

SUBJECT: PUD-61

APPLICANT/PROPERTY OWNERS: Emil Oxsen and Kathleen Morrison

PURPOSE: Application for a Planned Unit Development (PUD) to: (1) rezone an approximately 10,669-square-foot parcel from R-1-6,500 (Single-Family Residential) District to the PUD-HDR (Planned Unit Development – High Density Residential) District; and (2) Development Plan to allow the existing 1,118-square-foot and 1,200-square-foot single-family detached units and detached garage.

GENERAL PLAN: High Density – Greater than 8 dwelling units per gross acre

SPECIFIC PLAN: Downtown Specific Plan

ZONING: R-1-6,500 and Core Area Overlay District

LOCATION: 403 Saint Mary Street and 730 Peters Avenue

ATTACHMENTS:

1. Location Map
2. Exhibit A: Site Plans, Photographs, and Narrative dated “Received, January 22, 2007”
3. Exhibit B: Draft Conditions of Approval dated March 28, 2007
4. Exhibit C: Email from Bonnie and Fred Krichbaum requesting a continuance, dated March 28, 2007
5. Exhibit D: Letter of Support for the Project from Robert W. Byrd, dated March 20, 2007
6. Exhibit E: Letter of Support for the Project and Rebuttal to the Krichbaums’ Letter from Emil and Margie Oxsen, dated April 23, 2007.
7. Exhibit F: E-Mail with concerns related to parking from Karen Skinner, dated May 1, 2007

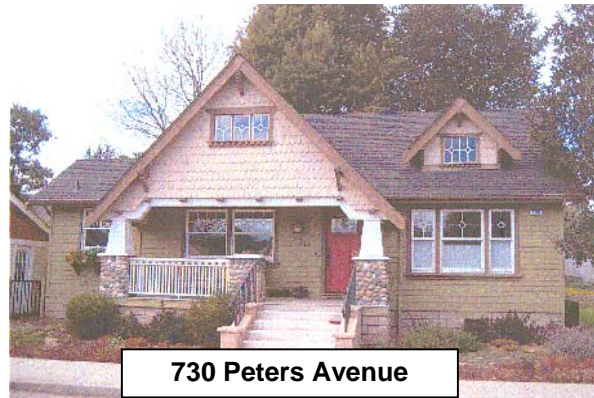
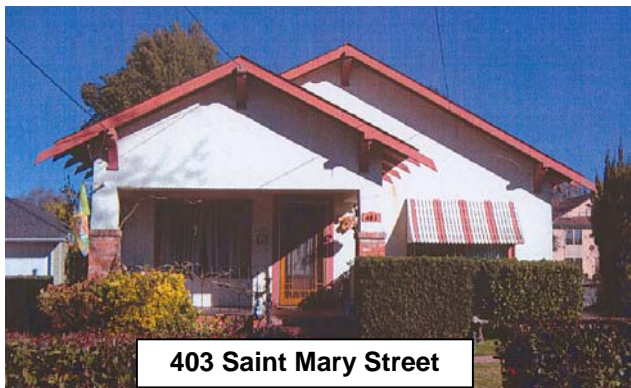
BACKGROUND

The applicants submitted an application for a planned unit development on January 22, 2007 to create a two-lot subdivision of an existing property, with an existing single-family home on each parcel. After City Council action, the applicants will follow with an application for a minor subdivision to create two legal parcels.

The subject site is developed with a 1,120 square-foot single-family home (403 Saint Mary Street) that, per the County Assessor's data, was constructed in 1915. The home is not listed as a resource of primary or secondary importance with the City.

On January 15, 2003, the applicants received approval (PADR-684/PCUP-68/PV-76) to construct a 1,200-square-foot detached second unit in the rear yard area of the subject property. The second unit fronts Peters Avenue (730 Peters Avenue). As a condition of approval, in accordance with the restrictions placed on secondary units at the time, the applicants were required to file deed restrictions requiring one unit to be owner-occupied; that the second unit would not be occupied by more than two adults, and only the number of children permitted by law; and that the second unit should not be sold, subdivided, or held under different legal ownership from the primary residence. In addition, a condition of approval prohibited the second unit to have a second floor.

The proposed project was originally scheduled as a consent item to be reviewed by the Planning Commission on March 28, 2007. The day of the meeting, Bonnie and Fred Krichbaum of 303 Neal Street, requested the item be continued until a later date (see Exhibit C). The project is now before the Planning Commission to provide the City Council with a recommendation.

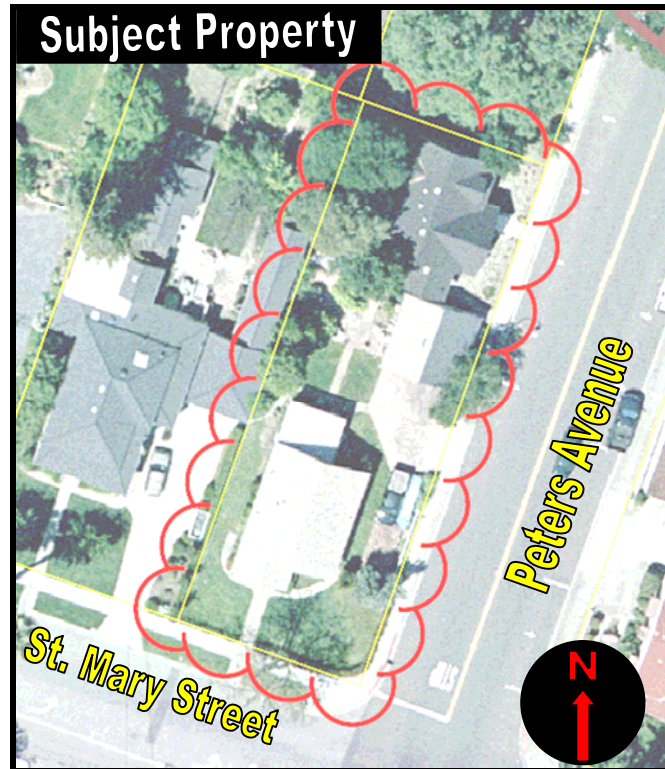


SITE DESCRIPTION

The project site is an approximately 10,699 square-foot (0.23-acre) lot situated at the northwest corner of Saint Mary Street and Peters Avenue. The subject property is located within the Downtown Specific Plan Area and the Core Overlay District. The property is essentially flat with a joint access driveway off of Peters Avenue.

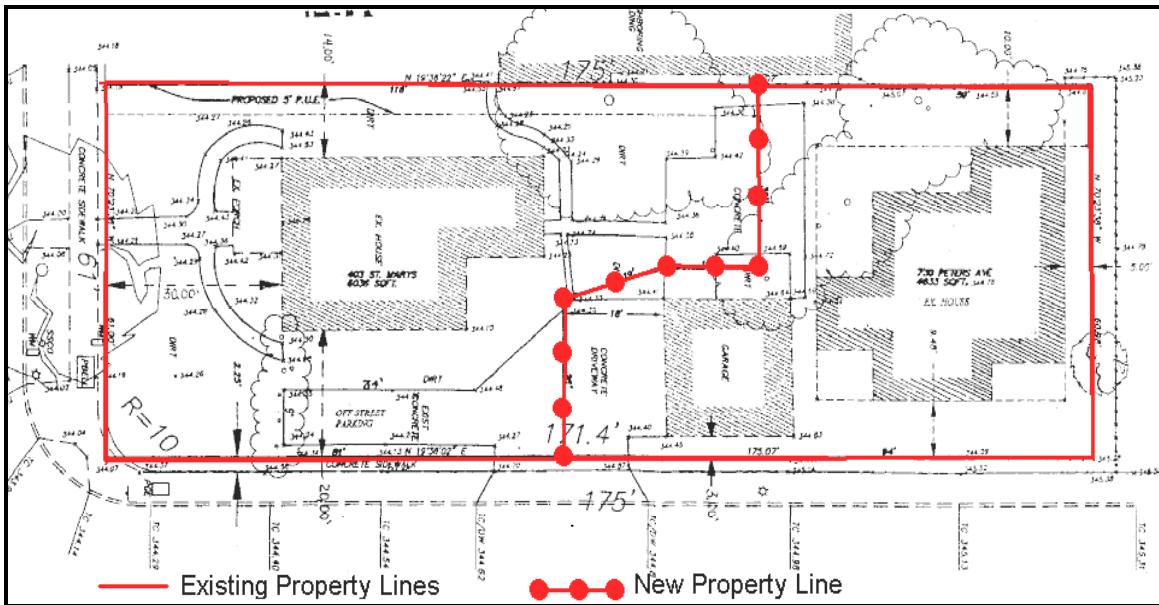
The site is at eastern end of a high-density residential district adjacent to the Downtown's office and central commercial district. Immediately to the west of the subject property is

a single-family home and two rental units on a 0.28-acre property zoned R-1-6,500; to the south, across Saint Mary Street, is a eight unit condominium complex zoned PUD-HDR (PUD-High Density Residential) on a 0.28 acre property; to the east, across Peters Avenue, is A Touch of Health Day Spa zoned C-C (Central Commercial); and to the north lies a 11,271-square-foot parcel that is currently developed with a single-family home, but has an approved development plan (PUD-37) for four single-family homes and two apartments. The new zoning for the PUD to the north is PUD-HDR.



PROJECT DESCRIPTION

The proposed application is to rezone the approximately 10,669 square-foot subject property from the R-1-6,500 zoning district to Planned Unit Development – High Density Residential (PUD-HDR) and for PUD development plan approval to subdivide the lot into two lots with the existing 1,118 square-foot single-family home on a 6,036 square-foot parcel and the existing 1,200 square-foot second unit and detached garage on a 4,533 square-foot parcel. No new construction is proposed as part of the application.



ANALYSIS

General Plan and Downtown Specific Plan Land Use Conformity

Both the General Plan land use designation and the Downtown Specific Plan designation for the subject site is High Density Residential (greater than eight dwelling units per gross acre). The proposed project, with two units on approximately 0.23 acres, would result in 8.7 units per acre, consistent with the land use designation. Although the home at 730 Peters Avenue was originally built as a secondary unit with a deed restriction prohibiting it to be sold, subdivided, or held under different legal ownership from the primary residence; staff believes the current proposal is in conformance with the land use designation and policies of the Downtown Specific Plan, and is consistent with the pattern of approved residential development within the high density residential portion of the Downtown District. Specifically, the project will create two legal parcels, each with street frontage, and each with a home that is no greater than 1,200-square-foot in area, which is generally considered “affordable by design.” Each home has its own separate utility meters and sewer connections.

Site Development Standards

The proposed site development standards proposed for the development both incorporate existing conditions on the subject property and are congruous with the standards of the surrounding residential zoning districts.

	Parcel A 403 St. Mary's Street	Parcel B 730 Peters Avenue
Lot Size (sqft)	6,036	4,633
Primary Building Standards (ft)		
Front Setback	≥ 23	≥ 9.48 ⁽¹⁾
Right Side Setback	≥ 10 (street/east side) ⁽³⁾	≥ 5 (north side) ⁽¹⁾
Left Side Setback	≥ 5 (west side)	≥ 10 (south side)
Rear Setback	≥ 18 ⁽¹⁾ / ≥ 20 ⁽⁶⁾	≥ 10 ⁽¹⁾
Building Height ⁽⁴⁾	≤ 30	≤ 30
Accessory Structure Standards (ft)		
Side Setback ⁽²⁾	≥ 3 ⁽³⁾	≥ 3
Rear Setback ⁽²⁾	≥ 5	≥ 5
Height ⁽⁵⁾	≤ 15	≤ 15
Floor Area Ratio	≤ 35%	≤ 35%
Max. House Square Footage (sqft)	2,112.6	1,621.55

(1) Existing Condition

(2) The existing concrete driveway must remain clear at all times. No structures are allowed in this area.

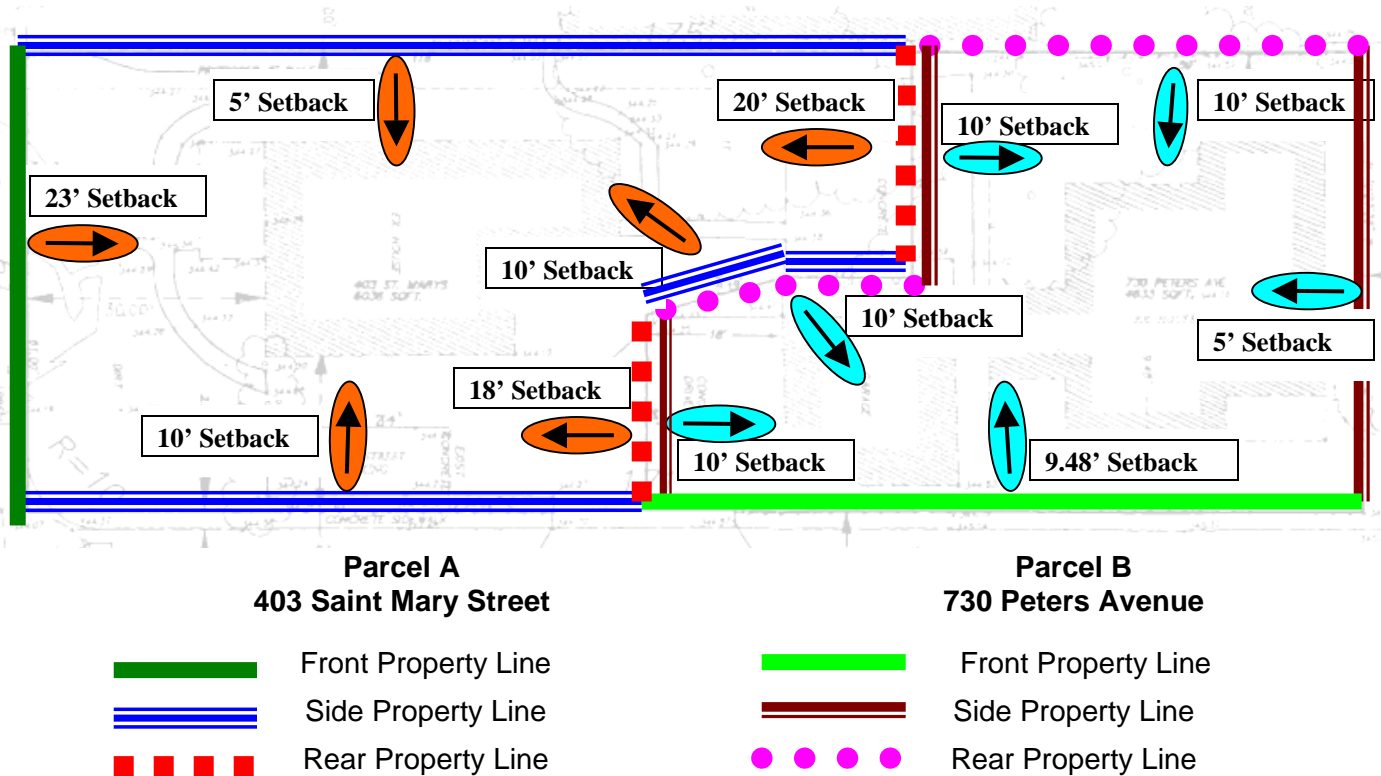
(3) The existing paved parking pad shall remain clear for parking and unloading purposes only. The only accessory structure(s) allowed in this area shall be a garage or carport. This standard shall be removed if a two-car garage is constructed elsewhere on the property in accordance with the approved site development standards.

(4) The height of the primary structure shall be measured from the median grade to highest point, excluding chimneys.

(5) The height of accessory structures shall be measured from lowest point to highest point.

(6) The rear yard setback is 20 feet along the western portion of the rear property line and 18 feet from the eastern portion of the rear property line. See diagram below.

To accommodate the pre-existing structures on the site, the proposed new property line zigzags along the east west plane to create two properties. To best accommodate existing setbacks and to avoid the creation of non-conforming structures, staff proposes the following front, side, and rear property lines. Please see the diagram below.



Permitted and Conditional Uses

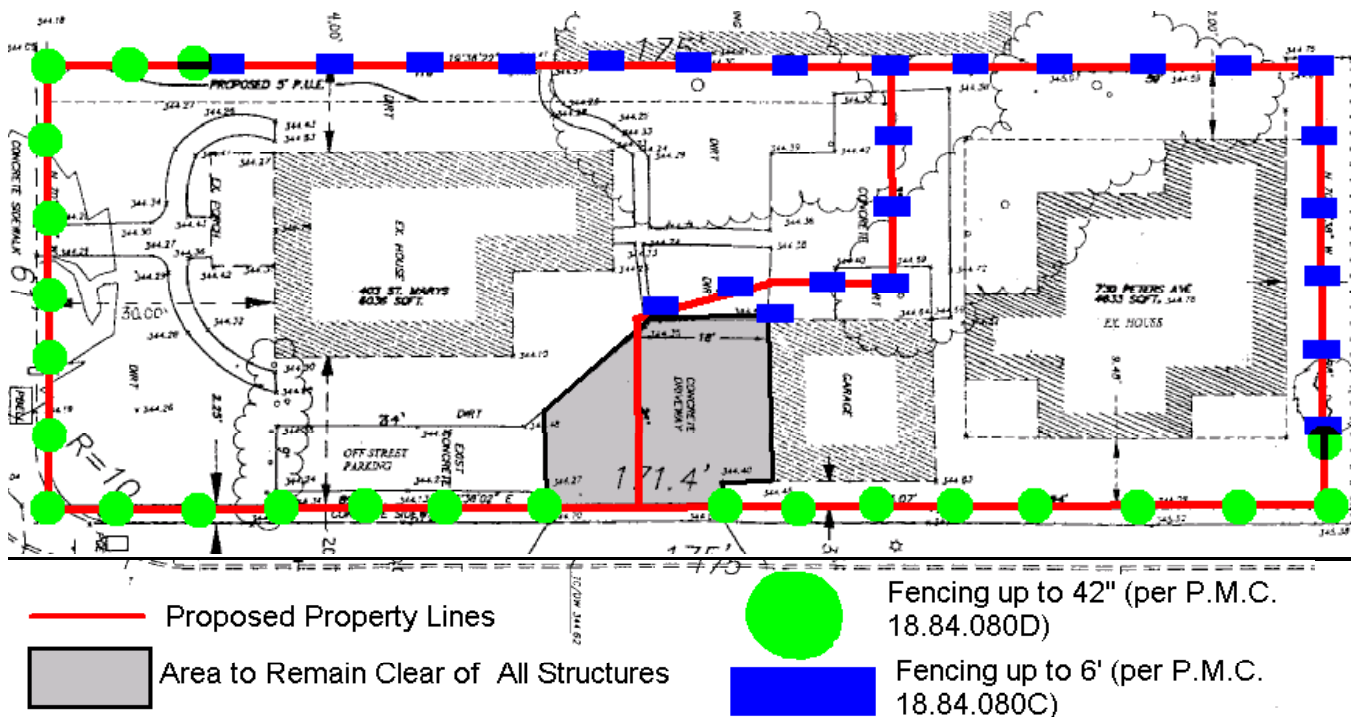
The proposed PUD is subject to the permitted and conditional uses of the R-1 One-Family Residential Districts as outlined in the Pleasanton Municipal Code (P.M.C. §18.32).

Parking

Parking will remain essentially “as is” in relation to the current parking situation. The existing two-car garage will be located on the 730 Peters Avenue property. The property at 403 Saint Mary Street has a 9-foot by 37-foot paved parking pad that is sufficient for tandem parking for two vehicles. Access to the parking area is gained by an approximately 24-foot wide curb cut off of Peters Avenue. No new curb cuts will be required as part of this project. The existing driveway will continue to serve both properties. A condition of project approval requires the applicants to create both a cross-access easement and a maintenance agreement for the shared driveway.

Fencing

Fencing within the PUD will generally follow the fencing requirements outlined in the Pleasanton Municipal Code with minor variations as shown in the diagram below. These variations accommodate the specificities of fencing on a reverse corner lot within the Downtown Specific Plan Area and a joint access driveway.



PUBLIC NOTICE

Staff originally sent notices of the Planning Commission’s public hearing on this item to all property owners, tenants, and residents located within 1,000-feet of the subject property on March 14, 2007.

- Mr. Jon Harvey of 2790 Smallwood Court, spoke to the staff planner on March 28, 2007 and expressed concern that the project was originally approved as a secondary unit. He feels that approval of the PUD and subsequent subdivision undermines the intent of the secondary unit ordinance.

Staff Response: The subject property is located in the high- density residential area of the Downtown District. This is the area generally bounded by Peters Avenue to the east, Arroyo Del Valle to the north, the Union Pacific Railroad to the west, and Pleasanton Avenue/Bernal Court/Old Bernal Avenue to the south. At this location, staff would have supported the project if originally submitted as a PUD development plan and therefore supports the project now. Staff support of this approval is solely based on the subject’s location in the high-density residential area within the Downtown District and does not transfer to similar support for the removal of deed restrictions on secondary units in any other residential area of the Downtown District or elsewhere in the City.

- Bonnie and Fred Krichbaum, 303 Neal Street, sent an email on March 28, 2007 requesting a continuance of the project to a later Planning Commission meeting. The Krichbaums oppose the removal of the deed restrictions on the proposed project as setting a poor precedent to have a property developed under one set of specifications

and then change it later. The Krichbaums also do not want to see the properties in the Downtown area be more densely developed or see larger lots split into smaller lots.

Staff Response: Please see the above staff response regarding the reason for support for the current project. Staff notes that it is not uncommon for a deed restriction placed on a project at the time of approval to be subsequently removed a few years later due to changed circumstances. Staff also reiterates that the project, as proposed, does not consist of any new development and therefore density at the site will not increase. Staff points out that although the proposed project will result in two smaller lots, that buildout of the property, in terms of square-footage, will actually be reduced as the overall floor area ratio is reduced from 40% to 35% (4,280 square-feet down to 3,734 square-feet). The proposed FAR of the subject property is also lower than the properties to the north and south.

A BUILD OUT SCENARIO

	as is (40% FAR)		35% FAR proposed	
Zoning	R-1-6,500		PUD-HDR	
Gen. Plan	High Density Residential			
Lot Size	10,669	6,036	4,633	
	Front Home	Back Home	Front Home	Back Home
BO Sqft.	3,067.60	1,200	2,112.60	1,621.55

E BUILD OUT SCENARIO

	as is per PUD (=60.9% FAR)	
Zoning	PUD-HDR	
Gen. Plan	High Density Res	
Lot Size	12,413	
	Condos (8 units)	
BO Sqft. (E)	7,520.00	

B BUILD OUT SCENARIO

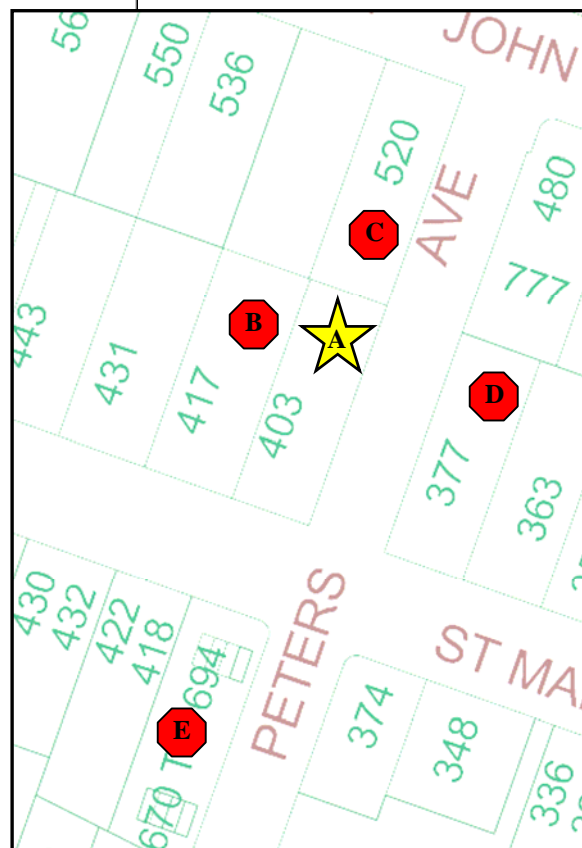
	as is (40% FAR)	
Zoning	R-1-6500	
Gen Plan	High Density Residential	
Lot Size	12,169	
	1 SF Home, 2 Units	
BO Sqft.	4,867.60	

C BUILD OUT SCENARIO

	as approved @ 50% FAR	
Zoning	PUD-HDR	
Gen Plan	High Density Residential	
Lot Size	11,271	
	4 SF Homes, 2 Apts.	
BO Sqft.	5,635.50	

D BUILD OUT SCENARIO

	as is @ 300% FAR	
Zoning	C-C	
Gen. Plan	Retail etc.	
Lot Size	11,025	
	Day Spa	
BO Sqft.	33,075.00	



Staff also notes that potential build out of the subject site will now be equitably distributed between the two existing homes, thereby creating opportunities for more affordable homeownership within the City of Pleasanton.

- Robert W. Byrd, 205 Neal Street, submitted a letter of support for the project dated March 30, 2007 (Exhibit D). Mr. Byrd writes that the Oxsen Family is part of “Pleasanton Heritage” and that contrary to having greed be the motive, the project defines the very meaning of “Building a Community of Character.”
- Emil and Margie Oxsen, 730 Peters Avenue, wrote a letter in support of their project and in response to the Krichbaums’ email (Exhibit E). The Oxsens write that their home is not located in a single-family residential neighborhood, that the approval of the PUD will not change the density of the site, and that this project will not set precedence since PUD-37 next door has already been approved. The Oxsens also state they are a “herigate family” and that there is no greed involved in proposing this project.

Staff Response: Staff notes that the current zoning for this project is single-family residential (R-1-6,500), however, as stated, the property is surrounded by multi-family developments zoned R-1-6,500, RM-15, and PUD-HDR.

Staff sent notices of the Planning Commission’s public hearing on this item to all property owners, tenants, and residents located within 1,000-feet of the subject property on April 27, 2007. As of the writing of this report, staff has received the following public comment.

- Bonnie Krichbaum, 303 Neal Street, phoned the staff planner on May 1, 2007 to express her concern about the subdivision. She reiterated her concern about lots in the downtown being split into smaller lots and said she would rather see Pleasanton as a Palo Alto than a Hayward.

Staff Response: Please see staff response above.

- Karen Skinner, 568 St. Mary Street, wrote an email (Exhibit F) expressing the difficulties of parking in the Downtown area. Ms. Skinner does not support the future development of apartments on the subject property.
- Alice Mohr, 431 St. Mary Street, phoned the staff planner on May 1, 2007 to express concern about potential development of apartments on the site.
- Elizabeth Nice, Peters Avenue, phoned the staff planner on May 3, 2007 to express concern about potential development of apartments on the site.

Staff Response: Staff informed Ms. Skinner, Ms. Mohr, and Ms. Nice that no development, including apartments, is being proposed as part of this project. Since no new development is being proposed, there will be no impact to the current parking situation.

FINDINGS

The Pleasanton Municipal Code sets forth the purposes of the Planned Unit Development District and the considerations to be addressed in reviewing a PUD development plan proposal. The Planning Commission must find that the proposed PUD development plan conforms to the purposes of the PUD District, as listed below, before making its recommendation to the City Council.

1. The proposed development is in the best interest of the public health, safety, and general welfare.

The proposed development, as conditioned, meets all applicable City standards concerning public health, safety, and welfare including vehicle access, geologic and flood hazards. The proposed development involves no new construction and already has adequate storm drain, sanitary sewer, water service, and utilities that are sufficient to serve the development. Public street access is provided to all structures for police, fire, and other emergency response vehicles. This finding can therefore be made.

2. The proposed development is consistent with the Pleasanton General Plan.

The proposed project's land use conforms to the "High Density Residential" land use designation for the project site. The General Plan defines High Density Residential as greater than eight dwelling units per acre. The proposed project, with two units on approximately .23 acres, conforms to this designation. The project site is located within the Downtown Specific Plan area and conforms to all programs and policies outlined in the plan. This finding can therefore be made.

3. The proposed development is compatible with previously developed properties in the vicinity and the natural topographic features of the site.

The Downtown project site is surrounded by a variety of uses: single-family residential, multi-family residential, office, and commercial. As is, development on the subject site is compatible with surrounding development and the natural topographic features of the site. Approval of the PUD will not alter the physical characteristics of the site. This finding can therefore be made.

4. The grading takes into account environmental characteristics and is designed in keeping with the best engineering practices to avoid erosion, slides, or flooding to have as minimal an effect upon the environment as possible.

Because no new development is proposed as part of this PUD, no grading will occur. If grading is required as part of any future structure to be constructed on the subject site, it will be required to be designed in keeping with the best engineering practices to have as minimal an effect upon the environment as possible. This finding can therefore be made.

5. *Streets and buildings have been designed and located to complement the natural terrain and landscape.*

The project site is in a developed area of the City and would not involve the extension of any new public streets. As an urban site, there is little natural terrain in the vicinity and no new development is proposed as part of this application. Staff believes this finding can therefore be made.

6. *Adequate public safety measures have been incorporated into the design of the plan.*

As previously mentioned, no new development is proposed as part of this PUD application. The proposed new lot line, however, has been drawn to meet Building and Fire Codes in respect to its relation to existing structures. This finding can therefore be made.

7. *The plan conforms to the purposes of the PUD District.*

One of the purposes of the PUD District is to allow flexibility for projects that would otherwise not meet the standards of the underlying zoning district. The proposed PUD conforms to the policies and programs of both the General Plan and Downtown Specific Plan. It provides a single-family housing alternative that is consistent with the fabric of the Downtown Area. Staff believes that this finding can therefore be made.

ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 15, Section 15315 Minor Land Divisions. Therefore, no environmental document accompanies this report.

CONCLUSION

Staff believes that, as conditioned, the proposed PUD is in keeping with the themes, policies, and requirements of the Downtown Specific Plan and the surrounding area. The proposed site development standards have been created in accordance with the intent of the Specific Plan. The development of this PUD would therefore be carried out in a manner that preserves the unique mixed-use character desired for Downtown Area. Staff believes that the proposed project merits a favorable recommendation from the Planning Commission.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. Find that the proposed PUD development plan is consistent with the General Plan and Downtown Specific Plan and the purposes PUD Ordinance;

2. Make the PUD findings as listed in this staff report; and
3. Adopt a resolution recommending approval of Case PUD-61, subject to the development plan as shown on Exhibit A and the conditions of approval listed in Exhibit B, and forward the PUD development plan to the to the City Council for public hearing and review.

Staff Planner: Leslie Mendez, (925) 931-5611, lmendez@ci.pleasanton.ca.us