added that the Fire Department had just checked their sprinkler system and no issues were identified. He added that the company tries to use safe LEED products that leave very low carbon footprints and stays away from those that are high in chemicals.

Commissioner O’Connor noted that Condition No. 10 requires that the applicant have a business license and asked Mr. Murphy if he currently has one.

Mr. Murphy replied that he was not sure but that he would check and would definitely make sure he complies.

Commissioner Pearce asked Mr. Murphy if it was his intent to operate Monday through Friday.

Mr. Murphy replied that he lives in San Francisco and often works from his home or car when conducting estimates and going to job sites. He added that it often involves getting to the location, loading up the van, leaving in the morning and returning back without any set hours. He noted that the hours are typically those that have minimal impact on the neighbors.

THE PUBLIC HEARING WAS CLOSED.

Ms. Decker clarified that Condition No. 10 is intended for applicants who have not moved into their sites such that if they have been granted a use permit and are getting building permits for tenant improvements, they have one year to obtain their business license. She noted that since Mr. Murphy has been at the location for 18 months and it is uncertain whether or not he has a business license on the premises, staff is recommending modifying the condition to require him to obtain his business license within 30 days of the use permit approval since. She then briefly described the process for securing a business license.

Ms. Harryman proposed the new language for Condition No. 12 as follows: "If the applicant wishes to relocate the use to a new address or tenant suite, the applicant shall obtain approval from the Planning Commission to transfer the Conditional Use Permit to the new location prior to occupying the new location. Upon approval of the transfer, the Conditional Use Permit issued to the prior location shall terminate."

Commissioner Blank moved to make the Conditional Use Permit findings listed in the staff report and to approve Case PCUP-260, subject to the Conditions of Approval listed in Exhibit B of the staff report, with the following modifications: (1) Revise the language for Condition No. 12 as proposed by Ms. Harryman; (2) Modify Condition No. 10 to require the applicant to get a business license within 30 days rather than one year; and (3) Modify Condition No. 5 to limit deliveries to Monday through Friday. Commissioner Narum seconded the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2010-01 approving PCUP-260 was entered and adopted as motioned.

b. PCUP-262, Gorman Roofing

Application to transfer an existing Conditional Use Permit (PCUP-189) for a roof contractor business from Suite 203 to Suite 202 of the building located at 1040 Serpentine Lane, in the Valley Business Park. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District.

Shweta Bonn presented the staff report and described the scope and key elements of the application.

Commissioner Pearce inquired if staff's intent is to limit pick up and delivery hours to Monday through Friday.

Ms. Bonn said yes.

Commissioner Blank inquired if the same language could be used for Condition No. 12 as that of the previous application.

Ms. Harryman said yes. She further proposed a new Condition No. 13 because there is actually a transfer of suites and suggested that the condition read as follows: "The conditional use permit for Suite 203 is terminated."

Chair Olson inquired if the applicant had a business license.

Ms. Bonn replied that the applicant had obtained a business license for his previous suite and that it was upon the renewal of that business license that staff discovered that the business had relocated to a new site.

Commissioner Blank recommended that Condition No. 13 be changed to require the applicant to obtain a business license within 30 days.

Ms. Decker replied that staff would modify that condition.

Ms. Harryman indicated that she was not sure if the applicant would need a new business license or would simply need to indicate that the business has relocated to a new address. She added that either way, the applicant would be required to obtain a business license

Commissioner Narum stated that she understood that when the applicant went to renew his business license, staff caught the address change; if effect, the applicant had a business license and when he came in to renew it, it was discovered that he had relocated.

Ms. Bonn agreed that was the case.

THE PUBLIC HEARING WAS OPENED.

Ken Ross, applicant, stated that his business has been in operation at the Valley Business Park for three to four years and that he just relocated to a larger unit. He indicated that he was not aware that he needed to apply for a new use permit until he was informed by staff.

Commissioner Narum asked Mr. Ross if he was amenable to restricting deliveries to Monday through Friday.

Mr. Ross replied that he was.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pearce inquired how, technically, if the use permit runs with the land and this permit has to do with this specific land as opposed to the business, the Planning Commission could include conditions related to a totally different piece of land than where the applicant's new business is located.

Ms. Harryman explained that the standard condition is that the use permit runs with the land and once that entitlement is there, it should stay there. She noted that in this case, the tenants are doing well in this business park and would like to relocate to a bigger space. She noted that this is one way to handle that transfer.

Commissioner Pearce stated that she understands the reason for the termination clause; however, she was not certain that terminating the current use permit for another parcel of land is the correct vehicle, given that it is not related to the property under consideration. She inquired if this would apply to someone who moves across town rather than within the same commercial or industrial park.

Ms. Harryman said yes. She added that staff's bigger concern is to ensure that when someone moves to another location, they original location would no longer have a use permit.

Commissioner O'Connor stated that if there is an application before the Commission for a new use permit, the Commission would be granting approval for a new use permit and terminating a different use permit in the same evening=.

Commissioner Blank stated that the Commission is not terminating a different use permit but rather, the use permit associated with the current application.

Commissioner Pearce stated she would like to discuss this further at a future meeting under Matters Initiated by Commission Members.

Ms. Decker clarified that there are two different things being considered: land ownership and condo, suite, or building ownership. She explained that the land may be owned by one person, but the building on that land may have several suites. She

continued that the use permit runs with the land, and in looking at the building, the City may believe that a certain use may be appropriate for one suite but not for the entire building; therefore, the City wants to terminate the use within that suite when the applicant moves to another location, whether within the same building or across town. She indicated that staff wants to ensure that the use is terminated and will no longer be allowed at the existing location which evaluating that use as a new use permit in a new location.

Chair Olson stated that this makes a lot of sense in the context of economic development; otherwise, a roofing contractor would have to move into the vacated suite.

Commissioner Narum noted that another permitted use could move into that suite even if there is a use permit in place.

Ms. Decker presented an example that Suite 203 currently has a permit for a roofer, and when the roofer vacates the site and a painter comes in, the site would have a use permit for a painter. She continued that should the painter leave and a flooring contractor comes in, that contractor would also be granted a use permit, and at this point, the suite would have several use permits in existence. She indicated that staff is trying to ensure that the impact of whatever type of contracting company that wants to occupy the suite can be evaluated by Valley Business Park as well as by the City in terms of the concentrations of uses within the building suites.

Commissioner Blank moved to make the required conditional use permit findings as listed in the staff report and to approve Case PCUP-262, subject to the conditions of approval listed in Exhibits A with the following modifications: (1) Modify Condition No. 6 to restrict pick up and deliveries to Monday through Friday; (2) Modify Condition No. 12 to use the same language recommended by Ms. Harryman for the earlier application; (3) Add a new condition stating that the use permit for Suite 203 is terminated; and (4) Modify Condition No. 13 to require the applicant to obtain a business license within 30 days. Vice Chair Narum seconded the motion.

ROLL CALL VOTE:

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

Resolution No. PC-2010-02 approving Case PCUP-262 was entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Uses at Valley Business Park

Commissioner Narum stated that she recalled a discussion about 18 months ago regarding modifying the PUD for Valley Business Park (VBP) to include a number of uses that are permitted but require a conditional use permit, including child care, trade schools, etc. She indicated that in reading the two applications, it is clear that VBP is a business park for construction and industrial uses. She inquired if it would make sense to modify the VBP PUD to allow only construction or trade-related uses, considering how the economy has evolved. She stated that she was not interested in modifying it for anything having to do with youth or churches or similar uses the Commission has seen in the past.

Ms. Decker stated that staff has been working with VBP about once every six months when an application comes forward that staff feels would be appropriate to take a look at. She added that contractors have expressed concern about not being able to review what uses and what contractors would go where considering the different suites occupied by various businesses and different trades. She noted that staff has been informed by the VBP association that at this time, it is not interested in entertaining a Code amendment for its PUD. She indicated that she believes it would be a minor modification; however, staff will continue to look for the opportunity to do so when the time is right.

Hacienda Task Force

Commissioner Pearce stated that at the January 19, 2010 City Council meeting, the Council confirmed that members of the Hacienda Task Force. She noted that the Council also indicated its approval for proxies for Council Task Force members who may not be present at Task Force meetings. She proposed doing the same thing for the Planning Commission in the event that she or Commissioner Narum is not able to attend the meeting.

Commissioner Narum concurred. She inquired whether the item would need to be agendaized and noted that there is time to add it to the next agenda as the first meeting of the Task Force will not be until March.

Ms. Harryman agreed that the item should be agendaized. She inquired if the proxies allowed for Councilmembers applied to the five "at-large" Task Force members.

Commissioner Pearce replied that the proxies applied only to the Councilmembers.

The Commission agreed to schedule the item scheduled on the next agenda.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Ms. Decker noted the League of California Cities' Planner's Institute would be held on March 24-26, 2010 and inquired if any of the Commissioners is interested in attending as March 24 is a regular Planning Commission meeting date and would have to be canceled or rescheduled to March 31st, if necessary, should there be no quorum.

Commissioner Blank stated that he is interested and may attend the Institute.

Chair Olson indicated that he will not be attending the Institute and would be able to attend a March 24th Commission meeting but would not be present for a March 31st meeting.

Commissioners Pearce and Narum each indicated that they would not attend the Institute as the Task Force would be meeting on March 25th. They noted that they would be available for a Commission meeting on March 24th.

Commissioner O'Connor stated that he would not be attending the Institute and would be able to attend a Commission meeting on March 24th.

The Commission confirmed a quorum for a March 24th meeting.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

8. COMMUNICATIONS

No discussion was held or action taken.

9. REFERRALS

No discussion was held or action taken.

10. MATTERS FOR COMMISSION'S INFORMATION

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

Donations for Haiti Earthquake Victims

Chair Olson stated that the Downtown Rotary Club of Pleasanton is raising donations for Haiti and is asking people to bring crutches, wheelchairs, walkers, or canes to the Amador Valley High School Parking lot on Saturday, January 30th, from 9:00 a.m. to 4:00 p.m. for shipment to Haiti.

Bicycle and Pedestrian Advisory Committee

Commissioner Pearce stated that the last Bicycle and Pedestrian Advisory Committee meeting would be held on February 5, 2010.

10. ADJOURNMENT

Chair Olson adjourned the Planning Commission meeting at 8:03 p.m.

Respectfully,

DONNA DECKER
Secretary