



## Planning Commission Staff Report

January 9, 2008

Item 6.b.

- SUBJECT:** PDR-602
- APPLICANT:** Michael O'Callaghan
- PROPERTY OWNER:** Michael Periclis
- PURPOSE:** Application for a modification to a previously approved design review application for a two-story commercial building with an attached apartment unit at 725 Main Street to reconsider Condition No. 15.c. regarding the installation of pavers in front of the building and Condition No. 72 regarding the installation of an automatic fire sprinkler system for the building.
- GENERAL PLAN:** Retail, Highway, and Service Commercial; Business and Professional Offices
- SPECIFIC PLAN:** The Downtown Specific Plan Land Use Designation is Downtown Commercial.
- ZONING:** The subject property is zoned Central Commercial (C-C), Downtown Revitalization, Core Area Overlay District.
- LOCATION:** 725 Main Street
- ATTACHMENTS:**
1. Exhibit C, Draft Revisions to the Conditions of Approval
  2. Planning Commission Resolution No. 2007-28, with Exhibit B, Conditions of Approval
  3. Excerpts from the Minutes of the May 30, 2007, Planning Commission Meeting
  4. Excerpts from the Minutes of the June 13, 2007, Planning Commission Meeting
  5. Exhibit A, Approved Plans
  6. Planning Commission Staff Report, dated May 30, 2007, with the following attachments:
    - a. Location Map
    - b. Aerial Photograph of Property
    - c. Photographs of Existing Building and Site

## **I. BACKGROUND AND PROJECT DESCRIPTION**

At the May 30, 2007, Planning Commission hearing, the applicant received design review approval to demolish the existing building (last occupied by the Union Jack Pub) at 725 Main Street and construct thereon a new, approximately 4,829 sq. ft. mixed-use commercial building with a one-bedroom apartment (copies of the May 30, 2007, Planning Commission Staff Report and the approved plans are attached to this report).

The applicant received a demolition permit to demolish the existing building on July 11, 2007, and the building was demolished shortly thereafter. The site has remained vacant since that time. The building permit plan check plans for this project have not yet been submitted to the City. Staff notes that a new building is typically constructed shortly after demolition.

The applicant has requested to eliminate the condition of approval requiring the installation of an automatic fire sprinkler system for the building. In addition, staff is requesting to eliminate the condition requiring that the existing Main Street pavers along the project frontage be extended to generally end at the northernmost edge of the new building.

### **Fire Sprinkler Condition**

The adopted Building and Fire Codes for the City of Pleasanton require new commercial buildings greater than 8,000 sq. ft. in area to have fire sprinklers. Notwithstanding that limitation, since 2005, the Planning Commission has been discussing at various hearings the need to have an ordinance which would require that all new commercial and residential construction install fire sprinkler systems, and has been requiring new commercial buildings less than 8,000 sq. ft. and residential developments to be sprinklered.

To that end, the Planning Commission has also voted unanimously to recommend initiating an amendment to the City's Code regarding fire sprinklers making them mandatory in all new construction regardless of size or use. The Commission's recommendation was brought before the City Council on August 15, 2006. Although Council directed staff to prioritize this item, due to other priorities, heavy workload of staff, and the need to involve the business community in this process, the ordinance has not been amended.

### **Paver Condition**

The Main Street sidewalk in front of the project site includes stamped colored concrete and interlocking concrete pavers. The concrete pavers are located along most of the project frontage, except for the approximately 12-foot long northernmost portion. At the Planning Commission hearing on May 30, 2005, Commissioner Narum recommended adding a condition of approval requiring the applicant to extend the concrete pavers to the northern edge of the new building. The Commission concurred.

This matter was later discussed at the Commission's June 13, 2007 meeting. Staff indicated that the Planning Commission's condition regarding the extension of the pavers in front of the building was contrary to the Main Street sidewalk design approved by the City Council in 1993 as part of the Main Street Reconstruction Project. (Staff members who were present on May 30 were not aware that the location of the pavers had been part of the Council's design approval in 1993.) Staff explained to the Planning Commission that at the time that the Main Street Reconstruction Project was considered, the pavers had been designed separate from actual building limits and was symmetrical to pedestrian crossings only. When the Planning Commission heard staff's explanation why the condition should not be imposed, the Commission unanimously supported that staff return with an amendment to the conditions of approval.

The consideration of the amendment to the conditions of approval for Case PDR-602 is now before the Planning Commission for review.

## **II. DISCUSSION**

### **Fire Sprinklers**

Chapter 18.20 (Design Review) of the Municipal Code indicates that in order to preserve and enhance the City's aesthetic values and to ensure the preservation of the public health, safety, and general welfare, new improvements and structures in non-PUD zoning districts are subject to design review by the Planning Commission. Staff notes that even though a proposed project may comply with the development standards of the applicable zoning district, through the design review process, the Municipal Code allows the reviewing body to approve conditions that may be more restrictive than the normal Code standards to ensure that the public health, safety, or general welfare is preserved. Therefore, even though the adopted Building and Fire Codes for the City of Pleasanton do not require commercial buildings less than 8,000 sq. ft. to be sprinklered, the Planning Commission has the discretion to impose a fire sprinkler requirement on commercial buildings less than 8,000 sq. ft. based on the Commission's authority to "ensure the preservation of the public health, safety and general welfare."

Based on the prior actions by the Commission, staff had included a draft condition of approval for this project requiring that fire sprinklers be installed in the 4,829 sq. ft. building. At the May 30, 2007, Planning Commission hearing, the applicant, Mr. Michael O'Callaghan, objected to this condition stating that fire sprinklers were not required by the City's Code, that fire sprinklers would add additional cost to the structure, and that insurance companies charged substantially more for buildings with sprinkler systems because the insurance companies pay out significantly more for water damage resulting from the activation of the sprinkler system than the cost of saving the structure.

In response to the applicant's claims, Chairperson Fox had proposed a motion to eliminate the fire sprinkler condition. Commissioner Blank indicated that he did not support eliminating the sprinkler condition for the following reasons: there were no data regarding the applicant's statement regarding the cost of water damage versus saving a structure; the applicant's data contradicted the data received during the consideration of the City's Fire Sprinkler Ordinance; the Planning Commission requested the Sprinkler Ordinance to be prioritized by the City Council on its work plan and the Council has agreed to add it to its work plan; and he believed it was terribly unfair and inconsistent to not condition certain projects. He noted further that the Commission had conditioned all recent residential projects and commercial buildings, regardless of size, with sprinklers.

Commissioner Narum stated that she could not support the removal of the condition of approval and wanted the sprinklers left in the plan. Commissioner Olson agreed, and noted that the crowding of the buildings made it important to require that this building be sprinklered. Commissioner O'Connor believed it would be inconsistent to not require sprinklers. The Commission retained the fire sprinkler condition when it approved the project on a 5-0 vote.

The applicant did not appeal the fire sprinkler condition but appeared at the following Planning Commission hearing date and contested under "Matters Open to the Public" the process by which the Planning Commission had been placing this condition and asked the Commission to reconsider its decision regarding the fire sprinklers for this project. The motion to reconsider the conditions of approval for the project failed on a 2-3 vote.

Mr. O'Callaghan has been in conversation with staff since gaining approval for this project to have the City re-evaluate whether or not the Planning Commission is empowered to condition projects with this requirement. The City Attorney's office has stated that although the issue is not certain, based on the discretion granted to the Commission under Chapter 18.20 of the Municipal Code, the Planning Commission may impose this condition when it is in the interest of the public health, safety, and welfare to do so. Due to the proximity of the buildings Downtown, the Commission previously, under the umbrella of the general consideration of the community health, safety, and welfare, voted to impose the condition.

Mr. O'Callaghan communicated to planning staff that he was hopeful that staff would recommend that the fire sprinkler condition imposed on his project be removed. Staff continues to believe that the Planning Commission may consider and impose this condition due to the considerations noted above.

At this juncture, the Commission has the following options with regard to the fire sprinkler requirement for this project: eliminate the fire sprinkler requirement for this building as requested by the applicant or deny the applicant's request to eliminate the fire sprinkler condition. The Commission's action would be subject to appeal to the City Council.

## Pavers

The Main Street sidewalk design in front of this site was part of the Main Street Reconstruction Project that was approved by the City Council in 1993. The placement of the pavers in front of this site was tied to the location of the nearby crosswalk bulb out and sidewalk furniture instead of a property line or building location (see 2005 aerial photograph on the following page).



Staff believes that the existing sidewalk design in front of the site should remain as was approved by the City Council. Therefore, staff recommends that the Commission eliminate condition of approval no. 15.c.

### III. PUBLIC COMMENT

Notices regarding the proposed design review modification application and related public hearing were mailed to property owners and tenants within 1,000 ft. of the subject property. At the writing of this report, staff has not received any comments from any of the adjacent property owners or tenants.

#### **IV. ENVIRONMENTAL ASSESSMENT**

The proposed project is categorically exempt (Class 3, Section 15303, New Construction or Conversion of Small Structures and Class 5, Section 15305, Minor Alterations in Land Use Limitations) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

#### **V. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission approve the revision to Case PDR-602, subject to the conditions shown in Exhibit C. Should the Commission decide to eliminate the fire sprinkler requirement for this building, then it should modify Exhibit C to eliminate condition of approval no. 72 of Case PDR-602.

For questions or comments about this proposal, please contact: Steve Otto, Associate Planner (925) 931-5608, [sotto@ci.pleasanton.ca.us](mailto:sotto@ci.pleasanton.ca.us)