



## PLANNING COMMISSION MINUTES

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

**APPROVED**

**Wednesday, August 13, 2008**

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

### **CALL TO ORDER**

The Planning Commission meeting of August 13, 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; Julie Harryman, Assistant City Attorney; Wes Jost, Development Services Manager; Marion Pavan, Associate Planner; Natalie Amos, Assistant Planner; and Maria L. Hoey, Recording Secretary

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

Commissioners Absent: Commissioner Anne Fox.

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

a. July 23, 2008

Commissioner Pearce advised that it was Commissioner Narum and not she who requested the correction as indicated in the last paragraph of page 1.

Commissioner Olson noted a typographical error on the fourth paragraph of page 8 and requested that the spelling of Chair Blank's name be corrected.

Ms. Decker noted that with Commissioner Fox absent, the Commission could either vote to approve the minutes with any additional revisions Commissioner Fox might suggest or leave the minutes open for Commissioner Fox to review at the next meeting.

Chair Blank questioned whether there were any time-sensitive legal implications that would prevent the Commission from leaving the minutes open until the next meeting. Ms. Decker confirmed that there were none.

Chair Blank indicated that the minutes would be left open until the next meeting.

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

No members of the audience wished to address any items not already on the agenda.

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

Ms. Decker advised that Item 6.a., PCUP-229, John Pfund, Tri-Valley Marital Arts Academy has been continued by Commissioner Fox and indicated that the Commissioner's Handbook requires that the item be continued to the next Planning Commission hearing date, which is August 27, 2008, the date set for the Joint City Council/Planning Commission workshop on Hacienda Housing. She further advised that the next Planning Commission meeting would be September 10, 2008 but that there is a scheduling conflict because that meeting has been set for a single item: Staples Ranch. She then informed them that a possible hearing date for this continued item would be at a Special Meeting on September 4, 2008.

Ms. Decker then reported Item 6.c., PAP-123, Greg and Lisa Johnston, Appellants (PDR-715, Steven and Nicole Jeffrey, Applicants) has been continued to the next available meeting date.

Commissioner Pearce inquired, given the time-sensitive nature of Item 6.a., if it would be possible for the Commission to arrive at 6:00 p.m. or 6:30 p.m. on August 27<sup>th</sup> and hear the item before the Joint City Council-Planning Commission Workshop.

Mr. Dolan replied that it would be possible but potentially logistically problematic for the City Council and the City Manager as the Workshop had already been noticed. Chair Blank expressed concern regarding leaving the Item unresolved until the next Planning Commission hearing and proposed meeting from 6:00 to 6:45 p.m.

Ms. Decker stated that staff was looking at September 4, 2008 as a possible Planning Commission Special Meeting date. She advised that five of the six

Planning Commissioners would be available on that date and that staff could find other items to place on that agenda. She noted that this would be the staff's recommendation so the Commissioners could hear the Item at the earliest possible time. Chair Blank commented that either date could work.

Commission Olson confirmed that he was agreeable to meeting at either time, prior to the Joint City Council/Planning Commission Workshop on August 27, 2008 or at a Special Meeting on September 4, 2008.

Mr. Dolan advised that in order to be procedurally correct, the Commission would need a majority vote if it decided not to hear the Item at the next regularly scheduled meeting.

Chair Blank inquired if the meeting could start early on Wednesday, August 27, 2008, and set up Thursday, August 28, 2008, as a Special Meeting in the event that the hearing is not completed on August 27th.

Ms. Harryman indicated that the only issue with doing this is that the newspaper publication of the next hearing date had already gone out, and people were expecting the meeting to start at 7:00 p.m. She advised that this issue did not prevent them from changing the date and time of the meeting because staff could still post a notice of the change and send out notification cards, thereby satisfying two of the three noticing requirements.

Chair Blank asked whether all three noticing requirements would be satisfied if the meeting was on August 28, 2008. Ms. Decker advised that they would still only be able to achieve two of the noticing requirements for the date.

Chair Blank then inquired whether staff would be able to satisfy all three noticing requirements if a Special Meeting were held on September 4, 2008. Ms. Decker confirmed that they would be able to achieve all three noticing requirements for September 4, 2008.

Mr. Dolan said his belief is that people in the community are interested in this Item and are keeping close track of its progression and will notice any changes made to the time or date.

Commissioner Narum expressed her preference for the August 28, 2008 date because she believed it would be more accessible to the general public, considering that September 4, 2008 falls during the first week back for schools.

Chair Blank expressed his desire to get the Item resolved as soon as possible and indicated that the August 28, 2008 date was fine.

**Commissioner Olson moved to hold the hearing on August 28, 2008 at 7:00 p.m.  
Commissioner Narum seconded the motion.**

Chair Blank inquired if this item would be the only Item heard that night.

Ms. Decker replied that it was uncertain but that it would definitely be the first Item heard that night.

**ROLL CALL VOTE:**

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

**The motion passed.**

**5. CONSENT CALENDAR**

There were no items for consideration.

**6. PUBLIC HEARINGS AND OTHER MATTERS**

**a. PCUP-229, John Pfund, Tri-Valley Martial Arts Academy**

Application for a conditional use permit to allow the operation of the following at 1262 Quarry Lane, Suite A, in the Valley Business Park: (1) a martial arts/childcare facility, Monday through Friday, from 11:30 a.m. to 6:15 p.m.; (2) full-time childcare program camps during school breaks and holidays; and (3) evening martial arts classes, Monday through Friday, from 6:45 p.m. to 9:00 p.m. Zoning for the property is PUD-I (Planned Unit Development – Industrial) District.

This item was continued to a Special Meeting on August 28, 2008 at 7:00 p.m.

**b. PUD-87-19-03M, Dr. William and Lydia Yee**

Application for a major modification to an approved Planned Unit Development (PUD) development plan to allow six custom lots on an approximately 29.8-acre site located at 4100 Foothill Road, custom lot design guidelines, and off-site construction on Foothill Road in the general vicinity between Puri Court and Muirwood Drive. Zoning for the property is PUD-LDR/RDR/OS (Planned Unit Development – Low Density Residential/Rural Density Residential/Open Space) District.

Chair Blank disclosed that he had toured the site with the applicant earlier in the day for about an hour. Commissioner Pearce disclosed that she had also toured the site with the applicant a few months ago. Commissioner Olson disclosed he had also toured the site with the applicant a few months ago. Commissioner Narum disclosed that she had met with the applicant and Mr. Inderbitzen.

Mr. Pavan presented the staff report and described the background, scope, key components, and lay out of the project with the aid of a PowerPoint presentation.

Chair Blank noted that he had been presented with a number of different versions of staff's memorandum and did not know which one was the most current. Mr. Pavan confirmed that Chair Blank was holding the current version.

Commissioner Narum requested that Mr. Pavan display the "View 2: After" view simulations and identify where the six houses were to be located. Mr. Pavan identified the houses on the screen. Commissioner Narum further asked that he identify the houses by lot, to which Mr. Pavan replied that he would refer the question to the applicant's consultant.

Commissioner Narum next requested that Mr. Pavan display "View 3: After" and asked what lot was shown in that view. Mr. Pavan replied that he believed it was Lot 4.

Commissioner Narum then inquired if, with respect to Open Space, the permitted use of the land would be for grazing by specific kind of livestock and if those animals would have to be owned by the landowner. Mr. Pavan confirmed that the open space would be for grazing and that the animals may or may not be owned by the landowner. He stated that there are companies that bring livestock onto properties owned by others in order to graze and that this provides feed for the animals as well as takes care of the wildland fire hazard area.

Commissioner Narum inquired if, hypothetically, as the landowner of Lot 4, she would be able to build a barn for her animals. Mr. Pavan replied that she would only be allowed to build within the building envelope area but not in the open space area. She then inquired if the barn would count towards the floor area cap. Mr. Pavan confirmed that a fully-enclosed accessory structure would count towards the cap.

Chair Blank asked whether a three-sided storage shed would count towards the cap. Mr. Pavan replied that it would not because it is specifically exempted by the Pleasanton Municipal Code.

Commissioner Narum then asked if such a shed could be built outside of the building envelope. Mr. Pavan replied that based on staff's recommendation, such a structure would still have to be built within the building envelope.

Commissioner Narum inquired whether the architect, Mr. Gorney, was present and available to answer questions regarding the height of the proposed structure when that part of the project was discussed. Mr. Pavan said yes.

Commissioner Narum then inquired whether any thought had been given to how to minimize the impact of the construction on the already congested area around Foothill High School. She called particular attention to the heavy traffic times related to student drop-off and pick-up. Mr. Pavan responded that while special construction hours had been mandated in the past for projects occurring around elementary schools, staff felt this was unnecessary for this project, which is located near the high school. He did point out that it was, however, up to the property owner to consider scheduling the construction work such that the workers would not be constrained by excessive traffic.

Commissioner Narum then asked Mr. Jost, regarding Conditions Nos. 53 and 55 regarding the requirement to construct curbs and gutters within the development, whether the developers were being required to do so even though the road within the development was private. Mr. Jost confirmed this, stating the City's desire to protect the area the retaining wall will be installed. He added that a curb might need to be built near the entrance for drainage control.

Commissioner Narum then asked Mr. Jost, with respect to the new Condition No. 49 regarding the installation of water meters at each lot, why the City would have to read all the individual meters when only the maintenance association would be billed. Mr. Jost explained the need to keep track of each owner's individual water usage and noted that if the individual meters did not add up to the total water consumption, then the maintenance association would be required to cover the difference. He noted that this would also alert the maintenance association to the possibility that there was a leak or some other problem.

Chair Blank inquired whether this condition was standard as he had not seen it anywhere before. Mr. Jost replied that it was not standard but that it was needed because these would not be City-maintained lines.

Chair Blank noted that all references to "homeowner association" need to be changed to "maintenance association" and that some additional administrative duties would need to be performed by the maintenance association.

Mr. Pavan indicated that while Condition No. 49 was not standard, it was already being employed successfully. He then pointed out where the previously mentioned parking bays were located and where the curbs might need to be built.

Commissioner Olson inquired about the current location of the gate and its intended future location. Mr. Pavan pointed out the two locations and confirmed that the gate will still be located prior to arrival at the first lot.

Commissioner Olson then asked Mr. Pavan for clarification regarding securing agency permits as explained on page 19 of the staff report. Mr. Pavan replied that hypothetically, if the applicant is unable to secure the permits necessary from three agencies to complete the construction of the bike lane, the City would then be responsible for securing those permits and provide for mitigation. He added that the City would require a bond to include sufficient funds to do so.

Commissioner Olson inquired why staff thinks that the City would be able to get the permits from the three agencies if the applicant is unable to do so. Mr. Pavan replied that staff believes that, based on a review of the area, while it is technically a creek area, it is not a habitat area. He added that the area has already been modified and contains sandbags, poison oak, and other debris. He noted that based on the mitigation measures done in the past, staff believes that it is highly probable that the permits can be secured and the mitigation measures achieved. Mr. Pavan then reiterated that if the applicant fails to secure the permits, the City will want to have the money on hand to pursue the permits and mitigation itself.

Commissioner Olson inquired if construction of the bike lane would result in filling that area so water could not pass through during a storm. Mr. Pavan replied that a culvert could be constructed to aid in the passing of water.

Commissioner O'Connor raised the point that at the workshop, the Commission had asked for a traffic safety analysis that would include several variations for entryway from Foothill Road. He noted that the staff report did not include the safety analysis and that there is only one location for possible entry access.

Mr. Pavan explained that while the analysis was not included in the report, a safety analysis of possible access locations was conducted. He added that the analysis was done in consultation with the City Engineer, the Traffic Engineer, and consultants, who concluded that the entrance proposed satisfies the request for a safety analysis. He noted that only one option was presented to the Commission because it is the best.

Chair Blank explained that having a separate safety report explaining numerous different scenarios and the positive and negative implications of each scenario makes it clear to the Commission that a thorough analysis had been done. He added that such a report would also include the staff's recommendation, along with their justification for staff's choice.

Commissioner O'Connor commented that if the Commission had been given a safety report, it would have had a choice of numerous options rather than just being presented with only one option.

Mr. Pavan explained that staff took the Commission's direction quite seriously and performed a thorough safety analysis to ensure staff's recommendation was safe. He added that staff did look at various other options that involved greater grading

and tree removal, but since the preliminary analysis made it clear that there was only one best option, staff decided not to spend the time performing analysis of other options that they strongly believed were inferior.

Commissioner Pearce, having just read the revised Conditions of Approval, asked Mr. Pavan if he had spoken to the person at the California Native Plant Society who had written the letter. Mr. Pavan said yes. Commission Pearce then inquired if, after discussing the details of the project, the California Plant Society had reversed its position. Mr. Pavan confirmed that was the case. He explained that the Society now believes that the staff had addressed the potential impacts to the plant species based on the analysis. He noted that, as an example, fragrant fritillary area requires a serpentine underlying soil material, and when staff pointed out to the Society that there was no serpentine material at this property, the Society agreed that the likelihood of this plant species being on the site would be very, very low.

Mr. Pavan continued that staff also pointed out to the Society that the site had been walked by the consultants and that the California Native Plant Society's data were used for the analysis. He added that staff had provided the Society with examples of where these plant species are presently found; the closest known occurrence of these plants is five miles over the ridge in Hayward. Mr. Pavan then noted that staff's recommendation requires that 30 days before construction begins within the building envelope, an analysis needs to be done to see if any of the plant species in question are present. He added that if any of these plants are present at that time, construction will not be allowed to proceed until a mitigation plan is formulated.

Commissioner Pearce asked what kind of environmental review will need to be done with respect to widening Foothill Road and filling in the creek. Mr. Pavan responded that the widening of Foothill Road had already been addressed in the Initial Study. He noted, for example, that the questions of impacts to trees are located in the Biotics section of the Initial Study. He added that the question of jurisdiction was addressed in the Initial Study. He stated that the Initial Study can be used as the Environmental Review for acquiring agency permits.

Chair Blank then asked how the applicants would know how large of a bond they would need to get to not only secure the permits from the three agencies but also to cover any mitigation that the agencies might require.

Mr. Pavan indicated that the recommendation requires that three estimates be provided, at which point staff would choose the estimate they deemed most appropriate. Chair Blank asked if the three estimates would be provided by the applicant's consultants. Mr. Pavan said yes.

Chair Blank then requested that Mr. Pavan explain the pro's and con's of doing an easement on the property versus a deed restriction. Chair Blank explained that while easements do show up in title reports, he believed that deed restrictions are more noticeable to people when they are considering purchasing a property. He



stated that this is one of the reasons the Commission has insisted in the past that deed restrictions regarding things like the presence of noise or train tracks or airports be written into the deed as restrictions. Chair Blank concluded by asking if there are pro's and con's of easements versus deed restrictions that he was not aware of.

Mr. Pavan noted that staff has had numerous experiences in administering Hillside projects and wanted to be absolutely certain that the question of open space and the potential restrictions thereof jump out at the buyer. He stated that it is staff's belief that since an easement will show up on the maps that will be attached to the deed and the title reports, they are a better option than deed restrictions. He further explained that easements deal specifically with what can be done to the property, as opposed to deed restrictions which are primarily used to address disclosures, such as being next to train tracks or a rock quarry, or that there are flyovers by aircraft. He indicated that staff believes that an easement will be more transparent to the potential buyer and would allow them to make an informed decision.

Chair Blank assured Mr. Pavan that they share the same goal of informing the potential buyer in the best possible way but expressed his belief that deed restrictions would be a better choice because they will show up on both the title report and the deed. Chair Blank also expressed his concern that the language of easements is sometimes complicated and not as easy for the potential buyer to truly understand their meaning. He then expressed his interest in knowing what the City's perspective on the issue is.

Mr. Pavan explained that the wording of easements is provided to the City Attorney's Office, who then typically provides staff with copies of the easements to ensure that all applicable items are incorporated. Mr. Pavan then asked if the Commission's concern was that the easement be written in layman's terms so the buyers could understand exactly what it meant.

Chair Blank explained that the process of buying a property involves so much paperwork that it would be possible for someone to miss the importance of the easement. He added that conversely, everyone pays attention to the deed itself, such that having deed restrictions written on the actual deed would assure that the restrictions were noticed by the potential buyer. He admitted that while easements are listed on the deed, the explanation of these easement is usually referenced on another document like the title report, making it less certain that the buyer will be aware of the restrictions. He stated that while he did not know the best way to make buyers aware of the restriction, he wanted to raise the question with the group.

Mr. Pavan pointed out that easements for open space have been utilized in the past on the vineyard estate lots in the Vineyard Avenue Corridor Specific Plan Area. He noted that wherever there are vineyards, they have listed those as agricultural easements that have to remain as vineyards for a specified length of time. He then noted that comparable easements have been used on private property. He added

that staff routinely gets questioned about those easements, which shows that they are definitely being noticed.

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

Marty Inderbitzen, representing applicants Dr. William and Lydia Yee, introduced the consultants and stated that they have been pleased to work with City staff. He added that the analysis on the project has been thorough and that they are in agreement with staff with respect to the numerous conditions placed on the project. He noted that they have achieved all of their goals and objectives and asked the Planning Commission to support the project.

With respect to Condition No. 83, Mr. Inderbitzen discussed the property's features as well as the function and appropriateness of deed restrictions. He noted that the deed restriction is appropriate but not necessary to establish an easement. He added that there is no common area open space and that the lots are private. He requested that staff utilize a deed restriction rather than an easement.

Mr. Inderbitzen then discussed Condition No. 48 regarding the installation of the water meters and asked the Commission to consider deleting or amending the requirement.

With reference to Condition No. 43 regarding posting a bond, Mr. Inderbitzen noted that what the agencies might require in terms of mitigation is so unpredictable that it could kill the project. He stated that they did not want to be held hostage by the resource agencies and that if they are unable to get the permits, the project will be limited to three lots. He added that it is conceivable that this be part of a bigger project and that mitigation obligations might turn out to be different. He requested that they not be required to post the bond for the cost of the estimated mitigation and the cost of staff time.

Commissioner O'Connor inquired if the applicants would be limited to three lots if they were not able to obtain the permits. Mr. Inderbitzen said yes.

Mr. Inderbitzen then discussed the City's green points ordinance requirements and indicated that the owner is willing to commit to 100 points.

Mr. Inderbitzen then referred to Condition No. 22 regarding the grazing of animals. He noted that it is extremely limited and that there is any number of agricultural activities appropriate in non-developable areas. He asked for a more general description of the use for the open space and suggested that they be allowed to return for a minor modification or be subject to a use permit process.

Chair Blank asked Mr. Inderbitzen if he was amenable to returning for a Conditional Use Permit (CUP) rather than a PUD modification. Mr. Inderbitzen said yes, as a CUP was a more expeditious process and not as restrictive as a PUD modification.

Commissioner Olson asked Mr. Inderbitzen about activities in the open space, and Mr. Inderbitzen replied that they would like to include non-habitable accessory structures that could be used for the care of sheep or horses. Chair Blank asked Mr. Inderbitzen if he was willing to return to the Commission for approval of the design of the accessory structure, and Mr. Inderbitzen said yes.

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

Chair Blank disclosed that he has known Mr. Chuck Lemoine for several years and that he talked to Mr. Lemoine at the beginning of the meeting but did not discuss the subject at hand.

Chuck Lemoine stated that he has been Dr. Yee's neighbor for 32 years and that they have been great neighbors. He expressed his support for the project.

Mr. Inderbitzen thanked Mr. Lemoine and his wife for their support and discussed how Dr. Yee went from door to door to survey the neighbors regarding his project proposal. He noted that there was no one present in the audience to object to the proposal.

Commissioner Narum asked Joseph Gorney, the project architect, to explain the height calculation on page 9 of the staff report. Mr. Gorney explained that the City calculates the height of a building as the difference between the lowest and highest points of the building. He noted, however, that because this calculation method would not work for a project with significantly sloping building pads, a 30-foot height restriction following the grade of the hill was agreed upon. He added that certain restrictions are in place, including not measuring upward from pads built up more than five feet; adding any retaining walls within 25 feet of the building to the height because they are visible as part of the building; and requiring horizontal breaks such as a roof or stone line for any outside wall taller than 25 feet. Mr. Gorney indicated that he had met with Jerry Iserson and discussed other City rules.

Mr. Gorney added that to give the Yee's an additional option for lighting, a cupola that would be four feet higher was allowed in a 144-square-foot area but would have to be within the building rather than outside.

Commissioner Narum asked Mr. Pavan if Mr. Gorney's explanation of the height calculation was properly referenced in the Conditions of Approval with respect to building standards. Mr. Pavan replied that staff had revised the condition to reflect the standard for West Foothill Road Overlay District.

Commissioner Narum inquired if this issue was something that needed to be worked out as part of the design guideline. Mr. Pavan said yes.

Commissioner Narum asked Mr. Gorney how he felt about the idea of making Lot 4 smaller than the specified maximum of 8,500 square feet to lessen the visual impact and make the lesser visible lots larger. Mr. Gorney noted that each lot had been looked at individually with respect to the maximum square footage. He indicated that Lot 6 is actually tucked behind a hill and, therefore, not visible from anywhere. Regarding the Visual Analysis, he stated that he had built generic buildings ranging in size from 6,000 to 9,000 square feet. He added that a decision was made not add any landscaping because they did not want to give the impression that they were attempting to hide the buildings with trees.

With respect to the various different structures that would likely be built on the lot (two-car garage, guest house, etc.) Mr. Gorney stated that the actual house would not be more than 4,000 or 5,000 square feet. He agreed that due to the lot's visibility from Foothill Road, a more thorough review of Lot 4 would have to be done. He also noted that the conditions require that each house have a three-dimensional drawings done and reviewed by staff and himself to make sure it will actually fit. He concluded that there will be enough information available to do the job correctly.

With respect to Condition No. 15, Chair Blank inquired if CC&R's are enforced by the homeowners association. Ms. Harryman replied that was correct and noted that the typical language regarding CC&R's is that the City shall have the right, but not the obligation, to enforce them.

Chair Blank expressed concern about mentioning CC&R's when there is no homeowners association and noted that in the past, the City never gets involved in them. Commissioner O'Connor stated that there are actually lots of subdivisions that have CC&R's but no homeowner associations. Ms. Harryman concurred with Commissioner O'Connor, explaining that individuals in the complex would be able to bring another owner to court regarding violation of the CC&R's, even if the homeowners association chooses not to get involved.

Chair Blank requested confirmation that a dispute between property owners in that situation could only be settled in court and that one has to sue and win to recoup costs. Commissioner O'Connor disagreed, stating that one cannot recoup costs from CC&R's.

Chair Blank requested confirmation from Ms. Harryman, who confirmed that the process for maintenance associations and homeowner associations was the same. Chair Blank expressed his belief that potential buyers were being penalized in the event there is an issue because their only recourse would be to sue.

Ms. Harryman agreed but noted that it was the same for people, regardless of whether or not they have a maintenance association or homeowners association. Chair Blank disagreed, noting that an active homeowners association has the ability to file suit against the offending individual so the complainant would not have to.

Ms. Harryman replied that if the homeowners association is not active, the individual still has the ability to enforce CC&R's on his or her own. In response to Chair Blank, she refined her reference to maintenance associations to be more of a collection of individual owners acting jointly.

Chair Blank concluded that the condition would have to be reworded to reflect that it is a maintenance association rather than a homeowners association.

Commissioner Pearce questioned why grazing was limited to cattle and goats, and Mr. Pavan replied that this was a clerical error and other animals could also be added or specified. He added that the stables would need to be located in the building envelope area.

Commissioner O'Connor recalled that at the workshop, there was a lengthy discussion regarding whether or not it was appropriate to use open space for vineyards. He noted that he was amenable to that but did not recall discussing other agricultural uses. He questioned how it evolved to having only grazing.

Mr. Pavan replied that staff interpreted the Commission's direction to have very strict restrictions on the open space area to keep it as open space in order to maintain the appearance of the property as natural as possible. He noted that grazing is allowed and that staff took conservative approaches in the context of the site and the corridor overlay district. He added that staff believes in the context of maintaining wide building separations, uninterrupted view corridors, and unencumbered views of the ridge.

Commissioner O'Connor inquired whether he could feasibly plant an oak tree in his open meadow. Mr. Pavan replied that staff would view an oak tree as being in the context of re-forestation in the slope areas with native species reflecting the current predominant plant species currently there now.

Mr. Pavan stated that staff administers its PUD's and acts appropriately and carefully, and if in the future, staff discovers there is something about the PUD approval requiring modification, it can be done. He added that what is being done is reflective of what was done on the Austin property, where there are huge areas of open space dedicated to the City which were kept pristine. He noted that staff allowed and supported re-forestation to take place with oak, bay, or laurel trees.

Chair Blank inquired whether would there be an issue using a conditional use process to allow other uses without a formal modification of a PUD. Mr. Pavan replied that staff would support this request as appropriate.

Commissioner Olson stated that he was in favor of grapes but that his sense from the discussion was that the Commission did not want to see grapes along that section of Foothill Road. He noted that the sloped areas up the hill are great for grapes, and he voiced concern with restricting this.

Commissioner O'Connor stated that the Commission's biggest concern was having a lot of accessory buildings and filling the open space up with structures. Commissioner Narum stated that vineyards were not consistent with everything else along Foothill Road, but she would not object if any lots wanted to plant some grapes within their building envelope as part of their landscape, similar to a property to the south.

Commissioner Pearce suggested the Commission provide a mechanism for these applications to come back to the Commission for consideration. Chair Blank agreed.

Commissioner O'Connor stated that he was more concerned about having horses.

Chair Blank stated that he believed the PUD process was an administrative burden, and he agreed with providing a mechanism for a CUP.

Mr. Pavan suggested modifying the condition to allow appropriate agricultural uses, subject to CUP review and approval. Ms. Decker noted that it appeared the Commission's intent is to allow agricultural uses and orchards but not necessarily heavy vineyard growth that would take away the natural landscape. She added that staff can craft the condition to state this; however, she expressed concern about an application to put in five fruit trees having to come back to the Commission for approval.

With respect to the bond, Commissioner Olson stated that it appears that the applicants must put up a bond prior to knowing whether or not the three permits are obtainable. He questioned if this was reasonable and suggested providing a bond when there is evidence that the permits are issuable.

Mr. Dolan said it is important to recognize that in a typical approach, a project would not even have this opportunity. He noted that all these requirements normally need to be completed up front, and staff has put together an opportunity to move forward without completing the required improvements. He added that staff has a fair amount of confidence that these permits are obtainable because the area is not a high-quality habitat. He indicated that while it is difficult to estimate staff time and mitigation costs, staff feels the estimate would be reasonable.

Chair Blank noted that if the Commission did not impose the bond and the applicants, for whatever reason, indicated that they cannot deal with the Department of Fish and Game, the three lots would remain as open space, and the City would end up with more natural land. He indicated that he does not understand the necessity of having the bond.

Mr. Dolan agreed with Chair Blank's statement, but indicated that this would result in the City not having the bike lane, and the City would have the burden of doing it on its own. Chair Blank commented that the City was trading a lot of open space for

50 feet of bike lane. Mr. Dolan stated that he recognizes that the situation is not perfect but that the City wants to be sure the applicants ensure obtaining the permits.

Commissioner O'Connor inquired whether or not, in the event that another developer years from now secured those permits and installed the bike lane, the applicants would be back in the hole for the three lots. Mr. Dolan replied that if the City had the bond and the work was done, it would be fine. He noted, however, that if the City relaxed this and ends up doing it as part of another project, he would have to research the answer to that question.

Commissioner Narum noted that to widen the road, a significant tree will need to be removed, which is very visual and will change the character of the road to be less rural. She inquired if the street could be widened on the east side rather than on the west direction at this section, take out the strip next to sidewalk at some point as part of Merritt project, and save the little creek as well as the big tree. Mr. Dolan replied that staff has discussed various alternatives and did not come up with a good one.

Mr. Jost indicated that staff has looked at this intersection many times and has considered moving cars farther to the east. He noted that there is a very small distance on the outside of the curb and a sound wall which already pinch pedestrians the way it is.

Commissioner O'Connor stated that he agrees with staff that it is not a valuable wetland or habitat area. Commissioner Narum indicated that she also agreed but was thinking of it more in terms of losing the tree. Commissioner O'Connor noted that it would be a valuable trade-off as the bike lane would be just as valuable.

Commissioner Pearce stated that the Bicycle and Pedestrian Trail Advisory Committee has received numerous testimony regarding the importance of having continuous bike lane on Foothill Road. She indicated that she was in favor of saving as many trees as possible but that it was imperative to construct a bike lane for public safety. Chair Blank noted that the question was whether or not a bond was required to accomplish this. He stated that he believed it imposes additional costs on the developers that would highly motivate them because they will want to develop the three lots.

Commissioner Narum suggested a compromise of requiring a bond for the mitigation measures but not for staff time. The Commissioners agreed that this was a good solution which would reduce the costs for the developer.

Commissioner Narum stated that she would like the design guidelines to come back to the Commission at the tentative map stage. She recommended keeping fencing as open as possible and would not like to see six-foot tall masonry or wood privacy fences. She would like staff to address setbacks off the property line versus the building envelope on page 7 of the staff report and felt that a 144-square-foot tower

on page 8 was too big. She noted that the language on exterior lighting on page 21 should be revised to indicate that the light must be pointed downward and that the nine-month timeframe to complete the landscaping is not consistent with the 12 months in the Conditions of Approval. She added that there needs to be a lot-by-lot evaluation for tennis and sports court but that she did not want one on Lot 6, given its slopes.

Chair Blank stated that when the project comes back for design review, he would like to see viewsapes similar to those presented for the Staples Ranch Environmental Impact Report (EIR) as they take away any issues of photo comparison.

Commissioner O'Connor stated that now is the time to address any concerns the Commission might have regarding the design guidelines so that guidelines would indicate what would be allowed when the project comes in for review. Mr. Pavan indicated that there is still the second phase wherein the guidelines can be revised to reflect the Commissioners' comments. He noted that they would be reviewed by the Director of Planning and Community Development and that copies will be forwarded to the Commission.

**Commissioner Pearce moved to find that the project will not have a significant environmental impact and that the Mitigated Negative Declaration is appropriate; to find that the PUD Development plan conforms to the applicable goals and policies of the General Plan; to make PUD Development Plan findings stated in the staff report; and to recommend approval to the City Council of the Negative Declaration and Case PUD-87-19-03M, subject to the Conditions of Approval as shown on Exhibit B of the staff report as modified on August 13, 2008 with the following modifications:**

- **Condition No. 49: Replace all references to "*Homeowners Association*" with "*Maintenance Association*";**
- **Condition No. 13: Change "*Management Association*" to "*Maintenance Association*"; and**
- **Condition No. 43: Delete the phrase "*costs if the City is required to acquire the permits*" to exclude the cost of staff time in the amount of the bond to be posted by the applicants;**

**Commissioner Narum seconded the motion.**

Commissioner Narum requested that a modification to the construction start time be included and that Condition No. 22 be modified to allow non-habitable accessory structures outside the building envelope which would not count toward the FAR, subject to review and approval by the Planning Commission.

Mr. Dolan suggested the submittal of a Construction and Management Plan, subject to the approval of the Director of Planning and Community Development and the City Engineer which would cover an array of comprehensive construction-related issues.



Ms. Decker referred to a discussion on modifications to Condition No. 83 regarding the use of deed restriction instead of easements and to Condition No. 22 regarding adding llamas and horses, confirming that the Commission would like to add more breadth with regard to the allowed animals and vineyards.

**Commissioner Pearce and Commissioner Narum accepted the following modifications:**

- **Condition No. 18: Include language that would require the applicant to submit a Construction and Management Plan addressing general construction issues and prohibit construction traffic along Foothill Road during morning rush traffic at Foothill High School.**
- **Condition No. 83: Utilize “deed restriction” instead of “easements” with respect to the preservation of open space; and**
- **Condition No. 22: Allow a variety of grazing animals and require a conditional use permit for agricultural activities and non-habitable accessory structures outside the building envelope;**

**ROLL CALL VOTE:**

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

**Resolutions Nos. PC-2008-41 recommending approval to the City Council of the Negative Declaration and PC-2008-42 recommending approval to the City Council of Case PUD-87-19-03M were entered and approved as motioned.**

Chair Blank called for a 10-minute break at 9:00 p.m. and thereafter, reconvened the regular meeting at 9:10 p.m.

**c. PAP-123, Greg and Lisa Johnston, Appellants (PDR-715, Steven and Nicole Jeffrey)**

Appeal of the Zoning Administrator’s approval of an application for design review for rear yard improvements at the existing residence located at 927 Montevino Drive. Zoning for the property is R-1-6,500 (Single-Family Residential) District.

This item was continued by staff to a future meeting.

d. **PAP-124 (PSDR-378), Craig Sjoberg**

Appeal of the Zoning Administrator's approval of an application for sign design review for building and monument signage at 5000 Pleasanton Avenue. Zoning for the property is PUD-O (Planned Unit Development – Office) District.

Ms. Amos presented the staff report and described the background, scope, key components, and lay out of the project.

Chair Blank noted that the minor modification request was required to have one signage on the ground floor, which was denied by Council. He inquired why the Council would approve it now.

Commissioner O'Connor noted that one sign would conform to the Downtown Design Guidelines and inquired why the Council would reject it.

Ms. Decker explained that the Zoning Administrator considered two points. She noted that there is a compositional difference in terms of time from the previous request and the present request. She indicated that staff has examples of other buildings with signage for the second floor tenant but that it has been the practice to allow second-floor signage only for the second-floor tenant. She stated that the applicant had indicated that both signs would each reflect approximately 50 percent use of the second floor. She added that there are examples of signage in second stories showing the use of the buildings and that, therefore, in terms of what is allowed, staff felt a compromise would be supportable and allow one sign on the first floor and one sign on the second floor.

Commissioner O'Connor confirmed that page 23 of the Downtown Design Guidelines allows second-floor signs as long as they are appropriate and an integral part of the building's architecture and does not limit it to one or two signs. He added that from the examples presented by staff, there are more than one sign on the upper level but most had a lot of distance between signs. Ms. Amos agreed that in the Bernal Corporate Park and Hacienda Business Park, there is more distance between signs on the second floor and staff considers these more appropriate.

Commissioner Olson inquired if the monument sign would remain. Ms. Amos said it would.

**THE PUBLIC HEARING WAS OPENED.**

Craig Sjoberg, applicant and appellant, distributed pictures of the building to the Planning Commission. He discussed his work as a manager and his request to update his signage. He stated that most businesses have upscale signage and that he believes their proposal is appropriate and within the guidelines for second-floor signage. He described their proposed signage as matching colors with necessary accents. He noted that second-floor signage provided curb appeal and that there is

a noticeable difference for business given added signage. He indicated that he wants to be business-friendly to tenants who provide good services to the City and that similar signage have been allowed in other buildings around the City. He requested the Commission to approve his request.

Commissioner Narum referred to the Bell Sports Medicine Institute sign and inquired if it would be an option to delete the word, "Institute." Dr. Sjoberg agreed to this but noted that the business represents an Institute. He indicated that the Dr. Bell, the owner of the business, was present in the audience.

David Bell stated that his specialty is sports orthopedic medicine and that his business complemented the quality of the building's business with high customer service for patients. He indicated that he has been trying to find ways for people to find his business and that it is a helpful service to the community to be able to identify his location through a tasteful-looking sign. He requested the Commission's consideration in approving the sign.

Chair Blank asked Dr. Bell if removing the word "Institute" from the sign was acceptable to him. Dr. Bell replies that he is willing to be flexible. He explained that his goal for his business is to provide multiple services. He indicated that they are physical therapists and that the word "Institute" is part of their advocacy for services besides sports medicine.

Greg Hickle, Valley Community Bank (VCB), stated that he helped start VCB ten years ago and noted that as a small business whatever signage they can have helps them succeed, given their limited advertising budget. He added that the approval of his proposed signage would help his business grow and thrive in Pleasanton.

Mr. Sjoberg indicated that he was amenable to Commissioner Narum's suggestion to eliminate the word "Institute" from the second-floor signage and that it would be a nice fit for lettering and balance.

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

In response to Commissioner Pearce's inquiry why the application was not a minor modification, Ms. Amos replied that a condition of approval for the development plan states that the applicant would have to apply for a sign program and that second-floor signage is not allowed.

Commissioner O'Connor noted that Hacienda Business Park has very strict sign guidelines when moving up higher in the building, but the Park is more concerned with percentages in terms of how big the building is and the size of the sign. He stated that he felt the Commission should be less concerned with the number of signs and more concerned with aesthetics, how large the sign would be and the possible consolidation of the lettering.

Chair Blank noted that he believed the size of the second-floor sign was the same as that on the first floor. He indicated that he liked the suggestion to drop the word, "Institute."

In response to Commissioner Olson's question regarding the heights of the first- and second-story signs, Ms. Amos replied that they were the same.

Commissioner Narum inquired what would happen if Valley Community Bank downsized and there was room for a third tenant to come in. She stated that she would not want the applicants to come back in two years requesting to put up another sign for a new tenant. Chair Blank responded that he did not want to restrict the applicants at this point and that the Planning Commission at that future time would have to address that matter.

**Commissioner Pearce moved to uphold the appeal, thereby overturning the Zoning Administrator's approval of only one building sign and allowing two second-story signs in addition to the new monument sign, with the modification that the word "Institute" be removed from the second-story sign. Commissioner Narum seconded the motion.**

Commissioner Olson suggested that the monument sign retain the word "Institute."

**Commissioner Pearce and Commissioner Narum accepted the amendment.**

**ROLL CALL VOTE:**

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

**Resolution No. PC-2008-43 was approved and entered 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 taken.

Conditions of Approval Reference in Staff Reports

Commissioner Olson noted that the staff report for the Yee project included numerous references to specific Conditions in Exhibit B. He inquired if it would be possible for staff to include in parentheses the number of the specific Condition being referenced. Ms. Decker agreed this could be done.

## Residential Fire Sprinkler System

Chair Blank reported that he spoke to the Fire Chief regarding the fire in Canyon Meadows that suffered \$485,000 in damage. He noted that the condominium was not sprinkled and that following the fire, the lower level resident had to move out of the complex for 30 days and the upper residents for three to six months. He noted that this is probably the 4<sup>th</sup> or 5<sup>th</sup> fire that caused major damage due to the absence of a fire sprinkler system and encouraged staff to expedite work on the sprinkler ordinance for the City.

Mr. Dolan noted Chair Blank's request and stated that the Chief Building Official and Fire Marshal would be meeting in September on the ordinance. Chair Blank requested that the Commission be notified of this meeting.

Commissioner Olson noted that sprinklers are life-saving, particularly for children who sleep through the fire and oftentimes are killed by the carbon monoxide.

### **8. MATTERS FOR COMMISSION'S REVIEW/ACTION**

#### a. Future Planning Calendar

Ms. Decker advised that staff had provided a schedule of special meeting dates. She noted that a Special Meeting has been scheduled for August 28<sup>th</sup> and that staff was still working to have the Staples Ranch project scheduled for September 10<sup>th</sup>. She added that the Commission may not need to have an additional meeting in August.

#### b. Actions of the City Council

No discussion was held or taken.

#### c. Actions of the Zoning Administrator

No discussion was held or 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

Commissioner Pearce advised that the Bicycle and Pedestrian Trail Advisory Committee meeting was very well attended and that they discussed the Draft Bicycle Master Plan which included many revisions. She added that they are moving forward with holding a workshop this month.

**12. ADJOURNMENT**

Chair Blank adjourned the Planning Commission meeting at 9:40 p.m.

Respectfully,

DONNA DECKER  
Secretary