



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, April 15, 2009

(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 April 15, 2009, was called to order at 7:00 p.m. by Chair Pearce.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Community Development; Larissa Seto, Assistant City Attorney; Steve Otto, Associate Planner; Natalie Amos, Assistant Planner; Rosalind Rondash, Assistant Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: Commissioner Anne Fox

2. APPROVAL OF MINUTES

a. March 25, 2009

Commissioner Blank noted a typographical error in the fifth paragraph of page 14 and requested that it be modified to read as follows: "...which is in a historic area, was significantly modified ~~in~~ in order to fit into that district."

Commissioner Blank referred to the last sentence of Commissioner Fox's comment in the paragraph following the Roll Call Vote on page 23 and stated that he believes it should read as follows: "...when the ordinance was revised ~~to require~~ due to the

presence of eight banks Downtown.” He requested staff to check the tape for verification.

Commissioner Narum noted that the first sentence of the sixth paragraph on page 3 was incomplete. She stated that she believed Commissioner Fox wanted the Millers’ letter and comments to be addressed by staff in the conditions. She requested that staff check the tape.

Commissioners Blank moved to approve the Minutes of March 23, 2009, as amended.

Commissioner Narum seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson, and Pearce.

NOES: None.

ABSTAIN: Commissioner O’Connor.

RECUSED: None

ABSENT: Commissioner Fox.

3. MEETING OPEN FOR ANY MEMBER OF THE AUDIENCE TO ADDRESS THE PLANNING COMMISSION ON ANY ITEM WHICH IS NOT ALREADY ON THE AGENDA

There were no speakers.

4. REVISIONS AND OMISSIONS TO THE AGENDA

There were no revisions or omissions to the Agenda.

5. CONSENT CALENDAR

a. PTR-8004, Pamela Hardy, Ponderosa Homes II, Inc.

Application for Vesting Tentative Map approval to subdivide an approximately 23.1-acre site located at 1 Reimers Drive in the Ironwood Planned Unit Development into 110 single-family home lots plus four common area parcels. Zoning for the property is PUD-LDR/MDR/HDR/ P&I & Mixed P&I/MDR (Planned Unit Development – Low Density Residential/Medium Density Residential/ High Density Residential/Public & Institutional and Mixed Public & Institution/Medium Density Residential) District.

Chair Pearce noted that some Commissioners had questions about the proposal and inquired if they wanted to pull the item off the Consent Calendar for a brief staff report and some discussion.

Commissioners Narum and Blank replied that they had questions regarding the application and the Conditions of Approval but that they did not wish to remove the item from the Consent Calendar.

Chair Pearce addressed the audience and inquired if anyone had questions on the application.

A member of the public stated that she may have questions depending on what is discussed.

Chair Pearce pulled the item from the Consent Calendar for discussion under Public Hearings and Other Items.

6. PUBLIC HEARINGS AND OTHER MATTERS

- a. PTR-8004, Pamela Hardy, Ponderosa Homes II, Inc.**
Application for Vesting Tentative Map approval to subdivide an approximately 23.1-acre site located at 1 Reimers Drive in the Ironwood Planned Unit Development into 110 single-family home lots plus four common area parcels. Zoning for the property is PUD-LDR/MDR/HDR/ P&I & Mixed P&I/MDR (Planned Unit Development – Low Density Residential/Medium Density Residential/ High Density Residential/Public & Institutional and Mixed Public & Institution/Medium Density Residential) District.

Steve Otto presented that staff report and gave a brief description of the scope and key elements of the application.

Commissioner Narum inquired if the applicant is being required to remove the 39 trees but not pay their appraised value.

Mr. Otto replied that because the trees were orchard-type trees past their prime and were in poor condition, staff did not believe it was necessary for the applicant to pay the trees' appraised value of roughly \$34,000.

Commissioner Blank referred to the grading plan and asked staff where the trees were located and the reason staff is not recommending that they be replaced after removal.

Mr. Otto pointed to the area, noting that the trees extended down behind the lots on Sagewood Court. He stated that the land is owned by Zone 7, not the developer, and added that this was part of the reason the applicant was not required to replace the trees.

Commissioner Blank inquired if Zone 7 was not opposed to the removal of the trees and not having them replaced.

Mr. Otto replied that there has been an ongoing issue between Zone 7 and the City regarding the maintenance of those trees. He added that he believes Zone 7 would not have an issue about the removal of the trees because Zone 7 did not want that maintenance responsibility.

Mr. Dolan stated that the fact that the public trail was added as a requirement after the Commission's discussion had factored into the discussion. He noted that in an attempt to address the community's concerns, staff tried to balance some of the concerns in order to resolve them.

Commissioner Blank stated that he has always been concerned about removing trees, especially if they are not being replaced or if payment for their removal is not being required.

Commissioner Narum referred to the language in Condition 22 regarding other trail-related improvements and requested staff to elaborate on what this might include.

Mr. Otto explained that the Class C trail is a simple, compacted, graded earth trail that is eight feet wide. He stated that the other improvements would include signage, adjustment of fencing and landscaping, and review of grading and drainage.

Commissioner Narum stated that she was not comfortable with the language being open-ended and inquired if this was standard language.

Mr. Otto replied that this was a catch all to anticipate any items that staff may have overlooked. He added that the PUD conditions actually identify the applicant's responsibilities, including grading, landscaping, fencing, and signage.

Commissioner Narum inquired if the condition was added to the PUD after Council approved the project.

Mr. Otto said yes.

Commissioner Blank inquired which would take precedence if there were any conflict between the Conditions of Approval and the Vesting Tentative Map and what is in the PUD.

Mr. Dolan replied that theoretically, there would not be any conflict between the two.

Ms. Seto replied that it would depend upon the issue. She stated that many of the things in the Vesting Tentative Maps deal with utility and grading plans and that if they are any over-arching or general issues, then staff would typically look at the PUD condition. She added that the Director of Community Development is given

some discretion for minor modifications that are still within the language of the conditions, and this is how they would be resolved.

In response to Commissioner O'Connor's inquiry regarding what the current zoning was on the property adjacent to the Legacy Partners property, Mr. Otto replied that it was unincorporated land within Alameda County. He added that the City will be undertaking a specific plan for that area after the General Plan Update is completed.

Commissioner O'Connor inquired if there is a General Plan overview of what is anticipated and if this is part of a mixed-use area.

Mr. Dolan replied said there is no designation. He stated that staff had to make some assumptions for cumulative impacts in the EIR and could not simply assume that the land would not be developed or that what is in the City limits and the General Plan was being adequately analyzed. He added that some place holders had to be put in, which assumed a fair amount of commercial development with very little residential. He noted that while that does not have any status, it provides a certain level of environmental analysis. He indicated that the ultimate determination is left to the specific plan process.

THE PUBLIC HEARING WAS OPENED.

Pamela Hardy, Applicant, Ponderosa Homes, stated that they had made some refinements to the site plan as a result of the Planning Commission's input as well as the Conditions of Approval established under the City Council's purview of the PUD. She indicated that she was not aware that there was a condition clarifying that the applicant would not be paying for the appraised value of the trees to be removed and was pleased about it. She requested that it be included in the Conditions of Approval.

With respect to tree replacement, Ms. Hardy indicated that this would generally occur in a situation where the project had a direct impact. She noted that in this case, the public trail is an off-site amenity in which the Council had expressed an interest after the Ad Hoc Trails Committee and the Parks and Recreation Commission discussions. She stated that they are not anticipating doing the tree replacement and also reiterated that they are paying substantial park fees in addition to providing the amenity. She added that replacing the trees would require long-term maintenance involving irrigation, among other things.

Commissioner Blank disclosed that he knew Sherryl Dennis socially but has not discussed this project with her.

Sherryl Dennis stated that the trees had always been an issue in the area. She noted that when Zone 7 took care of the unincorporated strip of land, there were a lot of dead, dying, and falling trees in the neighborhood, and the City did not have the money to take care of them. She added that when Ponderosa built the Ironwood

development, they corrected the problem by removing dead trees and replanting some. She indicated that she supported either the removal or maintenance of the trees.

Nanda Gottiparthi voiced concern about the cost of the landscaping maintenance along the streets and asked that the Planning Commission require the homeowners association (HOA) of the new development to share in the cost of maintaining the landscaping along these streets that would also be utilized by the new project. He stated that at the time the original condition was placed, an analysis was not done to review the burden and benefit derived from residents. He indicated that the residents of the Ironwood development had received a letter from the HOA increasing the association dues by 21 percent. He noted that it would be logical and reasonable for the new development to share a proportionate cost in the landscape maintenance.

Commissioner Narum asked Mr. Otto to display an overview map that would help the Commission understand the landscaping maintenance.

Mr. Otto displayed a map and pointed out the different locations where landscaping needed to be maintained. He indicated the areas that were maintained by the homeowners association and those maintained by the City.

Commissioner Narum stated that she understood that the homeowners association maintained the landscaping along Busch Road.

Mr. Otto replied that Ponderosa Homes had installed a masonry wall and landscaping along the south side of Busch Road as well as along the north side, with project entry monument signs.

Commissioner O'Connor noted that at the time the development was created, a school site was anticipated but that now residential is being developed. He inquired if this would have been tied into one big maintenance agreement or HOA amenity.

Mr. Otto agreed that an adult development is slightly different and there are ways to appropriate a share of costs for improvements.

Ashish Ahluwalia reiterated Mt. Gottiparthi's comments and, referring to the corner of Valley Avenue and Busch Road, stated that the entire area is currently the responsibility of the Ironwood community. He stated that they have forwarded a letter to Ponderosa Homes asking that the existing senior homes share that landscaping maintenance cost because there is a church and apartments for seniors in the same area, in addition to the new development.

Ms. Hardy stated that the original PUD for the Ironwood development and its Conditions of Approval specifically require not only that Ponderosa install all improvements but that ultimately the HOA for Ironwood maintain those areas. She

noted that Ponderosa Homes has been maintaining and subsidizing improvements since the onset of the project, and the cost of the dues, which has escalated, were all part of the Department of Real Estate's approved budget which the homeowners received.

In response to Commissioner O'Connor's earlier comment, Ms. Hardy stated that at the time the project was approved, Ponderosa Homes thought there was going to be a school, and it was not until they knew of the plan for the residential project that they started thinking as well about a cost-sharing agreement. She noted that residents and the HOA have discussed this matter recently and that Ponderosa thinks it is reasonable to have cost-sharing agreement with the 110 homes. She reiterated, however, that Ponderosa needs to work through the budget process and cannot move forward with such an agreement until the project is approved.

Ms. Hardy indicated that they do have a problem with making this a condition of this project approval as it is a separate matter. She reiterated that the original PUD required that the Ironwood HOA maintain the improvements and that ultimately, if the homeowners wanted to go back and approach the City about taking back some of the maintenance of the landscaping, they can do so. She noted that there will be a report back to the homeowners at their next Board meeting in June.

Commissioner Blank inquired if the new senior project would have its own HOA.

Ms. Hardy replied that it would.

Commissioner Blank questioned why the new HOA would necessarily agree to split the cost of the landscaping and maintenance. He noted that once formed, an HOA becomes very vested in its issues alone, which is what it is there for. He noted that if he were sitting as a Board member of the new HOA and was approached by another HOA to split the maintenance cost, he would not necessarily agree to it. He stated that the time to instruct the new HOA that it needs to negotiate in good faith with the existing HOA is now.

Ms. Hardy agreed and stated that she felt it was logical and reasonable to enter into a cost-sharing agreement. She noted that, however, they would not be in a position to conduct budgeting for a pro rata share until they receive project approval. She indicated that she was interested in what form the condition might take.

Chair Pearce stated that she believed Mr. Otto had come up with proposed language.

Mr. Otto noted that the language was very basic and related to Ponderosa Homes considering the request.

Commissioner Olson asked Ms. Hardy for a definition of "pro rata" and whether it would be possible for the Commission to craft a condition that a pro rata sharing

arrangement would be established. He noted that the numbers or values would not be known at this point but that the formula could be defined, e.g., by the number of units, square footage, or other measurement.

Ms. Hardy replied that pro rata would be based on the 110 units in relation to the entire Ironwood project, which would be something like a 34 to 37 percent of the total cost.

Commissioner Blank stated that it could be pro rated without specifying the exact details but that he felt there should be some completion factor for the senior housing such as when 80 percent of the units are sold.

Commissioner Narum suggested that the sale of a certain percentage of homes be used.

Ms. Hardy noted that there are many different ways to look at this. She stated that Ponderosa Homes may want to fold those costs on a phased basis or do it by map. She indicated that she did not believe it made sense to saddle the new HOA with costs as its costs will be a lot higher in the beginning.

Commissioner Blank stated that he felt it would be reasonable to indicate that the new HOA would not have to be saddled with the maintenance cost until 80 percent of the units had been sold.

Ms. Hardy stated that the question does have merit but reiterated that she felt this was a decision Ponderosa must make. She added that it would not entail a huge amount of money and that they must still run the numbers.

Commissioner O'Connor inquired if costs were only for landscaping and whether Ironwood Drive is a private street.

Ms. Hardy replied that Ironwood Drive is a public street. She stated that the maintenance cost covers all landscaping on the edges and medians of Ironwood Drive and excludes street maintenance. She added that it would also include what is on Busch Road, except the median, which the City maintains, and a portion of Valley Avenue, including the triangle which is the trail head for the Iron Horse Trail head facility. She noted that there is a condition that the new HOA will take over all street maintenance responsibility on Reimers Drive because that would be the beginning of the private street.

Commissioner Blank stated that he would be comfortable with a pro rata basis and added that it would be to Ponderosa's and to the new HOA's advantage to say that the pro rata does not kick in until 80 percent of the units have been sold. He noted that the majority of the seats on the HOA are held by the developer until a certain time; after a certain number of homes are sold, the developer no longer has a majority vote on an HOA.

Commissioner O'Connor stated that he was amenable to this but felt that the definition of pro rata should be left to Ponderosa because they are going to take over some of the existing landscaping which the existing homeowners have today, and that the numbers should be left up to the Director of Community Development.

Ms. Hardy stated that Ponderosa will probably subsidize it all up front. She indicated that they did not want to get too deep on this condition and that they are working on the numbers now and would present it to the Ironwood HOA Board. She added that Ponderosa would be open to some sort of advisory statement in form of a condition but did not want to be too locked in.

Commissioner O'Connor stated that he believed Ponderosa and the City, rather than the Commission, should work out the details.

Commissioner Narum inquired if the church and senior apartments would be factored into this because they were also using Ironwood Drive.

Ms. Hardy said no. She stated that the senior apartments maintain all landscaping from the sidewalk back to the property, and those areas are pretty ample around the facility, and felt that the senior apartment is doing its part for the entry and the streetscape. She added that the church is responsible for the landscaping behind the existing split rail fence along Ironwood and Busch.

Commissioner Blank inquired what areas would be subject to the pro rata maintenance.

Ms. Hardy replied that would include both sides of Ironwood Drive including the median, Reimers Drive including the traffic circle island, both edges of Busch Road except the medians, and the northernmost edge of Valley Avenue including the Iron Horse Trail corridor.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank moved to find that there are no new or changed circumstances which require additional CEQA review of the project, to make the Tentative Map findings regarding the acceptability/suitability of the project, and to approve PTR-8004, subject to Exhibit A, Conditions of Approval, of the staff report, with the addition of a condition that the new HOA shall bear the pro rata maintenance cost on both sides of Ironwood Drive including the median, both edges of Busch Road excluding the medians, Reimers Drive including the traffic circle island, and the northernmost edge of Valley Avenue. Commissioner O'Connor seconded the motion.

Commissioner Narum asked Commissioner Blank if he wanted to add that this would take effect after some of the houses are sold.

Commissioner Blank replied that he normally would but the Ponderosa was not in favor of that.

Chair Pearce stated that she did not want to get into details and that she rarely recalls a time when the Commission got so involved in the HOA with respect to finance and maintenance issues. She suggested that the Commission take extreme caution in getting too deep into this.

Commissioner Blank stated that the advantage of having the 80 percent mark is that it provides a threshold or deadline that Ponderosa can do this, but it does not stop them from doing if upfront and start right away if they want. He noted that the new HOA will be in full force by the time 80 percent of the units are sold and that having the condition in place would prevent the new HOA from not wanting to do it until 100 percent of the houses are sold. He added that this would be in the interest of having a smooth transition period and a maintained property while Ponderosa still has all the voting rights because it would not be able to influence the HOA once it takes over and has full control.

Commissioner O'Connor stated that it would also prevent anyone from putting up an argument that the costs needed to be taken over from day 1.

Commissioner Narum proposed an amendment to the motion by adding the language: “*to begin not later than after 80 percent of the units have been sold.*” She further proposed that Condition No. 29 be modified by adding that the applicant not be required to pay the appraised value of the 39 trees to be removed.

Commissioners Blank and O'Connor accepted the amendments.

Commissioner Narum stated that said she was very pleased with the street/sidewalk design, which returned with far more sidewalks than she expected. She noted that this was a real plus and thanked Ponderosa Homes for that.

ROLL CALL VOTE:

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

Resolution No. PC-2009-11 approving PTR-8004 was entered and adopted as motioned.

a. PUD-75/PGPA-14, PSPA-3, Don Babbitt/Heartwood Communities

Application to (1) amend the General Plan; (2) amend the Happy Valley Specific Plan; (3) rezone approximately 6.13 acres; and for (4) a Planned Unit Development plan for six lots located at 1157 Happy Valley Road. Zoning for the property is PUD-SRDR (Planned Unit Development – Semi-Rural Density Residential) District.

Natalie Amos presented that staff report and gave a brief description of the scope and key components of the application.

THE PUBLIC HEARING WAS OPENED.

Don Babbitt, applicant, representing the property owner Robert Wentworth, stated that the lots back up to the golf course, similar to those of the Mariposa subdivision next door, but are larger in area with setbacks that are larger than those at Serenity at Callippe. He noted that they have spent over two years with refining the project and are trying to provide something attractive to the 15th and 16th fairways.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Olson requested clarification from staff that PUD Findings 2 and 3 on page 11 cannot be made, noting that he did not understand why staff could not make Finding 3, specifically, that the plan is not compatible with other properties in the area. He stated that he realized that technically the Commission must determine whether or not the plan is consistent with the Happy Valley Specific Plan (HVSP), but he recalled that his view at the last workshop was that this mold had already been broken because properties in the area are similar to what is being proposed.

Mr. Dolan replied that staff acknowledges that the issue is not crystal clear. He stated that the bulk of the HVSP area has a lower density designation and that there are only a few areas with a Low Density Residential designation that the applicant can rely on for comparison. He noted that if one looks in the area of the 15th and 16th hole on the golf course, there is no visual or physical relationship to those higher density areas. He added that the higher density along the road across from the golf course is such a distance that it does not feel like it is a part of that area.

Mr. Dolan stated that staff believes this is a significant change for a piece of what Happy Valley would feel like which is not currently in place now. He noted that this property is not truly visible from public streets other than the small residential roads that access it; it is only visible from the golf course. He added that there are areas where lots can be seen at a different density. He noted that the Serenity project, even though it is not quite built out yet, has a tighter lot pattern than what is being proposed here, but this project does have the benefit of including some open space which breaks up the denseness of the project. He stated that the issue at hand is whether or not we should fall back on the Specific Plan that theoretically represents some community value that was proposed and adopted when the Plan was being

considered, and whether or not this a strong enough value that it should not be overridden by adding three more units to the project. He stated that he believed the impacts are somewhat minimal with the exception of the experience with that corner of the golf course.

Commissioner Blank indicated that this was one of the reasons the Commission had requested a streetscape and a colored viewscape.

Chair Pearce agreed with Commission Blank that the Commission had asked for streetscape and landscape plans. She stated that with plans that showed houses with no trees around them or other structures for comparison or sense of place, it was very difficult to make a determination of how this project will look from the golf course or in conjunction with other developments. She added that without the additional information she had requested, she would need to fall back on the HVSP.

Commissioner Blank stated that when he looked at the views he received for this project as compared to the views from projects in the Downtown or Ponderosa, he was surprised that staff had accepted this project submittal as complete.

Commissioner Narum stated that she did not disagree with the comments made by Commissioner Blank and Chair Pearce but that she looked at this from a different way. She noted that compared to the houses on the Mariposa subdivision, the houses being proposed fronting the golf course is much improved in terms of the setbacks and spacing in between the houses. She commented that it is distressing to drive along Westbridge and see how close the houses are to one other and the lack of green and openness which was really the intent. She stated that she was happy with the project's development standards. She added that the real issue is that the developer is trying to get six lots on six acres with no provision for open space. She indicated that she appreciates the changes made as a result of the last workshop and that taking out one of the lots and creating an acre of open space would help.

Commissioner Narum noted that the HVSP uses for the current designation indicates "barn, coop, tank house, 50 mature fowl, rabbits, sheep, goats," and she indicated she was not sure this is what the City would want up against the golf course. She added that if one looks at the setbacks in comparison to the semi-rural zoning, which the applicant has met or exceeded, and in terms of the Mariposa subdivision, this project is a good thing. She inquired if the findings could be made if one lot is taken out and some open space created in its place.

Commissioner Blank stated that he felt this was a provocative idea. He added that it was unfortunate that this item did not come back to the Commission as an additional workshop and that the Commission would have to consider it as an application

Commissioner Pearce indicated that the Commission should review what is before it and then pass on its recommendation to the City Council.

Commissioner Blank agreed and added that the Commission's feedback could also be provided to the Council.

Commissioner Olson proposed that the item be continued, stating that at the last workshop, the applicant had indicated that what is now seen of the property from the golf course is dreadful. He noted that not everyone plays golf, but not everyone hikes or plays soccer either. He indicated that he sees nothing wrong with one acre lots on a golf course and that he did not believe requiring more open space works for the project.

Commissioner O'Connor stated that the project is somewhat removed from the foliage and that he did not see it as glaring. He inquired if any of the Commissioners golfed the course or have been down on the trails. He stated that, as at the last workshop, his opinion remains that he agrees with what staff is recommending that the project does not meet either the HVSP or the General Plan. He stated that a lot of work went into the HVSP and that those who developed the HVSP had lots of opportunities to make exceptions, knowing its relationship to the golf course; however, exceptions have to stop at some point. He noted that this project is just as close in proximity to the golf course as Serenity at Callippe and the Vista Bonita projects are, and no exceptions were made for these two projects. He stated that the HVSP states that three lots need to be removed and open space created.

Commissioner Narum indicated that she had a problem with the Vista Bonita project as proposed because she thought the lots were not big enough. She added that she changed her mind following Commissioner Blank's comment to redraw the lots to exclude the geotechnical issue and then create the open space. She stated that she felt the Commission was already down the path of making exceptions with that project, and the lots at Serenity at Callippe are smaller than what is called for, but the trade-off was the open space.

Commissioner O'Connor noted that Serenity at Callippe has less than one home per two acres, and Vista Bonita has slightly less than one home per two acres. He stated that he was not requiring the project to have one acre per house but three homes on a six-acre lot.

Commissioner Blank stated that he liked Commissioner Olson's suggestion that the item be continued to allow the applicant time to put together a viewscape.

Chair Pearce acknowledged that continuing the item is a good idea if the applicant is willing to do the additional work. She stated that she would like to ask the Commissioners first if they were interested in continuing the item and then asking the applicant if he is interested in continuing the item or have the Commission consider the item and make its recommendation to the Council.

Mr. Dolan stated that for the purpose of procedure, if the Commission is interested in a straight vote and is recommending approval, he proposed that the item be continued so staff can prepare findings for the Commission as well as a CEQA document. He noted that if the item were continued, this meeting could essentially function as another workshop. He added that there would be no need to continue the item if the Commission is recommending denial.

Chair Pearce asked the Commissioners what they wanted to do.

Commissioner Blank stated that as the project stands today, he cannot support it as he does not have sufficient information. He added that there may be ways of redrawing the lines, eliminating one property, or other alternatives. He noted that he likes the idea of a continuance because it gives staff and the applicant time to determine whether or not anything else can be done. He indicated that he did not want to force a vote for its own sake.

Commissioner O'Connor stated that the applicant would have the opportunity to appeal the Commission's decision.

Commissioner Narum stated that she agreed with Chair Pearce's suggestion to ask the applicant.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Babbitt stated that he would be amenable to returning. He noted that staff had asked him to submit an application rather than return as a workshop.

Commissioner O'Connor asked Mr. Babbitt if staff had indicated to him that they would also not support six lots.

Mr. Babbitt replied that he knew that staff was not in favor of supporting six lots. He asked the Commission for more explicit direction regarding what it wanted to see when the project returned to the Commission.

Chair Pearce suggested that a motion to continue be made and then provide detailed direction to the applicant.

Commissioner Narum stated that any Commissioner can request to continue the item as long as there is no motion on the floor.

Commissioner Blank clarified that when an individual Commissioner continues the item, it is automatically set for the next meeting.

Mr. Dolan added that it could also be set to a date agreeable to all the Commissioners.

Commissioner Pearce asked staff what kind of timeframe they were looking at.

Mr. Dolan replied that it would depend on the exhibits the Commission requests as well as the applicant's timeline and ability to prepare the exhibits.

Commissioner Blank stated that he would like to see viewscales to help the Commission see what the homes would look like from the various vantage points, including vegetation, greenery, perspective, elevation, and adjacent developments.

Mr. Dolan stated that it would be very helpful for staff to understand precisely what it is about the project that the Commission feels merits a General Plan and Specific Plan amendment. He noted that based on the comments made, he believed that the Commission's line of thinking is that a slightly more dense development adjacent to the project is appropriate.

Commissioners Olson indicated that the Commission has a divided opinion on what is appropriate.

Commissioner O'Connor stated that his opinion is that he does not believe the City should amend the General Plan or Specific Plan to incorporate three additional units.

Mr. Dolan stated that if the Commission had other reasons to support a General Plan Amendment, it would be helpful to hear those at this time.

Commissioner Blank stated that he needed to see what the project would look like. He noted that there are better locations in the City for one-story versus two-story homes. He suggested seeing what the plan looks like with four or five houses because the Commission may find that there is no visible difference from having three houses as seen from any perspective; or having five homes may look absolutely terrible.

Commissioner Narum stated that she believes that when the HVSP was approved, this lot got lost in the shuffle. She stated that she did not believe people would willingly agree to have barns, pigs, chickens, and other animals up against the 15th and 16th fairways. She indicated that she just had people come in from the East Coast to play golf and commented that those fairways were not as attractive as other parts of the course. She added that this is the reason why she is in favor of doing something there because she feels it will improve the experience on the golf course. She stated that she thinks something can be done that fits within the general comments of the HVSP and added that she would like to see a lot taken out to create a little open space.

Commissioner O'Connor stated that if the Commission is going to request the applicant to return with viewscales for five units, he would also like to see what it would look like with four or three units. He added that he thinks if Commissioner Narum's concern is what it would look like on two-acre lots, there are parameters

within the HVSP to have animals, but it could also be conditioned such that those views are mitigated through fencing, vegetation, or something else.

Commissioner Olson said he could support five lots if it absolutely needs to have open space. He expressed concern about how big the home would be on a two-care lot and the kind of energy footprint that home would have.

Commissioner O'Connor stated that it is within the Commission's purview to condition the project to address those concerns.

Chair Pearce agreed with the comments of the Commissioners but voiced her concern that the semi-rural feel of Happy Valley is achieved with this property. She stated that she cannot recommend approval for the project with incomplete visuals or without understanding the range of options. She indicated that she is not opposed to amending a specific plan if she is confident she has all of the information she needs to achieve the semi-rural character. She added as a side note that she is opposed to the concept that you need to alter the entire neighborhood to appease the golf course, as the neighborhood was in place before the golf course was, and she is not inclined to change the HVSP for the golf course.

Chair Pearce asked staff and the applicant if they had enough direction to proceed.

Mr. Dolan noted that most of the comments have concentrated on visuals and what the plan will look like and that staff will focus on this.

Chair Pearce stated that the item is being continued to a future meeting.

The Planning Commission took a break at 8:30 p.m. and reconvened the regular meeting at 8:41 p.m.

- b. PCUP-238, William Webster and Sandi Bohner (Little Valley Winery)**
Application for a Conditional Use Permit to operate a wine-tasting room, retail store, and outdoor seating area at 739 Main Street, Suite J. Zoning for the property is Central Commercial (C-C), Downtown Revitalization, Core Area Overlay District.

Rosalind Rondash presented that staff report and gave a brief description of the scope and key components of the application.

Commissioner Narum referred to the diagram of the floor plan and said she was surprised not to see anything related to a kitchen other than a dishwasher. She inquired if that was due to the level of detail of the plan.

Ms. Rondash replied that the winery is not preparing food on site and that only pre-prepared food will be offered during the sampling. She added that there is also no refrigerator on-site.

Commissioner Blank inquired where the public restrooms are located and whether those provided were in the utility area.

Ms. Rondash replied that in some restaurant establishments, restrooms are located behind the counter, so it would not be atypical to have the entrance to the restrooms through the utility area.

Commissioner Blank questioned what the maximum number of people allowed was for wine-tasting.

Ms. Rondash replied that the Fire Department sets occupancy standards.

Commissioner Blank inquired if occupancy was based on the wine bar or square footage or something else. He also inquired about the emergency exit.

Ms. Rondash replied that it was based on the type of use and is determined by the Fire Department.

Commissioner Blank inquired whether the fact that people are consuming alcohol would have a factor in evacuation.

Mr. Dolan replied that in their review of Condition No. 10, the Fire Department and the Building and Safety Division would consider the sale and/or consumption of alcohol in making their determination.

Commissioner Blank noted a door in the rear of the building and inquired if it would be considered an emergency exit door.

Ms. Rondash replied that the rear door is a secondary exit.

Commissioner O'Connor stated that he did not see any reference to restrooms in the Conditions of Approval. He inquired whether or not a restroom must be made available to the general public as opposed to establishments that do not need to do so.

Ms. Rondash replied that typically, the use would establish how restrooms are made available. She added that it could be incorporated in the Conditions of Approval.

Commissioner O'Connor stated that although this is not a restaurant, it would be serving alcoholic beverages. He requested that the condition be added.

Chair Pearce stated that in the recent past, the Commission has always conditioned an establishment that serves alcohol to serve food during the same hours they are serving alcohol. She noted from the applicant's narrative that most of the time, food items would be served with the wine tastings.

Ms. Rondash stated that the reason the condition was not included is because the function of this establishment is to sell and provide wine and that samplings were an addition or ancillary offering; therefore, staff did not approach the request in the same way it is handled for bar-type restaurants.

Chair Pearce inquired whether or not the condition is based on the amount of alcohol served as opposed to the mere fact that alcohol is being served.

Ms. Rondash replied that its use as a wine-tasting room is what was considered.

Mr. Dolan explained that if the primary purpose is to taste wine so that one might buy bottles of it, one is less likely to drink as much, although there is the opportunity to have several glasses of wine. He added that it would not be unreasonable to apply a similar condition with the understanding that the winery does not provide a full menu but that food will be made available at all times.

Commissioner O'Connor pointed out that because there is outside seating, it could be assumed that if one tasted wine and bought a bottle, that person could go outside, sit, and open the bottle.

Mr. Dolan confirmed that was a possibility.

THE PUBLIC HEARING WAS OPENED.

Sandi Bohner and William Webster, applicants, approached the podium. Ms. Bohner stated that she and her husband are in the Livermore Valley Wine Appellation and have tasting rooms in Sunol and Livermore. She noted that they provide one-ounce pours as it is a wine-tasting room rather than a wine bar and that they also make restrooms available to the public. She added that they will be having refrigeration equipment for white and rose wines that need to be chilled.

Mr. Webster stated they have been in the wine business for about nine years in the Livermore Valley. He noted that he and his wife has been involved in the food service business in Pleasanton since the early 1980's with five cafes. She added that they are fairly well-known to and liked by the community and that they have a good public following.

Mr. Webster referred to Condition No. 2 and stated that they believe it is appropriate to have limits on hours. He indicated that they initially suggested a nominal start from 12:00 p.m. to 6:00 p.m., Friday, Saturday, and Sunday; however, they would like to extend it to 10:00 p.m. because they have small private events at times, such as the First Wednesdays and Wine Strolls. He noted that they understand that other businesses have more retail-oriented hours like the Wine Steward, and they would like to adjust their hours given the public's interest and traffic. He requested that the six-month period condition be removed and they be allowed to be open from

10:00 a.m. to 10:00 p.m., seven days a week. He added that they are paying rent for the space the entire time.

Chair Pearce stated that while the Wine Steward has expansive hours, it only serves alcohol during a limited time. She inquired if the applicant would be serving alcohol during the entire expanding operating hours.

Ms. Bohner said no. She noted that they want to open at 10:00 a.m. because they have local artists at times; boutique sales and alcohol would only be served starting at noon.

Mr. Webster stated that they also own a lavender business and extended line which will also be offered in the store. He then referred to Condition No. 11 regarding sound-proofing, stating they do not own the building, which was designed for multiple tenants. He noted that the owner has assured them that the building walls are quite substantial, made of cinder blocks and brick, and that the inside of the building has been designed to limit any noise impact.

Ms. Bohner stated that they would have only acoustic-based, rather than amplified, jazz-style music which does not get very loud and is very relaxing.

Mr. Webster noted that they have also been known through their career for their music of very high quality and very atmosphere-appropriate. He then referred to Condition No. 9 regarding the installation of small signs in the interior of the building or near exit doors requesting customers to be courteous and quiet and to not loiter outside. He reiterated they are not a bar and do not have that problem. He indicated that he was not aware of any other store that has signs like these posted inside and inquired why it would be required now.

Commissioner Olson noted that when he first reviewed the application package, he did not get the impression that their business model included selling a lot of additional items. He inquired why they would not feature wines other than their own wines.

Mr. Webster replied that their ABC Permit Type 02, also known as “a winegrower’s permit,” allows them to sell only their own wines.

Ms. Bohner stated that their operation is similar to Livermore’s Blacksmith Square.

Mr. Webster indicated that statistics have shown that a Downtown tasting room can be a very successful model.

Michael O’Callaghan stated that he concurs with the staff report and that this is the type of business he would like to see Downtown which would contribute to the City’s vitality and ambience. He requested the Commission to amend the first sentence of Condition No. 16 to read: “Outside washing of floor mats, containers, equipment,

etc. is not allowed...” He concurred with the applicant regarding Condition No. 2 and requested the Commission to assist with the Downtown vitality by not being over-restrictive and to interpret the hours as liberally as possible. He added that he did not believe the hours should be restricted at all and suggested that the condition be completely struck. He also concurred with the applicant regarding Condition No. 9, stating that people hang out at Tully’s and Fontina’s and believed people should be allowed to hang around Downtown and cruise up and down its sidewalks. Mr. O’Callaghan stated that knows the building owner, Mr. Moret, and sound attenuation should be between the owner and his tenants. He added that government should not be telling people how much noise they can or cannot make unless it is a Code violation issue. He also questioned the need for Condition No. 14, noting that this most likely is part of the State’s law.

Commissioner Olson stated that he visited the building and noted it was completely empty. He inquired if businesses went out of business and left.

Mr. O’Callaghan replied that he was not sure, but many businesses are moving out of town to locate to other communities. He reiterated his request that the City not over-regulate, and added that they are trying to revitalize the area as best they can.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank inquired why the establishment was being restricted to Friday through Sunday.

Ms. Rondash replied that the restriction is based upon the applicant’s narrative, and staff was hoping to provide some flexibility for the applicant to return and get extended hours after six months of operation.

Commissioner Blank agreed that Condition No. 9 regarding interior signage should be deleted. He noted, however, that Condition No. 11 should remain because it simply states that the applicant will follow what the laws say and does not require the tenants to soundproof the room unless they do not comply with noise standards. He inquired if the tenant would need to soundproof the room if the existing state of the building meets the Code.

Ms. Rondash replied that if the applicant can show that the existing insulation would dampen the noise to a satisfactory level, they can request the condition to be removed and the Director of Community Development could review the request.

Mr. Dolan confirmed that the applicants may be able to document that they meet the law, that the insulation is adequate and no improvements are needed, and that, therefore, they do not need to soundproof the building.

Commissioner O’Connor stated that he found Condition No. 11 to be redundant and suggested that only the first sentence of the condition be retained.

Commissioner Blank noted that since the item is a Conditional Use Permit and if the applicant does not comply with the Code, the permit can be revoked as opposed to going through the Code enforcement process.

Commissioner Olson stated that he did not want the City to require a sound study prior to the applicant receiving a business license.

Ms. Seto stated that the applicant would simply need to show the City, to the extent that they can pull building permits, that the building, when constructed, had insulation between floors. She noted that the City is not indicating they would need to have an acoustical engineer conduct a study. She added that the condition addressed the part of the proposal to have music, and while it is acoustic music and it is a multi-tenant building, there would be concern over whether or not other tenants would be impacted.

Commissioner Narum referred to a music studio approved in the Quarry Lane Business Park with exactly the same issue regarding the need to soundproof. She recalled that the Commission rewrote the condition such that if sound was an issue with the adjoining tenants, then they would have to conduct an acoustical study.

Commissioner O'Connor stated that as commercial property owner, he would take the opposite approach as he would want to ensure that one tenant does not drive others away. He indicated that he would have the clause in the lease and would not expect the City to impose it in the building.

Commissioner Blank supported keeping only the first sentence and deleting the remainder of the sentence.

The other Commissioners concurred.

Ms. Seto suggested deleting the entire condition because the applicant would have to comply with the Municipal Code.

The Commissioners agreed that Condition No. 11 should be deleted. They also agreed to delete Condition No. 9.

Commissioner Blank moved make the required conditional use findings as described in the staff report and to approve Case PCUP-238, subject to the conditions listed in Exhibit A of the staff report with the following amendments: (1) Delete Conditions Nos. 9 and 11; (2) Add the word “not” in the first sentence of Condition No. 16; (3) Modify Condition No. 2 to extend the days and hours of operation; (4) Add a new condition that food be made available when wine is served.

Commissioner Olson seconded the motion.

Ms. Seto noted that Condition No. 3 relates to Condition No. 2 and suggested that the phrase "hours and" of the first sentence of Condition No. 3 be deleted.

Commissioner Blank and Olson accepted the amendment.

Commissioner O'Connor referred to Condition No. 4 regarding informing the City of advance events. He inquired what the definition of "large" events is and stated that he believed the requirement to notify the City 24 hours in advance of minor events was overly restrictive.

Ms. Rondash replied that the "*large*" event wording related to the applicant's association with vintner events as well as City-sponsored events.

Commissioner O'Connor stated that he did not believe informing the City in advance was not necessary if they cannot exceed the Code capacity.

Chair Pearce agreed with Commissioner O'Connor and stated that she did not want to over-restrict businesses in the Downtown.

Mr. Dolan stated that staff was being cautious with a use that the City has had no prior experience with but that the condition could be struck if the Commission so desired.

Chair Pearce acknowledged that the business was not the same as the Wine Steward; however, alcohol is being served and gatherings are held.

Commissioner Blank stated that the Wine Steward was primarily a retail establishment and more interested in selling different kinds of bottled wine as opposed to holding wine-tasting activities, which we do not have in Pleasanton.

Commissioner O'Connor noted that Crush, which moved to Livermore, held wine-tasting activities. He added that he did not feel Condition No. 4 was necessary.

Chair Pearce stated that when establishments like the Wine Steward hold events, that do not exceed capacity. She inquired if the Wine Steward is required to notify the City of advance events.

Ms. Rondash replied that they were not required to notify the City.

Commissioner Blank and Olson both agreed to delete Condition No. 4.

Commissioner Blank noted that Condition No. 14 regarding attendance at training programs remains.

ROLL CALL VOTE:

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

Resolution No. PC-2009-12 approving PCUP-238 was entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Project Plans in CD's

Commissioner Blank stated that he supported having plans on CD's as opposed to hard copies; however, he could not bring the CD to the meeting and look at plans while the Commission discusses the item. He asked staff to discuss with the IT Division the possibility of accessing the plans during the meeting through the existing monitors or if the Commissioners could bring their own laptops to the meeting.

Mr. Dolan noted that this is an interesting dilemma and stated that he would look into discussing options for the future.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

No discussion was held or action taken.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

9. COMMUNICATIONS

No discussion was held or action taken.

10. REFERRALS

No discussion was held or action taken.

11. MATTERS FOR COMMISSION'S INFORMATION

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

Chair Pearce noted the Bicycle and Pedestrian Committee would be reviewing its Master Plan on Monday, April 20th, at 6:30 p.m.

12. ADJOURNMENT

Chair Pearce adjourned the Planning Commission meeting at 9:30 p.m.

Respectfully,

DONNA DECKER
Secretary