



## PLANNING COMMISSION MINUTES

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

**APPROVED**

**Wednesday, January 14, 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 January 14, 2009, was called to order at 7:00 p.m. by Chair Pearce.

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

Staff Members Present: Brian Dolan, Director of Planning and Community Development; Donna Decker, Principal Planner; Larissa Seto, Assistant City Attorney; Jenny Soo, Associate Planner; Natalie Amos, Assistant Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: None.

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

##### **a. November 12, 2008**

Commissioner Fox requested that the word "childcare" be added before the word "facility" in the second sentence of the sixth paragraph on page 4.

Commissioner Blank inquired if it would make any difference to add "childcare" and if this would be applied to the entire Minutes.

Commissioner Fox requested that the second sentence of the third full paragraph on page 6 be modified to read as follows: “She stated that the City of Dublin indicated that the applicant stated there was a transient living in the bus....”

Commissioner Fox requested that the word “is” be changed to “are” in first sentence of the first full paragraph on page 7 as follows: “...a document stating that three units of administration is are needed as well as three units....”

Commissioner Fox requested that the fourth sentence of the first full paragraph on page 8 be modified to read as follows: “He stated that the Tri-Valley YMCA programs that are on Pleasanton school sites, which operate entire after-school programs, are also exempt from licensing....”

Commissioner Blank requested staff to check the tape for accuracy of the proposed changes. Chair Pearce noted that she did not attend the November 12, 2008 meeting.

**Commissioner Narum moved to approve the Minutes of November 12, 2008, as amended and verified by staff.  
Commissioner Blank seconded the motion.**

**ROLL CALL VOTE:**

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

**The motion passed, and the Minutes of November 12, 2008 were approved, as amended.**

**b. December 10, 2008**

Commissioner Narum requested that accolades for the job Commissioner Blank had done as Chair the past year be included under Appointment of 2009 Planning Commission Chair and Vice Chair on page 34.

Commissioner Narum noted that there was no statement on page 31 indicating that Commissioner Fox left the meeting at 11:00 p.m. Commissioner Fox indicated that it was stated on the first page under Roll Call.

Commissioner Fox stated the appointment of the 2009 Planning Commission Chair and Vice Chair was not agendized and the Minutes do not indicate this. Commissioner Blank noted that this was discussed at the meeting and that the item had not been agendized in past years and automatically occurs. He added, however,

that it could be agendized in the future as needed. Ms. Decker advised that staff can add language to the Minutes clarifying the discussion of the Commission.

Commissioner Blank commended the Recording Secretary/Transcriber on the accuracy of the Minutes.

**Commissioner Narum moved to approve the Minutes of December 10, 2008, as amended.**

**Commissioner Blank seconded the motion.**

**ROLL CALL VOTE:**

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

**NOES: None.**

**ABSTAIN: Commissioner Olson.**

**RECUSED: None.**

**ABSENT: None.**

**The motion passed, and the Minutes of December 10, 2008 were approved, as amended.**

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

Chair Pearce confirmed there were no public speakers.

**4. REVISIONS AND OMISSIONS TO THE AGENDA**

Ms. Decker recommended that the Planning Commission move Item 6.c., PAP-130, Anne Fox, Appellant (PDRW-13, Katie Belmonte/Complete Wireless Consulting, Applicant ahead of Item 6.a., PUD-77, Dutra Trust, as it is a public hearing which is open. She added that staff is requesting that the item be continued but to allow for public comments at this time.

In response to Commissioner Blank's inquiry why this item was being continued, Mr. Dolan replied that staff received some questions on the matter just before the packet was to be distributed, and staff did not have sufficient time to address those questions.

## 5. CONSENT CALENDAR

### a. PTR-7952, Jerry Raney

**Application to merge and re-subdivide two existing parcels located at 4693 and 4715 Augustine Street into six new parcels. Zoning for the property is PUD-HDR (Planned Unit Development – High Density Residential) District.**

Commissioner Fox inquired what the purpose of the merge and re-subdivision of the two parcels was and noted that it was already heard at the City Council level.

Ms. Decker stated that this application is for a Tract Map, which is the subdivision map to activate the entitlement of the Planned Unit Development (PUD). She noted that what had gone before the Planning Commission as a recommendation and forward to the City Council was the actual PUD, which is then followed by a request for a subdivision. Ms. Decker added that the conditions of approval meet the requirements of the Subdivision Map Act

Commissioner Fox inquired if any changes were made following the Council's approval, and Ms. Decker replied that there were none.

Commissioner Olson stated that he did not find any conditions in Exhibit B that referred to sprinklers, noting that there are new homes proposed. Ms. Decker explained that the requirements for sprinklers for new construction are under the PUD conditions of approval and that the conditions under this Exhibit B are related specifically to the Subdivision Map Act and do not include references to or duplication of PUD conditions.

Commissioner Blank thanked Commissioner Olson for his close attention to the matter and noted that Condition No. 71 of the PUD approval requires that approved homes and future renovations and/or buildings be equipped with automatic fire suppression systems.

**Commissioner Narum moved to find that there are no new or changed circumstances which require additional California Environmental Quality Act (CEQA) review of the project, to make the tentative map findings as listed in the staff report, and to approve Tentative Tract Map 7952, subject to the Conditions of Approval listed in Exhibit B of the staff report. Commissioner Blank seconded the motion.**

Commissioner Fox requested that the acronym "PSE" under Condition No. 9 be spelled out as "public service easement."

Commissioners Narum and Blank accepted the proposed amendment.

**ROLL CALL VOTE:**

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

Resolutions No. PC-2009-01 approving Case PTR-7952 was entered and adopted as motioned.

**6. PUBLIC HEARINGS AND OTHER MATTERS**

- c. PAP-130, Anne Fox, Appellant (PDRW-13, Katie Belmonte/Complete Wireless Consulting, Applicant)**  
**Appeal of the Zoning Administrator’s approval of a design review to install a wireless communication facility that includes rooftop equipment with screening and three building-mounted antennas at 7050 Johnson Drive. Zoning for the property is PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District.**

Chair Pearce asked the audience if there were any speakers on the matter.

There were no speakers.

Commissioner Blank suggested that the “s” be removed from the word, “Appellants” in the title of the item as there was only one appellant.

Chair Pearce indicated that Item 6.c., PAP-130, Anne Fox, Appellant (PDRW-13, Katie Belmonte/Complete Wireless Consulting, Applicant) is being continued to a future Commission meeting.

- a. PUD-77, Dutra Trust**  
**Application for a Planned Unit Development (PUD) development plan approval to subdivide a ten-acre site located at 1053 Happy Valley Road into five single-family residential lots and one open space parcel. Zoning for the property is PUD-SRDR/OS (Planned Unit Development – Semi- Rural Density Residential/Open Space) District.**  
**Also consider the Negative Declaration prepared for the project.**

Ms. Soo presented the staff report and described the scope, layout, and key elements of the project. She noted a typographical error in the Design Guidelines that the development is for 5 homes rather than 12 homes. She added that Condition No. 40 was changed after the December 10<sup>th</sup> meeting to address specific language regarding sprinklers.

Commissioner Olson inquired what “first-come, first-served” meant, whether the lots were part of an allocation already made under the housing cap, and if those two concepts were related. Ms. Soo replied that the houses are within the City’s housing cap and the Happy Valley Specific Plan. She explained that the City has a Growth Management Program, and if all the allocations have been used, an applicant may need to wait for the following year. She noted, however, that staff does not anticipate this to occur as there are only five custom home sites.

Commissioner Olson inquired if “first-come, first-served” means that if the housing allocation cap is reached, the applicant would not be allowed to pull permits. Ms. Seto confirmed that is the case. With respect to “first-come, first-served,” she explained that this relates to the City’s Growth Management ordinance where there is a set number of building permits which can be issued each year for residential uses.

Commissioner Blank stated that he believed the lots were already accounted for in the housing allocation and that the number has been reserved even if the City were to hit the housing cap. Ms. Seto confirmed that this number of units was allocated to Happy Valley; however, the timing of their construction would be affected by other parts of the City and whether there are other sites that are rezoned to allow more density.

Commissioner Fox referred to the maximum density of two acres per lot and the minimum lot size of one acre on page 5 of the staff report. She inquired why Lots 2 and 3 are .81 acre and .83 acre when the minimum lot size is one acre. Ms. Soo replied that while the Happy Valley Specific Plan requires that the density in the project’s zoning district is one lot per two acres and each lot size is to be a minimum of one acre, the Plan also includes flexibility to allow the lot size, configuration, or lot dimensions to be smaller or less than what is specified in the Plan, provided that the project conforms to the intent of the Plan. She added that in this particular project, the one-lot minimum requirement could be accomplished by going through the creek across the lots; however, she indicated that staff believes that from a planning standpoint, this is not the preferred alternative and that staff would like to reserve the open space area to include the entire creek for creek preservation as well as maintenance purposes. She noted that staff has determined that from this perspective, the proposal with lots smaller than one acre meets the intent of the Specific Plan.

Commissioner Fox referred to seasonal drainage and inquired how this would work and the possibility of flooding. She further inquired if there would be grading to put this in some sort of gully or if it would this way.

Ms. Soo replied that there would be no grading on Parcel A and that a bridge would be built across the seasonal drainage as required by the Water Board and the Army Corps of Engineers regulations. She added that an environmental consultant will review the detailed design work and that all work will be permitted by various

agencies per their standards. With respect to water, Ms. Soo stated that water is present during the rainy season but that the property is very dry during the summer months.

Commissioner Fox inquired if the open space would remain private or eventually be public, and if there would be a conservation easement over it. Ms. Soo replied that it would be a parcel owned by a Homeowners Association and that it will not be open to the public.

Commissioner Blank thanked staff for reworking Condition No. 40 but that the language is exactly the same in both staff reports. Commissioner Narum noted there was a memorandum dated December 10, 2008 which Commissioner Blank said he did not have. He confirmed the item was satisfactory.

Commissioner Blank stated that he did not find the standard condition typically included regarding preparing the house for solar panels. Ms. Soo replied that it was in the Design Guidelines, to which the houses are required to conform. Ms. Decker added that this could also be included as a standard condition, and Commissioner Blank requested that be done.

Commissioner Blank inquired if the current staff report included any changes from the staff report from the December 10<sup>th</sup> meeting. Ms. Soo replied that there were no changes.

Commissioner Narum referred to the density issue and inquired if it were feasible to remove a lot and redistribute the other lots to achieve the one-acre minimum. She added that she was not sure having the open space remain private met the Specific Plan goals.

Ms. Soo stated that she believes it still met the intent of the Specific Plan because of the location of the building pads on each lot. She noted that while Lot 4 seems to be larger, moving land from this lot into Lot 3 and so forth would limit the building area may and make the home sites awkward. She added that this would also affect the grading of the lots, especially for Lots 2 and 3.

Commissioner Narum stated that if Lot 2 were eliminated and the other lots redistributed, Lots 2, 3, and 4 would end up being an acre. Ms. Decker noted that while the minimum parcel size in the Happy Valley Specific Plan is one acre, the calculation for density is one site per two gross acreage. She continued that the property has 10.19 acres and the allocation meeting density is 5. She stated that in this case, the PUD allows for some flexibility as the site is constrained by its geotechnical issues in the open space area. She noted that although a lot could be removed, staff felt that the lots are was so close to the actual one-acre requirement that because of the constraint, it was reasonable to allow the lots to be slightly below the one-acre minimum, as seen in other projects within the area.

Commissioner Fox stated that she believed that in cases where a project varies from the Specific Plan, public amenities are sometimes provided rather than just having private open space. She inquired if the applicant had been approached with dedicating the area as public open space.

Mr. Dolan replied that it is not a piece of public open space that the City would desire. He stated that he assumed the applicant would be open to dedicating it but that the City would prefer not to have the obligation of its maintenance.

Ms. Seto explained that there were other liability issues for open space with such drainage, such as the golf course, stating that it had already been designed with a golf course trail in the open space dedicated as part of the project. She noted that at this point, dedicating spur trails would impact the already existing trail system and that access to some of these small areas would become an issue. She stated that the City's main concern would be liability resulting from drainage.

Commissioner Narum inquired how the design guidelines compared to Serenity Terrace located next to the property. Ms. Soo replied that this project was actually based upon the Serenity Terrace project.

Commissioner Narum stated that she did not see anything on house colors in the Design Guidelines and that she assumed there would be something about blending into a more rural theme. Ms. Soo replied that the color and materials vary with each house style and noted that with the five home styles, this is included in the Design Guidelines starting on page 24 through page 26.

Commissioner Narum stated that she did not find anything in the Conditions of Approval about tree replacement, but that page 13 of the Design Guidelines speaks about each lot owner installing at least two trees. She inquired whether or not this was the mitigation for the trees that are being removed. Ms. Soo replied that only three existing trees will be removed and confirmed that staff is requiring the addition of two street trees as part of the mitigation.

Referring back to photovoltaics, Commissioner Narum noted that she did not see anything about green building points in the conditions of approval. Ms. Soo replied that that this could be added in.

Commissioner Narum further noted that she did not see anything on fencing either in the Design Guidelines. Ms. Soo replied that page 18 of the Design Guidelines call for open fencing.

Commissioner O'Connor stated that the Habitat Assessment report states a sighting of tiger salamander seven miles east from the intersection of Alisal Street and Happy Valley Road. He inquired if this would be seven miles from the Callippe Golf Course. Ms. Seto replied that there have been some spotted in the open space at some of the ponds above the golf course.

Commissioner O'Connor inquired what was considered to be an impact, given that this was quite a distance away. Ms. Seto replied that the report discusses in detail a number of physical areas a species would have to cross in order to get to this site. She noted that this would be the reason why it is unlikely they would travel that far to be at this site. She added that this site does not have the type of water features open space areas have, as opposed to other stock ponds in various areas where water stays and where these kinds of animals are more successful. She noted that because the area goes dry during the summer months, it does not make it conducive as being a habitat for the species, and this is why the biologist determined there would be no impact with the development.

Commissioner O'Connor noted that on page 11 of the staff report, there is a discussion regarding the City's preference for the establishment of a Homeowners Association (HOA) as opposed to the developer's preference for a Maintenance Association. He inquired what was done at the Serenity Terrace subdivision. Ms. Soo replied that an HOA was approved for the Serenity Terrace development. Ms. Seto added that in this situation, staff suggests that Parcel A be of common ownership which would require an HOA.

Commissioner Blank stated that another distinction is that an HOA can officially represent a group of homeowners whereas a Maintenance Association cannot.

Ms. Seto further noted that there were different issues associated with an HOA, such as the California Department of Real Estate requires certain expenses be prefunded so they do not end up with a situation where maintenance is needed but no funds are available.

Commissioner O'Connor inquired what the primary difference is between setting up a maintenance association as opposed to private ownership. Ms. Seto replied that there are situations on Sycamore Road where there have been land dedicated to the City but the homeowners, through a maintenance association, pay to have the various landscaping, streetlights, etc. maintained.

Commissioner Blank inquired where in the conditions the requirement for an HOA was located. Chair Pearce pointed out that it was in Condition No. 11. Ms. Seto noted that the CC&R's must create the HOA.

Commissioner O'Connor noted that Condition No. 14 talks about phasing and inquired why phasing for a small subdivision of five units would be required. He further inquired if the applicant was proposing to phase the project. Chair Pearce indicated that this was a question for the applicant.

Chair Pearce noted that the road is 28 feet wide, which allows for parking on one side. She inquired which part of the road is anticipated for parking. Ms. Soo replied that parking would be on the opposite side of the houses. In response to Chair

Pearce's further question if there would be signage to indicate where parking would be allowed, Ms. Soo replied that the curb by the houses would be painted red and added that this would be a private street.

Chair Pearce inquired why parking would not be available in front of the houses. Ms. Soo replied that there would be more parking available on the opposite side of the street due to driveway cuts on the side of the houses.

Chair Pearce inquired if there were any future development planned for the adjacent property. Ms. Soo replied that the lot is open space and that the trail extends along the area.

Commissioner O'Connor noted that Condition No. 31 states that construction is limited to Monday through Friday, but the following sentence makes mention of future complaints regarding Saturday construction. Ms. Soo acknowledged the oversight and noted that staff will revise the condition to limit construction to Monday through Friday only.

Commissioner O'Connor referred to Condition No. 51, which states that the existing well will be abandoned per Zone 7 standards. He inquired whether or not the well could be retained by one of the lots. Ms. Seto replied that the well can be retained, but if the applicant decides to abandon it and seal it, it must meet Zone 7 standards so there is no contamination of the ground water. She added that if the well is kept, there are other conditions that require the installation of a backflow prevention device so City water is not contaminated.

Commissioner O'Connor noted that the way the condition is written sounds like Zone 7 is requiring that the well be abandoned. He suggested that the language be revised to reflect that in the event the well is abandoned, it should be done according to Zone 7 standards.

Commissioner Fox inquired why the street would be private and if it would have a sidewalk on one side. Ms. Decker replied that there would be no sidewalk. She noted while the applicant is amenable to making it a public street, staff has some concerns about the future maintenance costs due to the bridge and geotechnical issues. She added that the street does not lead to any other circulation element that would benefit the City, and for all these reasons, staff recommended that it be a private street.

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

Clancy Dutra stated that he grew up in Pleasanton but now lives in Yreka and is represented in the project by his consultant, Don Babbitt. He indicated that his family owned a ranch on Happy Valley Road and that they built a house west of the parcel that is not theirs. He noted the area was called Chicken Alley which is now known as the Happy Valley Specific Plan area. He noted that they lived on the

property until 1950 when his parents sold the two acres and the house. He continued that he then moved to Pleasanton, got married, and raised his children, and in 1970, he and his wife purchased a ranch in Siskiyou County.

Mr. Dutra stated that he currently manages two trusts which form the project and that he spent a lot of time since May of 2005 working and meeting with the Planning Department, discussing with their neighbors as well with as the County how the project could be improved. He indicated that he understands and agrees with the conditions of approval and believes that the application is complete. He asked the Commission to approve his project.

In response to Commissioner O'Connor's inquiry if there was any intent to do the project in phases, Mr. Dutra replied that his intention is to develop the entire project at one time rather than by phases.

Tom Smith stated that he was not bothered by the development but with the traffic, noting that nothing has been done to improve Happy Valley Road. He noted that the underpass at the end of Happy Valley Road cannot even fit two trucks under it. He stated that the lights coming down on Sanctuary Lane come directly into his home as well as the golf course property patrons. He added that the proposed road will likewise lead right into the west end of their home.

Mr. Smith stated that another issue that there is no catch basin in the area and when the rain hits, a wave of water in a heavy storm that collects in the middle of the street becomes a river and enters their house. He noted that there have been no improvements to their road, no sewer, no water, and traffic problems caused by Pleasanton residents. He emphasized that he is opposed to the traffic impact and inquired why residents, unlike the habitat, are not considered as part of the environment.

Clancy Dutra stated that he lived on the property well before Mr. Smith, adding that his father had horse-boarding farms. He noted that at that time, trailers came continuously to pick up and deliver horses, causing much more traffic than five houses will generate. With respect to the water issue, he stated that he served on several water committees and believes that the bio-retention pond will take care of the extra water coming down. He noted, however, that the water coming down the creek prior to Mr. Smith moving there. He concluded that he believes his project will have less traffic and the same amount of water.

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

Commissioner O'Connor stated that developers pay mitigation fees, part of which is for traffic. He noted that the area is somewhat unique in that part of it is in the County and part in the City. He inquired if money received for mitigation goes toward the County road system.

Ms. Seto replied that monies do not go toward the County road system because these are for projects already set forth in the City's development impact fee study, and none of these projects are in the County area.

With respect to the issue that water was coming down from another development and crossing the road, Commissioner O'Connor inquired if there were stipulations that water must be controlled from the development such that it does not impact adjacent property. He further inquired if the City could return to developers after the project is completed to have them address and fix water problems.

Ms. Seto replied that generally this could be done; however, this would be a private civil matter between the downstream and upstream residents, which only usually takes effect if the upstream residents are concentrating the water flow or changing the patterns of water flow. She noted that as long as the new homes being built are expected to flow their storm water from the roof gutters into the storm drain line in the street and have that gravity flow and other sheet flow existing on the site remain in that channel, it could potentially be argued that there is not significant change to the water patterns because the new impervious surface created should be draining into the storm drain in the street..

Commissioner O'Connor stated that he believed it is the City's responsibility to control water and inquired if it was still within the conditions of approval to require control of water drainage if the City had not engineered it properly.

Mr. Jost stated that the City basically puts catch basins on curb returns which is the last point before entering Happy Valley Road. He explained that the basins try to catch all water in the gutter at that point so that none goes across Happy Valley Road. He noted that if the catch basin is within 50 feet of the intersection, there is a chance that the water will not get captured and flow across the street. He added that staff is limited with respect to what can be done in the area because it is a County road the project roads are tying into, and the County has its own standards and design requirements. He noted that this is the first time he has heard about this complaint and that he would look into the matter. He stated, however, that the subdivision improvements have been accepted a while ago.

Commissioner O'Connor stated that he did not agree with the City requiring the homeowners to fix the problem when the City's Engineering Division or the developer made some technical mistake, and the City should have, in fact, concentrated on the matter.

Commissioner Blank stated that he has seen situations where there is grading which had been approved by the City and the contractor, and three years later, there is heavy rain and the grading was not sufficient. He added that the City cannot be sued for this, and the only course one has is to go back to the developer. He stated that he felt everyone gets together to come up with the best solution, but "should"

does not necessarily always mean “will,” and it is challenging to say to a developer or the City that one would get a 100-percent guarantee.

Commissioner O’Connor stressed that his point is that he thinks the City should at least take a role or look into it as opposed to waiting for one homeowner to sue another homeowner. Ms. Seto clarified that agreements are written with options for being proactive. She explained that typically for sites where there is a detention basin and other types of improvement and where there would need to be maintenance done by homeowners, if these were not maintained properly or sedimentation has built in the detention basin such that the quantity of water that the detention basin holds starts to be reduced because there is so much gravel and sediment built up over time, there are provisions in the agreements where the City Engineer can direct the owners to remediate that. She added that if there is an emergency situation, there are provisions where the City can have the work done and go back and bill the property owner.

Commissioner Blank noted that there are several detention ponds and that the matter is taken very seriously for that very reason.

Commissioner O’Connor stated that he likes the project and felt the density fits into the intent of the Happy Valley Specific Plan.

Commissioner Blank agreed and stated that the fact that it is not quite one acre is to the City’s advantage. He added that he did not know how the project would pencil out if one lot were eliminated, and he was hesitant to entertain that. He noted that the fact that it is a private versus public open space is preferred by the City and that he prefers an HOA to a maintenance association. He stated that he would support the project.

Commissioner Fox noted that Lots 1 through 4 total 3.48 acres. She stated that she would prefer that there be three lots rather than four and that they all be in excess of one acre. She added that if there were three lots, houses could be brought closer to the street and away from the seasonal drainage area more effectively. She indicated that she will not support the project with lots less than one acre.

Commissioner Olson agreed with the assessments made by Commissioners O’Connor and Blank and stated that he preferred to look at the project as a ten-acre site with five lots. He indicated that he felt it would run counter to the principle and intent of the Specific Plan if the hillside were taken and made into public land. He added that he supported the project.

Commissioner Narum inquired if the project were providing any benefits to the City such as road improvements. She noted that Condition No. 47 states that with the first construction phase, the developer should improve the segment of the Happy Valley Road that abuts the project site as specified in the Happy Valley Specific Plan and inquired if the road would be widened. She stated that she understands that the

land is not going to be public, but that given approval of the density, she feels the developer should provide something in return.

In response to Commissioner Blank's inquiry if there were other lots in Happy Valley that were less than one acre, Ms. Decker replied that there were.

Commissioner O'Connor stated that he has seen in other developments where lot lines could have been drawn into what is now open space to provide larger lots and then designate it as building pad area. He noted that off of Vineyard Avenue, there are five-acre lots with only a 30,000- or 40,000-square-foot living pads. He noted that the same thing could have been done here, but the developer has reserved that land as HOA property as opposed to showing it as part of the actual plan. He stated that he felt they could make them all one-acre lots, but this would make it more complicated and would result in the same end product.

Commissioner Blank felt it would be very easy to redraw the property lines so the lots meet the one-acre requirement, but nothing would really be accomplished. Commissioner O'Connor agreed.

Commissioner Narum asked Mr. Jost to comment on Condition No. 47 with respect to the Happy Valley Road. Mr. Jost stated that this would be subject to Alameda County's jurisdiction. He added that the City would require the developer to submit plans and obtain an encroachment permit for work that needs to be done, but it would be done subject to the County's standards. He noted that based on the last project, there would not be much road widening.

Commissioner Narum then inquired what the improvement was, and Mr. Jost replied that the basic property owner was required to reconstruct the road, but the road itself did not get much wider than what it currently is. He noted that it was slightly widened slightly on the project side but not on the opposite side of the street.

Commissioner Narum inquired if this would be the same as what Condition No. 47 would do to the project. Mr. Jost confirmed that it would.

Commissioner Pearce stated that she agreed with Commissioners Blank, Olson, and O'Connor that it meets the intent of the Specific Plan and added that she thinks that given it is five lots on a ten-acre parcel, there would be one lot per two gross acres. She indicated that she understood the exception and limitations of the parcel and that she likes the way the project is laid out. She added that she likes the open space which meets the rural character of the area.

**Commissioner Blank moved to find that the project would not have a significant effect on the environment and that the proposed Planned Unit Development plan is consistent with the General Plan and the PUD ordinance; to make the PUD findings listed in the staff report; and to recommend approval of the Negative Declaration and Case PUD-77 to the City Council, subject to the Conditions of Approval as listed in Exhibit B of the staff report, with the modifications that the Condition No. 40 include the standard language for the installation of an automatic sprinkler system and the addition of the standard conditions for the green building requirement and the provision for future photovoltaic system.**

Ms. Decker noted that the Commission also discussed the deletion of Condition No. 14 regarding project phasing, the modification of Condition No. 31 relative to construction on Saturdays, and the modification of Condition No. 51 to clarify the Zone 7 requirements should the existing well be removed.

**Commissioner Olson seconded the motion.**

Commissioner Narum noted some typographical errors that she requested be corrected: (1) Condition No. 11, change the word “note” on the next to the last line to “not”. (2) Conditions Nos. 20 and 21, change the word “following” in “the applicant shall strictly following...” to “follow.” She added that she would support the project noting that she did not think about the argument that four of the lots could be turned into one-acre lots by moving the boundary to the west and getting into the drainage, which she did not support doing.

**ROLL CALL VOTE:**

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

**Resolutions Nos. PC-2009-02 recommending approval of the Negative Declaration and PC-2009-03 recommending approval of Case PUD-77 were entered and adopted as motioned and amended.**

Chair Pearce called for a ten-minute break at 8:20 p.m., and thereafter reconvened the special meeting at 8:30 p.m.

- b. **PUD-75/PSPA-3, Robert Wentworth**  
**Work Session to consider an amendment to the Happy Valley Specific Plan to rezone an approximately 6.13-acre parcel from the PUD-SRDR (Planned Unit Development – Semi-Rural Density Residential) District to the PUD-LDR (Planned Unit Development – Low Density Residential) District and for a development plan for six single-family residential parcels at 1157 Happy Valley Road.**

Ms. Amos presented the staff report and described the scope, layout, and key elements of the project.

Commissioner Olson inquired whether the project had six lots. Ms. Amos said yes and added that the Specific Plan only allows three.

Commissioner Olson referred to the map and inquired why the project does not meet the Specific Plan. Ms. Amos replied that as proposed, the six lots would not meet the one-acre minimum lot size required, and with the additional three lots, the allocation for the density would be higher than that currently outlined in the Specific Plan.

Commissioner Olson noted that Lots 2 through 5 are less than one acre. He recalled that the Commission had previously looked at the entire project parcel and had two acres per lot, thereby meeting the Specific Plan and including an excess property. He inquired if something similar was being done in this case.

Ms. Decker replied that the difference between the two projects essentially is that the last project already had the Happy Valley Specific Plan allocation of five dwelling units or five lots and met the density through the General Plan and the overlaying documents. She noted that in this case, General Plan and Happy Valley Specific Plan amendments would be required to change the density.

Ms. Decker stated that when this project was before the Commission earlier, the Commission asked why the Commission would support this project and what would be beneficial to the project. She continued that the discussion led to how many units there were within the Specific Plan and if there were adequate allocations to increase this project by three to four lots. She noted that during that discussion, the Commission felt that there was some concern in modifying the Specific Plan, but recognizes that the Specific Plan area to date has not been built out by other projects that have come forward earlier. She added that staff had discussed with the Commission the opportunity that existed to increase the density on this site.

Ms. Decker noted that staff is returning the item back to the Commission because it had three Commissioners present in the previous discussion and the applicants modified their plans according to the comments received then. She stated that staff is bringing back the project for consideration by a full Commission and is requesting direction, as outlined in the seven questions on pages 9-10 of the staff report,

regarding whether or not there is support for General Plan and Specific Plan amendments, and whether or not it is reasonable to rezone from the existing zoning to a PUD. She noted that some of the discussion are already in the Minutes, such as Question 7: "Would the proposed lot substantially change the character of the neighborhood?" She added that some of the discussion was about whether or not the project complements or takes away from the rural character as it is directly adjacent to the Serenity Terrace subdivision. She noted that these are the kinds of thoughts and feedback provided in the past, noting that the lot sizes are greater than Serenity Terrace but not quite as great as perhaps they ought to be.

Commissioner Fox recalled that the Commission had provided feedback at that meeting but that it now sounds like staff is coming back with something similar to what the Commission had already said "no." Ms. Amos noted that there was neither definitive support of nor opposition to the project at the previous meeting, with some Commissioners indicating that they may be supportive of it and others being indecisive. She added that such feedback gave the applicant very little to go forward with but that the number of lots proposed were reduced from seven to six.

Commissioner Fox inquired if a work session was allowed to be done within a year just because there were absent Commissioners. Ms. Amos replied that the application during the first workshop was a Preliminary Review, which is deemed by the City as a pre-application, but that the applicants have applied for a PUD application since, which is being discussed at this workshop.

Commissioner Narum stated that she was not at the workshop but that she met with Mr. Babbitt and Ms. Decker one-on-one and provided her comments that she would have made had she been at the workshop. Chair Pearce indicated that she did the same as well.

In connection with Commissioner Fox's question, Commissioner Narum stated that additional comments were given to the applicant from those Commissioners who were not at the meeting.

Commissioner O'Connor stated that he heard there were comments but did not know there were two or more one-on-one meetings with the applicant. He noted that there was a quorum the night of the meeting and that two Commissioners, one being Commissioner Olson, clearly stated that they would not support a change in the Specific Plan.

Commissioner Blank noted that the individual comments not attached to the Minutes. Ms. Decker clarified that they were not attached to the Minutes because there were not part of the formal hearing before the Commission. She added that the Commissioners who met individually with the applicant and with staff present wanted to provide their feedback. She stated that as the project moved forward from a Preliminary Review application to the actual PUD application, the applicant was

unsure what the consensus might be with the project and wanted to have the PUD project come before the Commission.

In response to Commissioner Fox's earlier question, Ms. Decker stated that it is not atypical to have a project come before the Commission more than once; however, in the past, the City has experienced times where projects have come back numerous times prior to the PUD process when there is controversy or concern or where it does not quite meet the underlying documents and zoning.

Mr. Dolan stated that he was not part of the Planning Division during the first workshop but that the applicant essentially came back to staff and expressed concern that there were only three Commissioners at the workshop and whether it was an accurate reading as to what might happen. He noted that staff contemplated it, had a meeting with the applicant and the City Manager, and he and the City Manager collectively concluded that there was no harm in revisiting it at a better-attended workshop.

Commissioner Narum inquired how the site development standards on rear yard setbacks compares with the Mariposa project. Ms. Amos replied that she was not familiar with the Mariposa project setbacks but that it was likely the same. Ms. Decker indicated that staff has not done a comprehensive evaluation or analysis between the two projects but that the setbacks were greater in some cases and smaller in others. She added that staff could bring back this information at a future meeting.

Commissioner Fox inquired if it would be helpful, if Commissioner Narum is asking questions, to bring back the information and hold a workshop with the combined information rather than have a piecemeal workshop. Ms. Decker replied that the purpose of a workshop is to find out what concerns or questions the Commission may have regarding a project and that a workshop is a perfect opportunity to ask those questions. She added that staff can return, as directed by the Commission, either as another workshop to fully discuss those questions or as a hearing item.

Mr. Dolan stated that it would be most useful to staff to know whether or not the Commission supports the fundamental question, which is that the applicant is asking for more units than are currently allowed by the General Plan and the Specific Plan and would require changes to those Plans. He added that the rationale presented by the applicant is that surrounding properties have a development pattern more similar to what he is proposing than what he has been assigned in those Plans and that there are leftover allocations because not all the developments in that area have used up all of their total units. He noted that the expectation of what would happen in that part of the community has not played out the way it was original thought. He stated that in this respect, the rear setbacks are a minor matter, but would certainly need to be addressed once the fundamental question has been addressed.

Commissioner O'Connor stated that some of those questions could be extended, such as the Commission could ask why Mr. Dutra did not ask for seven or eight lots. He noted that because one developer did not use all his allotted density is not a reason for another developer to put in more density.

Commissioner Blank stated that in looking at the questions, he was not sure the questions were in the right order and if they were asking the right questions. He indicated that he sees a nexus between Questions 1 and 2 because one cannot be done without the other. He noted that the fundamental question is what Mr. Dolan stated: "Are you willing to amend the Specific Plan?" and a whole series of steps would follow a "yes" answer, and another series of steps if the answer is "no." He then inquired if Question 3 is independent of Questions 1 and 2 and if a rezone could take place without a modification to the Specific Plan. He stated that he thinks the same question is being asked three different ways and that he was not sure what the delta was among the questions.

Mr. Dolan clarified that all the questions build on one another and that if the Commission will not respond to Question 1, the rest of the questions would be irrelevant, and if it does not discuss Question 2, the following questions would be irrelevant as well, and so forth.

Commissioner Blank said this was good to know because it appears that each of the questions is of equal importance and they are clearly not. He noted that Question 5 does not sound like it is related to whether or not the Happy Valley Specific Plan is modified and inquired if he was reading this correctly. Ms. Amos replied that he was and this would be separate from the Specific Plan.

Commissioner Blank clarified that Question 6 and Question 7 are independent question depending on what the answers to Questions 1 through 4 are. Ms. Amos replied that this was correct.

Chair Pearce noted that Question 1 was the threshold question.

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

Commissioners Blank and Commissioner Narum disclosed that they know Mr. Schlies socially and have not discussed the project with him.

Christopher Schlies stated that he has been Bill Wentworth's attorney for about 20 years but that he is here because he played a second-seat role in the Bypass Road litigation a few years ago and is very familiar with many of the issues. He noted that Don Babbitt is Mr. Wentworth's hired developer and is great when it comes to technical issues.

Mr. Schlies stated that he wanted to discuss the legal context of the General Plan Amendment and Specific Plan Amendment. He stated that the property is unique in

that it is the last undeveloped property adjacent to the golf course and that the City has an opportunity to plan what type of neighbor this will be in perpetuity. He noted that the City has a championship golf course, that there is civic pride attached to it, and that the fundamental question for them to answer is whether or not the Commission wants two acres with farm animals next to a golf course or smaller lots that are better maintained, with nicer houses, and more akin to what is seen on the 17-Mile Drive in Pebble Beach.

Mr. Schlies stated that Mr. Wentworth first brought this in as a three-lot project and, given its background, it does not fit with the Serenity Terrace and Mariposa subdivisions around it with small lots, which is inconsistent with the two-acre minimum large lots that Happy Valley has been for decades. He stated that in planning for the area ten years ago, he was not sure the planners were seeing what they are seeing today. He noted that the Specific Plan was prepared over ten years ago and that there have been a number of major changes in the last ten years. He indicated that a very large housing project on the hill was rejected, the Bypass Road that was supposed to go over that hill will not happen. He noted that the Wentworth project is considering an amendment to a Plan that is already functionally very different.

Mr. Schlies asked the Commission to think of a few questions: (1) Is the probable use of two acres something that was carefully considered when the Plan was approved 10-12 years ago, and what it would be like to have horses and chickens on the property? (2) Was it congruent with a championship golf course and rural agriculture which is seen? (3) Was the incongruity between the large lots and smaller lots surrounding the Mariposa project foreseen at that time? (4) Was the size different between the lots in the Wentworth property and lots nearby, or was that incongruity an oversight and an accident? (5) Wouldn't smaller lots tailored for the creation of beautiful homes with manicured yards really be a better fit for this City's golf course?

Mr. Schlies then asked the Commission to consider the propriety of the requested revision in terms of significantly changed circumstances, the passage of more than a decade, and the enhanced ability today to see what the possible detriments might be of putting large, agriculture lots on the Wentworth property. He suggested that the Commission embrace this idea as a good thing and indicated that they are not trying to capitalize on smaller lots. He noted that there is enough importance to this project, given the fact that what is put on the property will be there in perpetuity.

Don Babbitt stated that he had earlier forwarded an email to the Commission and noted that they had dropped one lot from the plan since the last work session and were now at one lot per gross acre on the property. He noted that what they are trying to consider here is that in coming down Holes 15 and 16 along the boundary of the property, there is an emergency vehicle access (EVA) next to the Wentworth property, a driveway out to Mr. Jensen's property, another EVA to the upper portion of his [Mr. Babbitt] property, and a chain link fence along the Wentworth property, all

of which are not very attractive. He indicated that he felt they could come in with larger lots than those on his [Mr. Babbitt] property and on the Mariposa lots. He noted that the side yard setbacks for the Mariposa project are 15 feet and 15 feet, and those at Serenity Terrace are 30 feet and 30 feet; the side yard setbacks proposed for this property are 35 feet and 35 feet, and the front and rear yard setbacks are 30 feet.

Mr. Babbitt noted that they are trying to be sensitive as they increase the lots to have large side yard setbacks, and rather than doing envelopes, they will lay out typical house plans to show that there will be openness along the golf course. He added that they are also proposing to replace the chain-link fence with wrought-iron fencing, with fully landscaped lots adjacent to the golf course. He stated that when the golf course was built, a deep well was installed on the Wentworth property for watering the golf course, and they are proposing to dedicate a parcel of land around the well and give the City the right to pump out of the lake system for emergency or earthquake purposes. He indicated that they are also proposing that each of the lots would achieve 200 green points, which would be significant as it would be 150 points beyond what is required by the City. He concluded that they are trying to make the development between this property and the golf course much more attractive for the City.

Commissioner Narum asked Mr. Babbitt whether or not he sees an advantage in combining an HOA with Serenity Terrace. Mr. Babbitt replied that he did not see any real advantage as the road would be public, just as Sanctuary Road is public. He added that there is nothing in the property that would require an HOA to maintain, unless Serenity Terrace would help maintain the rock entry walls.

In response to Commissioner Narum's inquiry if the same design guidelines as those of Serenity Terrace would apply, Mr. Babbitt replied that they were the same, except that this project would include an additional 200 green building points.

Commissioner Fox noted that Mr. Schlies had discussed not having horses, ducks, and chickens by the golf course and asked Mr. Babbitt if he were aware that six chickens are allowed in anywhere in Pleasanton.

Mr. Babbitt replied that the Happy Valley Specific Plan allows one horse per acre so there could be two horses on each of the parcels; additionally, they are also allowed other animals based upon certain acreages. He noted that the buyer of this type of parcel might be someone who would most likely not landscape an entire parcel, especially if it has horses and animals. He added that from his experience, building adjacent to land that has farm animals will result in flies and odors and that many people with acreage do not take care of their property and stockpile cars and other things.

Commissioner Fox commented that three cars could also be placed on an empty lot. Mr. Babbitt noted that the design guidelines and the CC&R's would not allow such things.

Commissioner Blank noted that staff report states that Lots 2 through 5 are less than one acre each and inquired what the acreage of each of the lots are. Mr. Babbitt replied that the acreages were noted on the site plan as 1.25, 0.76, 0.76, and 1.42.

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

Chair Pearce proposed that the Commission review the questions. She inquired if there would be a benefit to separating Question 1, *"Would the Planning Commission support a General Plan amendment to allow an increase in the density allocated for the subject site?"* and Question 2, *"Would the Planning Commission support an amendment to the Happy Valley Specific Plan which would allow an increase in the density allocated for the subject site?"* and Ms. Decker replied that they could be combined.

Commissioner O'Connor stated that he had participated in the first work session and has not changed his mind and would not support an amendment to the General Plan and Specific Plan. He noted that there has been a lot of discussion regarding wanting to be consistent with adjacent development, and he did not think putting six lots on six acres was anywhere near consistent. He added that the other parcels might be under one acre. He stated that the Serenity Terrace project has 12 lots, but it has much more than 24 acres, thereby developing less than one house per two acres. With respect to people not wanting to fully landscape two acres, he indicated that he did not think this should necessarily happen. He noted that the golf course is in a rural area, and there are horses on the trails along the golf course. He added that he personally does not have a problem with horses being out there.

Commissioner O'Connor stated that an option would be to create a one-acre lot and to move three lots there, and then have another open space piece in there. He noted that part of the lot rises up to Serenity Terrace and that the lots are not all flat. He indicated that he would not be opposed to having three one-acre lots and having some additional open space.

Commissioner O'Connor stated that he did not think that other developments not having used all of their capacity means they should be given to another development. He noted that any units not used can be put in multiple locations in the Downtown or near the BART station. He stated that he did not think this was an argument for building more density in the Happy Valley area and that he did not want to set a precedence.

Commissioner Narum stated she supported the General Plan and Specific Plan Amendment. She indicated that she thought that this might have been an unintended consequence of the Happy Valley Specific Plan. She noted that she felt

the property was a bit of any eyesore and that the project should be more consistent with the rest of the lots surrounding the golf course. She added that there are several examples of developments that have already deviated from the Specific Plan.

Commissioner Olson stated that he was initially uncomfortable with seven lots and indicated that he had pointed that out at the last workshop. He stated that he thinks the Commission should look at the General Plan and the Specific Plan on an extremely localized basis. He added that Mr. Schlies' argument with respect to the golf course is a convincing one and that the golf course attracts many people from out of town and makes a statement about this community. He agreed with Commissioner Narum that the property is now a bit of an eyesore and that he would support General Plan and Specific Plan amendments to allow six one-acre lots.

Commissioner Fox noted that her position is the same as the one she had at the last workshop and that she would not support a General Plan amendment or an amendment to the Specific Plan.

Commissioner Blank apologized that he was not at the previous workshop and that he has not had a chance to talk to the applicant. He stated that he was generally not in favor of amending specific plans. He indicated that he has been part of discussions on specific plan amendments, especially out in the Ruby Hill area where the Commission talked about modifications to the Vineyard Avenue Corridor Specific Plan. He noted; however, that in terms of figuring out how this could work and in looking at the delta, there is a big difference between the Specific Plan and where this project is at. He further noted that the previous property had ten acres, and it was easy to figure out how to get two acres per lot. With respect to this property, he stated that the total acreage to be developed appears to be 5.68 acres, subtracting out 1.25 acres and 1.24 acres, leaving 3 acres to be split up between four lots, or basically  $\frac{3}{4}$  of an acre per lot. He indicated that he had no doubts that these lots would be well developed and would meet the criteria. He added that the fact that the applicant is willing to go with 200 LEED points on the home is significant. He noted, however, that Lots 2, 3, 4 and 5 are less than an acre each and that if this were a five-lot development rather than a six-lot development, each lot would be at least one acre.

Commissioner Blank noted that this is just a private development with no public dedication other than the street. He stated that he did not want to say he was absolutely against ever amending a specific plan but that some additional work ought to be done about the math of the lots, and he did not know whether this is something that the applicant has looked at or could be done.

Commissioner Olson asked Commissioner Blank to explain his computation of the acreage, and Commissioner Blank replied that he took out Lots 1 and 6, which are 1.25 and 1.24 acres, assuming that the developer would want to keep these two big lots. He noted that he was not thinking in terms of designing the rest of the lots, but

adding the acreages of Lots 2, 3, 4, and 5, which respectively are .67, .76, .76, and .76, total approximately 3 acres and with the houses measure approximately .74 per acre. He stated that if the four lots were combined into three, each house would have at least an acre. He noted, however, that the fact that they are willing to do 200 LEED points might be something to think about.

Commissioner Olson stated that another way to arrive at that would be to change the geometry of the lot lines, such as, for example, moving the lot line between Lots 5 and 6 farther into Lot 6. He indicated that he feels it is inappropriate to subtract the two bigger lots because the project would be robbed of the fractional acreage in both those cases.

Commissioner Blank stated that he did not intend to disadvantage the project and was just assuming that the applicant was willing to keep those lots. He agreed that moving the lot line is an appropriate idea and that there may be other things that could be done by moving some lot lines around.

Commissioner O'Connor stated that by the time the public amenities, the road, and the well were removed, less than six acres would be left, and that cannot be split into one-acre lots.

Commissioner Blank stated that this is a piece of property in a weird position, with a developer who is willing to do 200 LEED points, where the City has seen maybe only one other developer willing to do 200 LEED points and it was a large house.

Commissioner Fox stated that six houses using 200 LEED points of energy is more than three houses using the normal LEED points.

Commissioner Blank clarified that he was not necessarily in favor of six houses but that he finds it significant that a developer is willing to do 200 LEED points. He noted that he is not a LEED point expert and did not know whether four houses doing 50 LEED points was the same as three houses with 200 LEED points.

Commissioner O'Connor stated that these houses could get 200 LEED points but that three houses at 50 LEED points each would probably be using less energy. Commissioner Blank stated that he was not sure the LEED points are necessarily energy savings or energy use. Commissioner Olson agreed that it was not energy use.

Commissioner Olson stated that another way to mitigate this would be to reduce the floor area ratio (FAR) of the houses, thereby building smaller homes on each lot but still getting 200 LEED points each.

Commissioner Blank stated that it would be helpful for the Commission to know if a home with 50 LEED points consumes four times the energy or creates four times the carbon footprint of a home with 200 LEED points.

Ms. Seto stated that LEED points, which stands for Leadership and Environmental Energy Design, does not just relate to energy usage but could also be achieved by using recyclable materials such as for carpet, water usage, drought tolerant plants, and landscape irrigation systems.

Commissioner Blank inquired what the maximum amount of LEED points is, and Ms. Seto stated that she was not certain. Ms. Amos clarified that LEED points relates to commercial projects and that residential uses green building points.

Mr. Babbitt noted that there is a maximum of 350 points for Build it Green. Ms. Amos agreed, stating that one cannot check everything off the list for a building as it is because there could be one LEED point for a certain type of demolition and construction or 50-percent drought-tolerant plants, or you could also have 75-percent drought-tolerant plants and get the credit for that point. She indicated that the maximum a building could have would essentially be about 300 points.

Commissioner Blank stated that he felt there was some sort of generic guidance to indicate that a project that has 200 green points creates an overall carbon footprint of "x", and a project that has 50 green points creates "y". He inquired why there would be a system of points in place when there is no way of quantifying the results obtained.

Chair Pearce agreed that this was valid but stated that she felt these were in the early stages and that there are guidelines. She asked Commissioner Blank what his position is on the General Plan Amendment.

Commissioner Blank stated that it is the same as with the Specific Plan. He noted that he would never say that he would never be open to a General Plan amendment, and this is part of why he needs more information about the green points. He indicated that he likes the idea of redrawing the map lines because there may be a configuration where he would be willing to entertain an amendment to the General Plan and the Specific Plan; however, he does not have enough information to accurately answer that question. He noted that some of the information may need to come from staff on green building and whether the applicant would consider redrawing the lot lines or look at better ways to design this out. He inquired what would happen if one of the lots were eliminated and the rest of the lots made larger. He agreed that it still did not meet the Specific Plan, but one-acre lots sound better to him than .6-acre lots, especially if the homes on the one-acre lots include 200 green point.

Chair Pearce stated that she was not generally supportive of Specific Plan amendments; however, she thought the atmosphere was no longer rural next to the golf course and in-between adjacent developments. She indicated that she would not be opposed to amending the Specific Plan and that she really liked Commissioner Olson's idea of taking a look at the FAR's. She noted that there

might be no FAR information at this time as the project is not at that stage yet. She inquired if a little more of the rural atmosphere could be achieved by tightening up the FAR's while allowing the six lots, which would be a way that she would be more apt to support the six lots.

Chair Pearce then inquired whether the Commission needed to discuss Questions 3 and 4 or make some headway on Question 5. Commissioner Narum requested talking about Question 3, *"Would the Planning Commission support a rezone of the subject site which would be consistent with the adjacent developments located at Serenity and Mariposa Ranch?"*

Commissioner Narum stated that the reason for her question on the rear yard setback on the Mariposa project was because it was exactly what Mr. Babbitt mentioned that as you drive on Westbridge Lane, the houses are too close together. She stated that she thought the intent was to have visions of the golf course through the houses, which would entail making some adjustments in the setbacks.

Commissioner Blank asked Commissioner Narum if viewsapes were important to her. Commissioner Narum replied that they have already addressed what she would want by having the greater side yard setbacks so there is more of a gap between the houses, and having the rear yard setbacks farther away from the golf course so it would be more open and provide more of a rural feel. She noted that on hindsight, she thinks the City did not quite get the look it wanted in the Mariposa project.

Commissioner Narum stated that she would support the request based on what is being proposed. She added that a chart showing the maximum house sizes at 25-percent FAR and 22-percent FAR with their corresponding building envelopes might make the Commission feel more comfortable about having six lots on six acres. Chair Pearce and Commissioner Blank stated that this would be a great idea, stating that a more intelligent decision can be made with more information.

Commissioner O'Connor stated that based on what he has heard so far, having only two houses along the side of the street that abuts the golf course and three houses on the other side would certainly result in having fewer structures looking from the golf course. He noted that there is a possibility of doing only five lots instead of six, where the view can be spread out and structures even farther away from one another and leaving one acre of open space.

Commissioner Narum stated that her only concern with having two lots on the golf course side would be that there would be bigger lots and potentially animals without having fully landscaped lots. She indicated that she believed animals did not belong along the golf course and felt this idea might make more sense across the street on those lots that back up to Serenity Terrace.

Commissioner O'Connor noted that the Commission could approve a PUD with five lots and include Conditions of Approval that would not allow animals.

Commissioner Fox indicated that her position was still one of non-support on both amendments.

Chair Pearce stated that Question 4, *“If an analysis provided by the applicant determines that the proposed project would not increase the overall allowable units within the Happy Valley Specific Plan area, would the Planning Commission support the proposed density believing it appropriate for the Plan area?”* was already discussed and that Question 5, *“Given the proposed setbacks, lot sizes, and location of the site, is site layout appropriate?”* has already been discussed in part.

Commissioner Fox stated that she thinks from the City’s standpoint, the edge of the City should have a feathering out of density. She indicated that she would like to see ¼-acre lots or Low Density Residential (LDR) districts around the City and rural or semi-rural residential at the very edge of the City. She added that she believes Happy Valley is still a rural area, even with the golf course, and that she did not vote for the purple house in Happy Valley, which was denied by the Commission on a 4-1 vote but was overturned by the City Council.

Chair Pearce stated that Question 6, *“Would it be appropriate to combine this project with Serenity at Callippe Preserve for maintenance, HOA, open space, and design guidelines?”* talks about combining the project with Serenity Terrace for maintenance, HOA, open space, and design guidelines. Commissioner O’Connor noted that the Commission has already heard from the applicant about this and that that there is no need for discussion. Commissioner Blank stated that the applicant indicated that the design guidelines would be the same as Mariposa’s. Commissioner Narum stated that she felt they did need to be the same.

Chair Pearce stated that she felt the Commission may already have covered Question 7, *“Would the proposed lots substantially change the character of the neighborhood?”* Commissioner Blank stated that he believed this could not be answered until the Commission sees what Commissioner Narum had requested earlier.

Chair Pearce asked if staff had enough direction to move forward. She added that she believes everyone would agree that an additional workshop was in order.

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

Don Babbitt stated that a copy of the design guidelines could be provided at the next workshop. He indicated that they are proposing the same FAR as that of Serenity Terrace, which was a maximum of 25 percent, and with the larger parcel not to exceed 9,000 square feet of building area and no more than a 7,500-square-foot home. He stated that in effect, the maximum-sized house in Serenity Terrace is 7,500 square feet, and with the 9,000 square feet, allows another 1,500 square feet for a granny unit or pool house. He added that it also allows for up to an

800-square-foot garage which is not counted toward the house size, and anything over the 800 square feet would be taken out of the excess square footage.

Commissioner Narum stated that she forgot about capping the lot as presented in the back of the design guidelines. She noted that if it did not entail a lot of work or money, it would be helpful to provide a streetscape of the side on the golf course at whatever the right numbers are for the maximum size in order for the Commission to see what the worst case scenario might be. She added that this might make the Commission feel more comfortable with what is being proposed, or it may identify something different.

Mr. Babbitt stated that the 25-percent FAR would not come into play with the one-acre parcels because 25 percent would be larger than what they would actually allow with the maximum constraints they put at Serenity Terrace. Commissioner O'Connor stated that it would apply to some of the lots currently proposed which are less than  $\frac{3}{4}$  of an acre.

Mr. Babbitt indicated that they were looking at redoing the site plan and the lots slightly, such that even on a .9-acre lot, which is 36,000 square feet, 25 percent FAR maximum would be 9,000 square feet. He noted that the design guidelines provide that no houses would be larger than 7,500 square feet regardless of what the FAR might be. He added that the 1,500 square feet could be applied to a larger garage, if desired.

Commissioner O'Connor stated that he thought what the Commission was talking about is that if it moves forward with having five to six lots as opposed to three that are currently zoned, the houses would have less square footage so the project would be more open than what is in Serenity Terrace.

Mr. Babbitt stated that this is part of what they are already proposing with the setbacks. He added that a site plan was provided with some houses laid out on it to show what could happen with houses that are 5,000 to 7,000 square feet in size meeting setbacks adjacent to the golf course. He noted that not all the houses would be built to the 35-foot setback. He indicated that this could be addressed at the next workshop.

Commissioner Blank noted that the houses are already below the 25-percent FAR and inquired if the Commission wanted to further limit the house sizes.

Commissioner Fox stated that she thought 7,500 square feet was big. She questioned why the square footage could not be smaller if the project is being given more density than it actually deserves. Commissioner Narum stated that this is the reason she wanted a mock-up drawing.

Mr. Babbitt invited the Commissioners to view Lot 7 on Inspiration Terrace of his project, which is a 7,500-square-foot home nearing completion and is the biggest

house that has been approved for Serenity Terrace. He noted that the house includes a four-car garage and sits on a 36,000-square-foot lot with a 25-foot setback on one side and a 30- to 35-foot setback on the other.

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

Commissioner Fox stated that one of the tragedies of California is that there are not enough houses for grown children to move back to because everything built in this area seems to be over 7,000 square feet. She indicated that she believed any excess housing capacity should be allocated for houses that are of 1,200 to 1,700 square feet so young families can move back into areas like Pleasanton and be close to the families they grew up with.

Commissioner Olson stated that the economics does not make sense and questioned what the reaction would be in Happy Valley if 1,200-square foot homes were built there.

Commissioner Fox replied that the economics is to limit the project to three housing units, and if there are three additional housing units available in the City, these should be put in the Downtown to create extra density there and make it more vitalized rather than putting the extra density on the outskirts of town.

Commissioner Olson stated that consideration should be given to looking at this from the standpoint of the property owner.

Commissioner Fox stated that the General Plan process has gone on for five years and she does not recall that this matter was not brought up during that time. She noted that any questions about the amendments and the housing unit allocations should have been done at that point.

Chair Pearce asked the Commissioners for final comments, and there were none. She asked Mr. Babbitt and Mr. Schlies if they had the direction they needed; and they said they did. Chair Pearce indicated that another workshop was needed and that viewscapes would help the Commissioners to understand the sizes of the homes. She indicated that she was not sure if the same number of lots should be kept and if she would be happy with the maximum 9,000-square-foot home on each lot. She noted that she would like to see more spacing if this much building is proposed. She added that she appreciates the LEED points but that it would be difficult to convince her that a 7,500-square-foot home can truly be green.

No action was taken.

- c. **PAP-130, Anne Fox, Appellant (PDRW-13, Katie Belmonte/Complete Wireless Consulting, Applicant)**  
Appeal of the Zoning Administrator's approval of a design review to install a wireless communication facility that includes rooftop equipment with screening and three building-mounted antennas at 7050 Johnson Drive. Zoning for the property is PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District.

This item was continued to a future meeting.

**7. MATTERS INITIATED BY COMMISSION MEMBERS**

- a. **Discussion of the types of projects to be placed on the Consent Calendar.**

Commissioner Blank moved to remove Item 7.a. from the table.  
Commissioner Fox seconded the motion.

**ROLL CALL VOTE:**

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

The motion passed, and Item 7.a. was removed from the table.

**Spelling Out Acronyms**

Commissioner Blank noted that staff does an outstanding job in Agendas and Minutes of spelling out acronyms, but this is not done with Conditions of Approval or consistently in the staff reports. He recommended that this be done in the staff report and Conditions of Approval as well as this will make things easier for the Commission and for the public.

**Window Signs/Temporary Banners and Vacant Buildings**

Commissioner Fox commented that there are a lot of vacant buildings and that some of the signage around town consist of temporary banners. She requested that Code Enforcement look at some of the shopping centers that are around Stoneridge Mall and up and down Hopyard Road and Santa Rita Road as these are downgrading the area.

Commissioner Narum stated that while she did not disagree with Commissioner Fox, she noted that given the economic climate, it might be worth turning a blind eye for a

while. She stated that she would rather have temporary signs up than see many empty storefronts. She added that everyone is distressed at all the empty storefronts in the Downtown and that she would hate to see this expand to some of the other shopping centers.

Commissioner Fox stated that there are situations where there are blinking lights that attract attention at night and which are safety hazards, as well as things that are not allowed by the Municipal Code. Commissioner Narum agreed that safety hazards should be enforced, but that she did not like to take it a step further. She stated that she did not like to see the vehicle parked in front of the Jack N' The Box with a banner on it advertising their shop inside the shopping center, but if that is what it takes to keep the people in business, she was willing to overlook it until things improved.

Chair Pearce suggested having Code Enforcement review things that may be safety hazards.

Commissioner Fox noted that a few weeks ago, there was a gigantic 15-foot florist window sign.

Commissioner Blank inquired if the City actually had an indoor sign regulation, and Commissioner Fox noted the sign was painted on the window.

Commissioner Narum stood by her comments and felt Code Enforcement had better things to do unless the signs are a safety hazard or a distraction to drivers.

Commissioner Blank suggested letting Ms. Decker know of examples.

### 725 Main Street

Chair Pearce questioned the status of the hole in the ground at 725 Main Street. Commissioner Blank said the Planning Commission is on record with staff that no further extensions are to be granted on this unless it returns to the Planning Commission.

Commissioner Narum inquired if this had been done formally, and Mr. Dolan said he could not provide a lot of information other than the owner is still going through the plan check process. He added that there does not appear to be an urgency on that end and that staff does not know the personal financing arrangements. He noted that it is obviously tough for any project to move forward at this time, and staff is trying to be responsive in the plan check process; however, it has not gone through quickly.

Commissioner Narum inquired if the Planning Commission could appeal an approval for a second extension and then deny it and make the applicant return to the Commission. Mr. Dolan replied that there is probably an avenue where this could be

done, but it is not something he would recommend because it does not fill the hole in the ground.

Commissioner Olson stated that this has been going on before the downturn of the economy, and every time he sees it, he does not think the owner is able to finance it. He indicated that if it comes back to the Commission for another extension, he would want to see evidence that financing is imminent and secured.

Ms. Seto noted that this was not in the Commission's purview and believed the City could not legally do this. Commissioner Blank stated that it would most likely be appealed by someone when it returns.

Commissioner O'Connor noted that it might be worthwhile to alert Mr. O'Callaghan so he understands that the Commission will not grant another extension.

#### California Splash Project on Stanley Boulevard

Commissioner Fox referred to the California Splash on Stanley Boulevard and stated that it was her understanding that there are some transients living in the building and that they are collecting aluminum cans and biking around. She noted that usually when there is partial completion of a building that is a shell, the City gives the developer a timeframe to complete the building or else ask that they get rid of the building. She stated that she felt it was an eyesore and is now a public nuisance. She inquired if the Director of Community Development could look into it and provide some options to the Commission regarding what it can do. She noted that when the water park came to the City, the Commission was told there were certain conditions, and having the shell of a building there for two years on the east side is bothersome.

Mr. Dolan stated that this is not something he has heard and that staff would look into the issue of whether or not there are transients in the building. He noted that about nine months ago the East Bay Regional Park District (EBRPD) was contemplating some future productive use of the structures that had been abandoned midstream. He added that the EBRPD being another public agency, the City gave it some leeway, and staff does not know much more about its intentions at this point. He noted that the City also does not want to waste good construction if EBRPD intends to go forward with something for public use.

Commissioner O'Connor stated that he felt they should at least complete the shell, and Commissioner Fox suggested giving EBRPD a timeframe to complete it, lock it for safety reasons, or get rid of it.

#### Municipal Code Amendments

Ms. Decker stated that she wanted to follow up on several items that were initiated by Commission Members in the past, noting that Commissioner Blank has had interest in some old Municipal Code amendments. She brought forward a schedule

of some old Municipal Code amendments which have been on the list for some time and have now been removed from the Future Planning items. She advised that if the Commission were interested in pursuing any of the Municipal Code amendments, the process was for the Commission to present its collective recommendation to the City Council for inclusion in its Priorities.

Ms. Decker stated that the City Council would be discussing its Priorities in February and that the consideration of the Municipal Code amendments to be recommended for inclusion in the City Council Priorities would be agendaized for the January 28, 2009 Planning Commission meeting, at which time she would provide a list of the Municipal Code amendments that the Commission has previously expressed an interest in pursuing.

Mr. Dolan requested that individual Commissioners give some advance thought as to what the approach might be. He stated that the Council has eight Priorities which are subject areas, with many implementing programs within each of those eight Priorities. He advised that because the list is long, the Commission might want to be strategic in what its recommendations are and not make its own list too long such that it does not have any impact.

Commissioner Olson stated that when the Commission went through the process last year, he was very frustrated as the process did not include any indication of the cost of those various items. He noted that the Commission was asked to prioritize with no consideration for cost, and he finds this unrealistic because the Commission might look at an item and consider it as a very high priority, but the reality is in light of the City budget, it makes no sense for the item to be a priority. He noted that he indicated at the time that he would like to see some economic ranking.

Mr. Dolan stated that he was not sure if that information was even available to the Council. He added that he understands the way it works, which has been successful with the Council and City Manager, is that if it is on the list, the City Manager has the green light to pursue it, and, therefore, the responsibility of whether or not the City can afford it initially is something to consider in its budget. He stated that it is an obvious question to staff because there are times when staff cannot accomplish projects with the resources it has, and he was not sure he could address the issue prior to discussing it.

#### 2009 Planners Institute

Ms. Decker advised the Commission that staff has provided the Commissioners with the information on the 2009 Planners Institute and would like them to indicate to staff if they plan on attending.

**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.

**d. Appointment of Two Commissioners to the Heritage Tree Board of Appeals for 2009-2010**

Chair Pearce inquired if the same Commissioners could be appointed. Ms. Decker said yes.

Commissioner Fox inquired who the current Commissioners were, and Chair Pearce indicated it was Commissioners Olson and Blank.

Commissioner Olson confirmed they have held one meeting.

**Commissioner Fox moved to nominate Commissioners Narum and Blank to the Heritage Tree Board of Appeals for 2009-2010.  
Commissioner Olson seconded the motion.**

**ROLL CALL VOTE:**

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

**The motion passed, and Commissioners Narum and Blank were appointed to the Heritage Tree Board of Appeals for 2009-2010.**

**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 reported that another Bicycle and Pedestrian Advisory Committee (BPAC) meeting would be held at the end of February and that the Master Plan is almost complete.

## **12. ADJOURNMENT**

Chair Pearce adjourned the Planning Commission meeting at 10:07 p.m.

Respectfully,

DONNA DECKER  
Secretary