



PLANNING COMMISSION MINUTES

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

APPROVED

Special Meeting

Wednesday, October 29, 2008

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

CALL TO ORDER

The Planning Commission Special Meeting of October 29, 2008, was called to order at 7:00 p.m. by Chair Blank.

1. ROLL CALL

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

Commissioners Present: Commissioners Phil Blank, Kathy Narum, Arne Olson, and Jennifer Pearce

Commissioners Absent: Commissioners Anne Fox and Greg O'Connor

Chair Blank informed the Commissioners and the public that the main digital recording machine is not functioning and requested that they speak into the microphones.

2. APPROVAL OF MINUTES

a. October 15, 2008

Commissioner Narum moved to approve the Minutes of October 15, 2008. Commissioner Pearce seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Narum, Olson and Pearce.

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioners Fox and O'Connor.

The motion passed, and the Minutes of October 15, 2008 were approved.

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

Ms. Decker advised the Commission that Item 6.b , PUD-76, Nathaniel Morales/Code White, would be the first public hearing item.

5. CONSENT CALENDAR

a. PDR-810, Michael and Sharon Fuller (Duke Fuller)

Application for design review approval to construct an approximately 5,481-square-foot single-story custom home with an approximately 767-square-foot attached garage at 4134 Foothill Road. Zoning for the property is PUD-A/RDR (Planned Unit Development – Agriculture/Rural Density Residential) District.

Chair Blank referred to the condition regarding Green Points and inquired if the minimum score required is 50 points.

Ms. Rondash replied that it was. She clarified that the current version of the Green Point checklist is different from the version that this project previously went through, which reflected a minimum of 54 points. She added that staff has revised the project's Green Points requirement to reflect the new version of 50 points. She noted that it is anticipated that the project will meet the minimum 50 points, as outlined in Condition No. 6 of the staff report.

Commissioner Olson referred to Exhibit G, the original set of conditions, and inquired if those conditions would still in effect. He noted that there is a new set of conditions attached to the staff report.

Ms. Rondash replied that the original conditions have expired and that Exhibit B of the staff report, which is a revision of the original conditions, is what is before the Commission for consideration.

- b. **PCUP-223, Paul Cleary, Fountain Community Church**
Application for a conditional use permit to operate a church with church-related activities at 4430 Willow Road, Suite N. Zoning for the property is PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District.

Commissioner Pearce moved to approve Case PDR-810, subject to the conditions of approval as listed in Exhibit B of the staff report, and to make the required conditional use findings for Case PCUP-233 as listed in the staff report and approve the conditional use, subject to the conditions of approval listed in Exhibit B of the staff report.

Commissioner Olson seconded the motion.

ROLL CALL VOTE:

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

Resolutions Nos. PC-2008-54 approving Case PDR-810 and PC-2008-55 approving Case PCUP-233 were entered and adopted as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

- b. **PUD-76, Nathaniel Morales/Cody White**
Application to rezone an approximately 7,500-square-foot parcel located at 344 and 346 West Angela Street from the RM-1,500 (Multiple-Family Residential) District to the PUD-HDR (Planned Unit Development – High Density Residential) District and for Planned Unit Development plan approval to remodel and convert the existing duplex unit into one single-family residential home and to construct two new attached units in the rear with related site improvements.

Ms. Amos presented the staff report and described the background, scope, and key components of the project. She noted that Condition No. 37 is being revised to not

allow Saturday construction activities and that a new condition has been added regarding the undergrounding of the existing overhead utilities.

Ms. Amos indicated that a neighbor had contacted staff to remove the balconies; however, staff noted that the balconies are part of the project's open space requirement. She added that staff is recommending that the balconies be retained but be reduced in size from 79 feet to 50 feet for a total of 250 square feet each.

Commissioner Narum thanked staff for modifying Condition No. 37. She then inquired if there is no provision for guest off-street parking in the proposal. She noted that the recent development on Augustine Street included off-street parking.

Ms. Amos confirmed that there is no provision for off-street parking in this proposal. Ms. Decker noted that there were off-street spaces provided by the use of the driveways of the units. She explained that the parking requirement is to provide two spaces per unit, generally one covered and one uncovered. She noted that the PUD allows flexibility, but in this particular case, the two parking spaces are both covered within a garage, and no guest parking is provided for the three units. She stated that deliveries and visitors would have to use the street.

Commissioner Narum inquired if this was consistent with the parking requirements in the Downtown Specific Plan. Ms. Decker replied that it was.

Chair Blank noted that the condition of approval for sprinklers is not the City's standard condition and asked if there was a reason for this. Ms. Amos replied that the condition was not the standard one and that staff would ensure that this is the correct condition based on the last development plan.

THE PUBLIC HEARING WAS OPENED.

Nate Morales (and Cody White), Applicants, stated that they have worked well with Planning staff for over a year and that they had met with the neighbor earlier in the week regarding the concern with the balcony. They noted that they are willing to do whatever Commissioners requires with respect to the balconies.

Brandt Esser, adjacent property owner, indicated that he owned the duplex rental to the left of the proposal. He noted that the balconies give the bedrooms of his units the feeling that they can look directly down onto them, and he asked that they be removed from the project. He stated that he believed the project was a good one but that it was a little bit too close to the property line.

Chair Blank asked Mr. Esser how he felt about the proposed compromise to reduce the square footage of the balcony. Mr. Esser replied that he preferred the balconies to be balanced and added that he was surprised the immediate neighbor with a swimming pool is not present as the balconies would look right into their swimming pool. He indicated that he can understand that the applicants would like as much

open space in each unit as possible, but that he thought the balconies just did not seem to fit here.

Commissioner Narum asked Mr. Esser the address of his property, and Mr. Esser replied that it was 4641 Augustine Street.

Bob Byrd stated that he has been a builder and designer of homes all his life and has built homes in in-fill lots. He noted that he felt something could possibly be done to satisfy Mr. Esser as well as the person with the pool by relocating the windows.

Commissioner Pearce asked Ms. Amos which side the balconies are on and how wide they are.

Ms. Amos pointed their location on the screen and showed the neighbors' view, which was not a front view. She confirmed the balconies were four feet wide.

Chair Blank stated that he was also perplexed but would like to attempt a compromise between the neighbors. He indicated his appreciation for the applicants' willingness to remove the balconies but noted that on in-fill projects in the Downtown, there is not a lot of land to provide buffers.

Commissioner Olson stated he believed that if the applicants are willing to remove the balconies, that would probably be the route to take.

Mr. Dolan stated that staff would prefer to reduce the size rather than eliminate the balconies entirely, and in response to Commissioner Olson's question why staff would prefer this alternative, Mr. Dolan replied that the space is valuable to the unit and makes the unit more livable. He added that the balconies have a side view and are narrow with very limited exposure. He noted that making the balconies smaller would reduce the amount of view into the neighbors' homes.

Chair Blank inquired if the neighbors would be viewing the side of the balcony rather than the full view. Mr. Dolan confirmed that was the case.

Commissioner Olson requested that his remarks regarding removal of the balcony be struck.

Ms. Decker stated that it would be helpful to look at the building elevations and noted that the width of the windows is essentially the width of the proposed balconies. She demonstrated that it is moved in from the edge by approximately 4.5 feet and that with the juxtaposition of the other lot at a right angle, along with the angle of the lot, it is unlikely that someone would be able to stand on a four-foot wide balcony and look around that four-foot distance into someone's bedroom.

Commissioner Narum stated that she really likes the front unit on the project and was generally supportive of the concept of infill but that the rear wall of the back

units bothered her. She indicated that with 1,300- to 1,400-square-foot units at the back, the project gives a sense of trying to fill in every bit of ground possible. She noted that she feels this would be a better project if the square footage was a little smaller as there would be a little bit more land and open space. She added that she has a problem with taking down the two trees in the back.

Chair Blank stated that his first house was almost the exact same size, and he felt then that it was pretty tiny. He noted that if the units were reduced down to 1,100 square feet, they would be very tiny.

Commissioner Narum noted that her first house was less than 1,000 square feet and agreed that it was small.

Ms. Decker noted that the General Plan land use designation for high-density residential has a requirement of eight dwelling units or more. She stated that this project with three units meets that dwelling-units-per-acre definition, and, therefore, it is consistent with the General Plan density. She added that it is also consistent with the Downtown Specific Plan density. She indicated that when projects do not meet the General Plan requirements, other findings need to be discussed and the loss of the actual units need to be made up for and planned accordingly.

Commissioner Pearce stated that made sense to her and believed the project was appropriate for the area.

Commissioner Narum stated that the density is supposed to be greater than eight or more units per acre and that this density is 17.65 units per acre, which is well in excess. She added that she is bothered by the back units as well as the lack of off-street parking for guests among the three units. She noted that the Commission is aware that parking is an issue in the Downtown.

Commissioner Olson stated that he raised the same question on density at the last meeting and did not see how eight dwelling units per acre can be achieved if there are three units on .17 acres. He indicated that he did the math and the number Commissioner Narum quoted as 17.65 is what he arrived at as well. He noted, however, that he does not have a problem with this project in terms of density because it is in the Downtown, and the City wants a higher density Downtown.

Chair Blank agreed with Commissioner Olson.

Ms. Decker apologized for the error in the staff report. She noted that in the clarification memo, the issue is clarified as 17.65 units per acre.

Commissioner Pearce indicated that she likes the project and the colors, appreciates the balcony compromise, and believes it will be a good addition to the Downtown. She noted that she is normally concerned with the removal of trees but that she is not as concerned in this case as the trees are old Black English Walnut trees.

Commissioner Pearce moved to make the findings that the proposed PUD development plan is covered by the previously approved Final Environmental Impact Report for the Downtown Specific Plan; to make the findings that the proposed PUD rezoning of an approximately 7,500-square-foot parcel located at 344 and 346 West Angela Street from the RM-1,500 (Multiple – Family Residential) District to the PUD-HDR (Planned Unit Development – High Density Residential) District and the proposed PUD development plan are consistent with the General Plan, the Downtown Specific Plan, and the purposes of the PUD ordinance; to make the PUD findings listed in the staff report; and to recommend approval of the rezoning of the project sites and of Case PUD-76 to the City Council, subject to the conditions of approval listed in Exhibit B of the staff report, including the modifications listed in the staff memo dated October 29, 2008 regarding Condition No. 37 and the undergrounding of the overhead utilities, the standard language of the sprinkler condition, and the modified design of the balcony reducing the size as proposed by staff.

Commissioner Olson seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Blank, Olson, and Pearce.

NOES: Commissioner Narum.

ABSTAIN: None.

RECUSED: None.

ABSENT: Commissioners Fox and O'Connor.

Resolution No. PC-2008-56 recommending approval of Case PUD-76 was entered and adopted as motioned.

a. PCUP-231, Amy Cheng, Tong Shing LLC

Application for a conditional use permit to operate a tutorial school for preschool through 12th grade students at an existing building located at 4460 Black Avenue, Suites C and D. Zoning for the property is "O" (Office) District.

Steve Otto presented the staff report and described the background, scope, and key components of the project.

Chair Blank inquired if the applicant is aware that regardless of the things written on her narrative, she must comply with the conditions of approval. Mr. Otto replied that staff had discussed this with the applicant and that she did not present any opposition.

Chair Blank inquired if the narrative has been revised and includes the conditions in the staff report. Mr. Otto confirmed that is the case.

THE PUBLIC HEARING WAS OPENED.

Amy Cheng, applicant, stated that she has complied with all the requirements of staff report, including two updates. She indicated that the first update is on the second to the last paragraph of page 2 of the revised narrative plan, stating that for all programs for pre-school age, the maximum hours per week are 11.75 hours and not 12 hours. She noted that this amounts to 2.25 hours per day and not 3 hours per day. With respect to the water fountain described on page 8 of the staff report, Ms. Cheng stated that she spoke with Les Lyons of the Building and Safety Division and noted that the facility would provide drinks and snacks to the students. She added that Mr. Lyons had suggested that this be presented to the Planning Commission.

Commissioner Olson inquired if the drinking fountain is a requirement. Mr. Otto replied that it is but that it is flexible. He noted that the condition states "unless otherwise approved by the Chief Building Official." He indicated that if the applicant can demonstrate that it is not required, then the use can be approved without the drinking fountain.

Commissioner Pearce asked for an explanation regarding how the pre-school program works and if children attend every day.

Ms. Cheng replied that the students register with Gingerbread School for one-hour classes each day for play time, arts and crafts, and to make friends; they then come to their center to learn English. She stated that parents have indicated that their children are very happy with this schedule as they receive a solid English foundation and have a social atmosphere as well in the Gingerbread School. She noted that the children can come one or two times a week or more for one hour up to two hours and 15 minutes, which is the entire length of each session.

In response to Commissioner Olson's inquiry regarding whether English would be a second language for most of the students, Ms. Cheng replied that while English is the main language taught, they also teach Japanese and Chinese.

Commissioner Pearce noted that the learning center is open for three hours each day and requested confirmation that the pre-school is available to students for only two hours and 15 minutes per day. Ms. Cheng confirmed that was the case.

Commissioner Pearce inquired if the driving and walking time from the school was included in the two hours and 15 minutes. Ms. Cheng replied that the facility's teachers go to the Alisal and Walnut Grove elementary schools and meet the students at the curb area at about 2:50 p.m. and that once all the students are gathered together, they all walk or drive back together to the learning center.

Commissioner Pearce inquired how long the sessions were and whether or not students sign up per month. She further inquired if the sessions were back-to-back for the entire school year. Ms. Cheng replied that the students pay by the month. She added that facility is open for 48 weeks and that many students go on vacation during the summer, although some students attend the entire school year.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pearce referred to the amount of time spent with regard to Community Care Licensing requirements and asked if this included the time spent driving and walking, which would be within the care and supervision of the teacher. Mr. Otto replied that he had not seen language that discusses driving time in State regulations. He stated that he would assume that only the actual time in the facility would only be counted. He noted that parents could drive their children to the center, which would not be counted as part of the session time.

Commissioner Olson inquired how close the facility would be to the time requirement that would require it to become a licensable activity should travel time under the care of the instructor be counted.

Mr. Otto replied that the time requirement is 12 hours per week for the pre-school age students and 16 hours per week for older students. He stated that he could not say how close each student is to that timeframe as the facility does not have an individual schedule for each student. He added that as long as the applicant abides by those limits, she would be within the State exemptions from requiring a childcare permit.

Chair Blank made some computations and noted that two hours and 15 minutes for five days would be equal to 11 hours and 15 minutes per week. He added that if it took ten minutes per day to get the students to the school, they would be over by five minutes. He indicated that he would want some legal advice as to whether or not drive time is included in this computation.

Ms. Seto stated that she believes Mr. Otto's earlier discussion reveals that there is no indication that drive time counts towards that type of time. She added that one of the challenges would be how to calculate this if there were two children in the car and they have to go to one child's house first and then to the other child's house.

Chair Blank stated that he believed there are ways to do that because the children are under the teachers' care and supervision at that point in time. He asked Ms. Seto if, from a legal perspective, she was confident that drive time and escort time were not included.

Ms. Seto replied that she could not provide a definitive answer because she did not have the answer at this time. She noted that staff could check back with the Community Care Licensing and determine if this is or is not the case. She stated

that they did have information provided in the January analysis where they determined this was not a childcare as long as time regulations were met, and there was no discussion in that analysis about travel time.

In response to Chair Blank's inquiry if this is how the facility has been operating over the last few years, Ms. Decker replied that the center has been in operation for the last three years and that there have been no complaints in terms of the operation. She stated that she would also like the Planning Commission to consider additional information from the applicant with respect to the 12-hour period for pre-school children up to 4 years-9 months in age. She noted that staff believed pre-schoolers were actually being dropped off at the school as opposed to the facility's teachers waiting for them to be discharged from the school and taking them to the facility, which extends the hours to 16 hours per week. She added that staff is also unaware if teachers are picking up children at people's homes and noted that travel time has not been included.

THE PUBLIC HEARING WAS RE-OPENED.

Ms. Cheng stated that parents bring their pre-school children to the school and that the teachers do not pick them up from their school or home. She added that she has reviewed their schedule with the Licensing representative with respect to the older children. She stated that they sometimes have a carpool and that teachers walk over at other times. She noted that she has provided a letter to Mr. Otto from State Licensing that the facility is exempt from requirements for licensure as a childcare facility.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Pearce noted that she continues to be vaguely dismayed by the applications that are coming forward to the Commission that are technically considered exempt from childcare licensing but could benefit from licensing because she believes they violate the spirit of exemption from licensing. She stated that programs that come right up to the 12-hour limit can keep them going throughout the school year, and in her opinion, these programs should require licensing and should desire to have licensing in place. She noted, however, that she supports the request due to the Community Care Licensing letter that technically it is exempt.

Commission Pearce moved to make the conditional use findings as listed in the staff report and to approve Case PCUP-231, subject to the conditions listed in Exhibit B of the staff report.

Commissioner Narum seconded the motion.

Commissioner Narum inquired if it would make sense to add a condition that pre-school children cannot be picked up by the operator.

Ms. Decker replied that staff prefers language that is very specific but that this condition would be difficult to monitor and enforce; additionally, staff does not have the resources to monitor how children are getting to facilities. She noted that the City honors applicants' word when they say that they do not pick up pre-school children.

Chair Blank stated that this is an establishment that if it were not moving would not be before the Commission. He noted that it has a good three-year track record and that he did not want to penalize them.

Commissioner Narum stated that she was not locked into the requirement but that this would be something to fall back on if the Commission is concerned about it. She noted that she felt it was nebulous and that the Commission is relying on the applicant's track record and staff's comments.

Chair Blank noted that this was a trust issue and that if complaints are filed, the matter would return to staff and/or the Planning Commission.

Commissioner Narum noted that this was similar to making children sign in and out. She stated that she has always had a problem with operation issues but that this was a question of where to draw the line and that she can go either way.

Commissioner Olson state that following Commissioner Pearce's concern, he realizes that staff has a lot to do. He inquired if the Commission and staff really understand the difference in the nature of the operation with respect to whether or not they have to be licensed; what kinds of requirements are placed on the operation once they are licensed; and if there is a reason why applications come in just under the wire. He stated that it would be helpful to understand what that difference is and requested staff to research this matter.

Ms. Decker stated that the City relies on the expertise of the State in determining whether or not a facility is licensed as the State has the authority to determine that. She noted that staff has a matrix that identifies tutorial facilities which was done when the City amended the Municipal Code for facilities with 20 students or less. She added that staff could provide a similar matrix with the various types of facilities, look at the differentiation used in the past, and bring that forward for discussion as an information report.

Chair Blank suggested having someone from State Licensing come and make a presentation to the Planning Commission.

Ms. Decker replied that the State Licensing's resources seemed to be over-extended and that recent communication with State Licensing staff has generally been through e-mail. She noted that staff could provide State Licensing with staff's matrix and information and request comment on staff's considerations of those laws. Mr. Dolan stated that he would also pursue an invitation.

Ms. Seto noted that the City may also have internal resources through its Parks and Community Services Department.

ROLL CALL VOTE:

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

Resolution No. PC-2008-57 approving Case PCUP-231 was entered and adopted as motioned.

7. MATTERS INITIATED BY COMMISSION MEMBERS

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

No discussion was held or action taken.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

- a. Future Planning Calendar

Staples Ranch

Ms. Decker clarified that the Commission has already considered the first part of the second item, "Stoneridge Drive Specific Plan Amendment/Staples Ranch Project Development Agreement" at its October 22, 2008 meeting when it considered the Specific Plan Amendment and the EIR and provided a recommendation to City Council. She noted that only the Development Agreement will come forward and that staff is not certain at this time if it will come separately or with a project. She stated that staff will inform the Commission as the project moves forward.

Commissioner Olson inquired if the Development Agreement for Staples Ranch was one agreement and who the parties to that agreement were. Ms. Decker replied that it was one agreement. Mr. Dolan stated that the County plays a central role in that development and would be involved; he added that there were also multiple developers as there are multiple projects. He indicated that staff would share more details with the Commission as they become available.

Ms. Seto stated this is similar to how other large projects have proceeded with the City. She noted that the Bernal Property project had different development agreements because different interests were represented.

PRZ-34, Window Signs Code Amendment

Ms. Decker likewise referred to page 3 where staff has listed several Code amendments and noted that staff is looking to bring a couple of them back to the Commission in various forms. She stated that PRZ-34 is the application to amend the Pleasanton Municipal Code to establish regulations for temporary window signs, which came before the Commission in 2006 with a memo containing information on what other jurisdictions do. She noted that staff received feedback from the Planning Commission at that time and that staff would like to bring it back as a work session, followed by a discussion with the Chamber of Commerce and the development community, after which it would be brought back to the Commission for discussion.

Chair Blank agreed that holding a work session would be good. He then discussed various retail signage and people opposing signage inside windows, on stands, and their colors.

Commissioner Olson noted there is a bank on Main Street with several window signs advertising sales.

Commissioner Narum requested that she be provided with background information on the issue as this began prior to her appointment on the Planning Commission. Ms. Decker replied that staff will include the history in the staff report, what other jurisdictions have, and the Planning Commission's direction.

PCUP-229, John Pfund/Tri-Valley Martial Arts Academy

Commissioner Narum requested confirmation that the Pfund application project is scheduled for the November 12, 2008 meeting. Mr. Dolan replied that he was relatively confident the project would be heard on that date.

b. Actions of the City Council

No discussion was held or action taken.

d. 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

12. ADJOURNMENT

Chair Blank adjourned the Planning Commission meeting at 8:00 p.m.

Respectfully,

DONNA DECKER
Secretary