



PLANNING COMMISSION MINUTES

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

APPROVED

Wednesday, December 27, 2006

CALL TO ORDER

The Planning Commission meeting of December 27, 2006 was called to order at 7:02 p.m. by Acting Chairperson Fox.

1. ROLL CALL

Staff Members Present: Donna Decker, Principal Planner; Julie Harryman, Assistant City Attorney; Phil Grubstick, City Engineer; and Maria L. Hoey, Recording Secretary.

Commissioners Present: Commissioners Phil Blank, Anne Fox, Greg O'Connor, Arne Olson, and Jennifer Pearce.

Commissioners Absent: None.

2. APPROVAL OF MINUTES

Ms. Decker advised that the minutes of November 29, 2006 and December 13, 2006 would be considered at the January 10, 2007, 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.

Kevin Close, 871 Sycamore Road, commented that the Happy Valley area has lost its character with staff's design approval of the Heartwood Communities. He stated that rock stone walls have replaced the open fencing, including at the bridge at Happy Valley Road and Alisal Street. He noted that not even the golf course was allowed to put in a solid wall at its entrance. Mr. Close also indicated that he would like to see the Spotorno project come forward, which has been held back because three big projects have been put together to determine their cumulative

effect on the area. He stated that he would like to know what is happening to the Spotorno property.

Acting Chairperson asked staff for an update on the Spotorno property and inquired if the Planning Commission approved the rock stone walls or if these were installed by the developer and not a part of the PUD.

Ms. Decker replied that the entryway for the Heartwood Communities was approved as part of the development plan. She indicated that she would bring information back regarding the Spotorno property to the Commission at a later time.

Dolores Bengtson, 568 Hamilton Way, read her comments regarding the Oak Grove project. She expressed concern about the deletion of the internal trails and staging area from the project's proposed 497 acres of public space in the preferred 51-unit Alternative 4. She stated that the initial proposal for 98 homes included a public staging area, a complete network of internal trails and a segment for a future regional trail, and a 6.5-acre neighborhood park, all consistent with the approved 1993 Community Trails Master Plan. She noted that there was no community participation in the discussions that resulted in Alternative 4 and understood that the reason for the deletion of the staging area and internal trails was to satisfy the Kottinger Ranch homeowners' desire to eliminate the potential traffic generated by public open space use. She pointed out that the Draft Environmental Impact Report (EIR) for the project stated that the trails, staging area, and park would not have a significant impact on traffic.

Ms. Bengtson then proceeded to explain the importance of staging areas and trails for citizens to enjoy the view and beauty of the open space and specific areas of interest. She encouraged the Commission to evaluate this project carefully not only as it relates to complying with high standards for good residential planning but also in terms of good planning for public use of open space, indicating that its recommendations could either provide 51 new estate homeowners a 497-acre private preserve or the community with a priceless resource that all citizens can enjoy.

Acting Chairperson Fox stated that she sent an email to the Parks and Recreation Commission in which was discussed at that Commission's meeting and requested staff to distribute a copy of that email as well as the minutes from that meeting to the rest of the Planning Commissioners. She inquired if the matter will come before the Parks and Recreation Commission before the Planning Commission hearing.

Commissioner Blank advised that he is not making a comment because he recused himself from this project. He inquired when the matter would come before the Planning Commission.

Ms. Decker stated that the matter would come before the Parks and Recreation Commission before the Planning Commission but that the date has not yet been set. She advised that the work to be undertaken to respond to the comments on the Draft EIR is very detailed and is taking longer than anticipated. She indicated that it should be completed in mid-January, and staff would then need time to review and analyze the project. She noted that the matter of the trails and staging area would be a point of discussion at the hearing.

Commissioner Pearce inquired if notices would be sent out and if the Commissioners would receive copies of that notice. Ms. Decker said yes.

Becky Dennis, 838 Gray Fox Circle, shared Ms. Bengtson's concerns regarding the deletion of the trails and staging area. She noted that as the former Director for Parks and Community Services, Ms. Bengtson knows the importance of trails and encouraged the Commission to safeguard the community's longstanding plans for the Kottinger Ranch and OakGrove. She noted that the City has supported the Kottinger Ranch neighborhood in preserving the natural value of the area when a bigger project with a golf course was proposed for the area, as well as when PG&E wanted to put the powerlines on Hearst Drive. She stated that the Kottinger neighborhood supports the proposal for 51 homes but that the community is not aware that the trails and staging area had been deleted. She noted that people need to be made aware of this and that the Planning Commission can contribute to this process. She encouraged the Commission to approve this project for the benefit of all, with amenities the community really needs, similar to the trails and staging areas in the Golden Eagle and Laurel Creek subdivisions.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Ms. Decker advised that there were no revisions or omissions to the agenda.

5. CONSENT CALENDAR

Acting Chairperson Fox proposed that Item 6.b., PRZ-36, City of Pleasanton, on the sports courts could be considered before Item 6.a., PRZ-37, City of Pleasanton, on use permits, as there was a member of the audience who wished to speak on the sports courts item and no one was present for the use permits.

Ms. Decker requested that the Commission conduct the Consent Calendar business prior to the rearrangement of the public hearing items.

a. PCUP-184, Young J. Lee, California School of Art and Design

Application for a conditional use permit to operate a private art school for approximately 15 students per day, Monday through Thursday from 2:00 p.m. to 7:30 p.m., on the second floor of an existing building located at 24 Happy Valley Road. Zoning for the property is O (Office) District.

Commissioner O'Connor moved to make the conditional use findings as stated in the staff report and to approve Case PCUP-184, subject to the conditions of approval as shown on Exhibit B, of the staff report, as recommended by staff.

Commissioner Blank seconded the motion.

ROLL CALL VOTE

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

Resolution No. PC-2006-67 approving PCUP-184 was entered and adopted as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

Acting Chairperson Fox then proposed that the items on sports courts be discussed prior to that on use permits. Ms. Decker replied that there was no issue with rearranging the agenda and indicated that Item 6.a., Vesting Tentative Subdivision Map 7721 would be followed by Item 6.c., the sports courts discussion, then by Item 6.b., the use permits matter.

a. Vesting Tentative Subdivision Map 7721, Ponderosa Homes, Mel & Carol Lehman, and William & Kathryn Selway

Application for a vesting tentative subdivision map to subdivide a 19.83-acre property into 27 lots for 25 new and two existing single-family homes, seven parcels to be transferred to adjoining properties, and miscellaneous public infrastructure improvements including the reconstruction of a portion of Cameron Avenue. The property is located at 3157 Trenergy Drive and 2313 Martin Avenue and is zoned PUD-LDR (Planned Unit Development – Low Density Residential) District.

Ms. Decker summarized the staff report and described the background, layout, and scope of this project.

She then requested the Commission to make the following amendments to the Conditions of Approval: (1) Add the language “*or as reviewed and approved by the City Engineer*” to Condition No. 3.b. on page 8, regarding the existing asphalt on Cameron Avenue to give staff the flexibility to make a more appropriate evaluation of the asphalt overlay. (2) Delete Condition 10.b., a restrictive condition which effects the tentative map only if the project receives Growth Management allocation, as the City is well within its building units per year as outlined in the Growth Management Program. (3) Two conditions in staff’s memo dated December 27, 2006, which reflect the revised PUD conditions approved by the City Council regarding the approval of the project’s Affordable Housing Agreement by the Housing Commission and City Council and the City Engineer’s evaluation of the provision of parking on the north side of Cameron Avenue, both prior to final subdivision map recordation.

In response to Commissioner O’Connor’s inquiry regarding whether parking is allowed on the south side of Cameron Avenue in front of homes and if there would be a minimum of parking on one side of the street, Ms. Decker replied that the City Council requested that staff evaluate parking on the north side rather than on the south side of the street. Mr. Grubstick added that parking on only one side of could be accommodated by the 28-foot wide street section and that

limited parking is currently allowed on the north side of street with no parking allowed early in the morning and afternoon when school children are coming through. He noted that with the proposed sidewalk, parking would be allowed full time, either on north or south side of the street.

With respect to the speed table at the intersection of Cameron Avenue and Martin Avenue under Condition No. 5, Commissioner Olson noted that at the work session, some speakers expressed concern about using cobblestone. He inquired what material would be used for the speed table. Mr. Grubstick replied that the speed table need not be cobblestone. He explained that a speed table raises the entire intersection by six inches, similar to a large speedbump, and thus provides traffic-calming. He added that there would be advanced signs warning motorists of a bump ahead.

Commissioner Blank noted that while cobblestone is aesthetically appealing, it creates a lot of vibration and noise. He suggested that the surface be smooth, regardless of what material is used.

Commissioner O'Connor proposed that the condition specify that the speed table not be cobblestone, as opposed to it does not have to be cobblestone.

Ms. Decker replied that language can be added to require the applicant to install a smooth-surfaced speed table.

With respect to vermin abatement, Commissioner Pearce noted that the neighbors were concerned about mice and rats that can get into their houses once construction begins. She inquired if it was necessary to bait and kill squirrels and small animals that are outside the house. She noted that the suburban neighborhood would be used to squirrels living outside their homes.

Ms. Decker replied that there was also concern about an existing barn which may be inhabited by mice and small rodents who may move into the neighborhood once construction starts; hence, the abatement prior to construction. She added that there is a healthy population of ground squirrels because the land has been vacant, and the reason for the abatement is to prevent the squirrel population from shifting to the other side of the neighborhood.

In response to Acting Chairperson Fox's inquiry regarding whether the squirrels could be trapped and moved to the buffer area next to Martin Avenue, Ms. Decker replied that trapping and releasing the squirrels would not prevent them from eventually moving into the neighboring area. She noted that the consultant recommended that the best program that would be feasible, cost-effective, and most beneficial to the neighborhood and surrounding areas is to clear the site.

Commissioner O'Connor inquired if the remedy of installing underground wire mesh in the post-construction phase to keep gophers out would be done by the homeowners or the developer. Ms. Decker replied that she believes this is a suggestion to the homeowners. She indicated that she did not believe it was the intent of the developer to place mesh on the adjacent property. She deferred the question to the applicant.

THE PUBLIC HEARING WAS OPENED.

Pam Hardy, Ponderosa Homes, indicated that after the City Council approved the project, they went back to the neighborhood to address traffic –calming. She noted that they have voluntarily agreed to install the speed table as an amenity they are bringing to the neighborhood, as opposed to mitigating the project, and that they would be happy to comply with the smooth-surfaced speed table. With respect to parking on Cameron Avenue, she stated that their intention is to have parking on the north side because homes front that side of the street. As regards vermin control, she reiterated the neighbors' concerns about rodents and stated that there is a wide population of field mice, who do not respect property lines, because these are big, heavily vegetated lots. She added that they periodically experienced mice while working on the Busch Property project due to the heavy rains the past year that caused new growth and grass. She indicated that there is not a big population of pocket gophers, and the ground wire mesh is a preventative measure for new homeowners to avert re-infestation from the existing surrounding properties. She noted that they will be providing more information on this at the appropriate time. She added that they will be installing quarter-inch mesh 12-18 inches below grade around the new perimeter of the entire property to serve as a permanent barrier.

Acting Chairperson Fox noted that the old staff report noted that the home locations for Lots 10, 18, and 29, would be reversed and asked if this has been taken out. Ms. Hardy replied that this has been modified to allow some flexibility to push the houses to the north to meet the return requirement.

Acting Chairperson Fox noted that at the City Council meeting for this project, there was a comment made by the Councilmember that seconded the motion that the masonry wall from Cameron Avenue not be visible. She added that the preliminary fencing plan showed a seven-foot masonry wall surrounding the "U" shape. She inquired if the masonry wall would end at the portion where it gets close to Cameron Avenue or if it would continue all the way to Cameron Avenue. She further inquired what discussion ensued at the Council meeting at that point regarding the masonry wall.

Ms. Decker replied that Councilmember Brososky added to the motion that he did not want the masonry wall fronting on Cameron Avenue. She noted that the discussion did not encompass any reference related to the "U" or the seven-foot masonry wall bounding the project site. She indicated that Councilmember Brozosky did not wish to have the masonry wall showing along the frontage.

In response to Acting Chairperson Fox inquiry regarding the original masonry walls for the side yards for the houses, Ms. Hardy replied that they had originally asked that the conditions provide some flexibility to allow the return of the fence on Lots 9 and 19 either of masonry or wood. She noted that the adjacent property owners wanted a masonry wall but not along the road frontage and that the wall between Lots 10 and 18 was intended to be an upgraded wood fence.

Acting Chairperson Fox inquired if the wall between Lots 9 and 19 would be wood or masonry and if the masonry wall would be visible along the adjoining property boundary. Ms. Hardy replied that a masonry wall would separate the lots from the existing adjoining property, but a

wood fence would return and the wall parallel to Cameron Avenue would be wood. She added that one would have to look really hard to see the wall; however, the real intent of the wall was to address the neighborhood concern that there be no masonry walls along the Cameron Avenue streetscape.

Acting Chairperson Fox inquired if the upgrade of the sanitary sewer line on Stoneridge Drive between Santa Rita Road and Kamp Drive from 12 inches to 15 inches under Condition No. 14 was part of the original PUD or was added to this project, and when the construction would be done. Mr. Grubstick replied that this is a condition of this project only, and not the other Ponderosa Homes project, and only for this section of the sewer line. He added that the construction is part of the project but that the condition only refers to Ponderosa Homes' share in the cost of the upgrade and not its actual construction.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank moved to make the finding that the proposed Vesting Tentative Subdivision Map 7721 is covered by the approved Negative Declaration for PUD-50 and is consistent with the Pleasanton General Plan; to make the subdivision map findings as stated in the staff report, and to approve the Vesting Tentative Subdivision Map 7721, subject to the conditions of approval as shown on Exhibit B of the staff report, as recommended by staff, with the amendments to Condition No. 5 that the speed table be smooth-surfaced and to Condition 3.b. per staff, the deletion of 10, per staff, and the addition of the two conditions indicated on the memo by staff.

Commissioner Pearce seconded the motion.

Acting Chairperson Fox proposed an amendment that the condition regarding parking on the north side of Cameron Avenue be reworded to ensure that there will be parking on the north side of Cameron Avenue unless there is a safety concern based on the City Engineer's evaluation.

Discussion ensued regarding the language for the condition.

THE PUBLIC HEARING WAS RE-OPENED.

Ms. Hardy noted that in response to neighborhood concern, the PUD Condition of Approval specifically states that there be no parking on the south side of Cameron Avenue.

THE PUBLIC HEARING WAS CLOSED.

The Commission agreed to the following language: **Parking shall be provided on one side of Cameron Avenue, and the City Engineer shall utilize the best efforts to provide parking on the north side of Cameron Avenue, subject to safety restrictions.**

Commissioners Blank and Pearce accepted the proposed amendment.

ROLL CALL VOTE

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: None.

Resolution No. PC-2006-68 approved Vesting Tentative Subdivision Map 7721 was entered and adopted as motioned.

c. PRZ-36, City of Pleasanton

Work session to review and receive comments on proposed amendments to the Pleasanton Municipal Code to establish development standards for sports courts.

Ms. Decker summarized the staff report and described the background, layout, and scope of this project.

Referring to Item 3.b. of Exhibit A, Acting Chairperson Fox inquired if the fencing has to be vinyl mesh and not just a chain link. Ms. Decker noted that open view fencing, including chain-link fencing, is allowed; however, there must be a top metal or wood rail to which the fencing is affixed so fences that are as high as ten feet do not sag.

Commissioner O'Connor – referred to Item 7. on page 3 of the staff report and requested clarification regarding the qualification that to be a sports court, the area must have fencing or lighting. He inquired if the Municipal Code has a definition for portable sports equipment and expressed concern that anyone without lighting or fencing can pour concrete right up to the property line and bounce a basketball all day long, which could be a nuisance without having a sports court. Ms. Decker clarified that the items on the staff report are discussion points which relate to questions that have been brought to staff's attention and which staff would like addressed with the Code amendment. She reiterated that rear and side yards as well as basketball hoops in front of garages are not considered as sports court. She explained that the proposed Code amendments are presented on Exhibit A in red-lined format.

In response to Commissioner Blank's inquiry regarding whether staff considered including a noise limitation, Ms. Decker said no. She explained that staff had received various Code Enforcement requests to monitor basketball bouncing on pavement, which did not register above 60 dBA, the limit allowed outside the property plane by the Noise Ordinance.

THE PUBLIC HEARING WAS OPENED.

Commissioner O'Connor disclosed that Mr. Frost is his neighbor.

James Frost took exception to staff's comment that basketball bouncing does not register on the noise equipment. He handed the Commissioners a picture of his neighbor's sports court taken from his house and stated that he had several noise experts in his house to measure the sound of a bouncing basketball next door, and all the results were in excess of 70 dBA at the fence line,

which is ten feet away from the sports court, in violation of the City's Noise Ordinance. He noted that the City's noise equipment may have been faulty and offered to give staff the testimony and records of the expert witnesses, which would indicate that the installation of sports courts exceeds the City's noise requirements. He added that if these are not properly sited, sports courts could be a nuisance and have a significant impact on property values. He requested the Commission not to require fencing and lighting as these would create a visual impact as well as give people the ability to play even at night. He stated that the bouncing is very repetitive and annoying that they cannot use their backyard at all. He noted that the sports court is located only ten feet from the fence, and their PUD requires a 20-foot sideyard setback for accessory structures. He added that sports courts should fall within the City's guidelines for Class 1 accessory structures because they are over six feet in height and 80 square feet in area.

Mr. Frost suggested that the City require a permit for sports courts and include two questions on the application form: (1) Is this application governed by the CC&R's of the development? and (2) Does the application meet those requirements? He stated that the homeowner who answers yes to those questions could be held responsible for any violation to those guidelines. He urged the Commission to require sports courts to be no closer than 25 feet from the fence line so that the noise and nuisance do not negatively affect the neighbors of their quality of life and their property values.

Acting Chairperson Fox informed Mr. Frost that she appreciated his testimony and requested that the report of the expert witnesses and the picture he took be included in the staff report for the Planning Commission hearing on the item.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank indicated that he would not support any Code amendment that would not include any noise limitation and inquired if the noise meter used by staff measured ambient noise rather than peak noise. He expressed concern about lights as well as the enforcement of setbacks if the sports court are already built. He noted that there was too much flexibility in Item 6. and Item 7. of Exhibit A with respect to portable basketball hoops and the description of sports courts. He reiterated that he would not be supportive of anything along this line unless it is redefined in terms of the Noise Ordinance and the ability to properly measure noise as well as to take appropriate action for non-compliance with the Code amendments.

Commissioner Pearce agreed with Commissioner Blank's concerns regarding noise levels and setbacks. She recommended a larger setback than the ten feet from the fence line to provide adequate space buffer for the noise levels, especially since a 100-foot setback is required from the property owner's house.

Ms. Decker clarified that the minimum setback was ten feet unless otherwise required or restricted by a PUD.

Discussion ensued regarding the location of sports courts with respect to setbacks from the property line.

Ms. Decker re-directed the discussion and proposed that the Commissioners first determine if they are in support of sports courts in rear yard, and if so, what development standards would they want in place for sports courts. She noted that some PUDs have specifically stated that sports court are not allowed because of noise and other reasons. She cautioned the Commission that development standards should not be so restrictive that it makes it almost impossible to have sports courts, thus making the Code amendment a moot point.

Commissioner O'Connor inquired if an applicant could request for a variance should the Commission decide not to allow sports courts. Ms. Decker said yes. She noted that if the Commission desired that there be no exceptions, language could be included that sports courts are not allowed and that no process is available for allowing them; however, for PUDs where this is silent, a PUD modification would be required to allow sports courts. She added that the Code does not have any restriction for pouring pavement, and for that reason, staff is looking for a way to regulate while meeting the needs of the neighborhood.

Commissioner Blank inquired if Mr. Frost's property is within a PUD.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Frost replied that it is within PUD-97-03. He added that although the PUD does not specifically mention fixed sports apparatus, their CC&R's do, which is more restrictive and is to be followed.

THE PUBLIC HEARING WAS CLOSED.

In response to Commissioner Blank's inquiry if the neighbor's sports court has a City permit, Ms. Decker replied that flat work does not require a building permit, regardless of size.

Commissioner Olson noted that the chart allows sports courts in Ruby Hill and inquired if this is because of the larger lots in the development. He indicated that the basketball court next to Mr. Frost's residence would not have been approved if it came before the Commission and that he wanted to weigh in on the noise. He added that the Commission require a minimum lot size and City approval for sports courts as they may have an impact on the property values of the neighbors and particularly since these are required for residential additions.

Commissioner Pearce noted that they could be treated like accessory structures and inquired if City approval is required for accessory structures. Ms. Decker replied that it would depend on what is considered accessory structures. She noted that there are significant issues with respect to this matter as evidenced by controversies between neighbors regarding whether play structures or basketball hoops are accessory structures.

Commissioner O'Connor noted that not all neighborhoods have homeowners associations, which leaves these neighborhoods with no protection for violations of against CC&R's. He indicated that the City needs a tighter definition of accessory structures in addition to the parameters of over ten feet tall and 120 square feet in area.

Ms. Decker confirmed the definition and added that if basketball hoops were considered accessory structures if they were over ten feet high, they would require design review approval and would have to be placed within a certain side and rear yard setback; however, the Building Code does not require a permit for flatwork. She reiterated that this is the reason why it is necessary to identify what sports courts are and how to regulate them.

Commissioner O'Connor commented that the Commission should probably discuss sports apparatus first prior to considering sports courts because a neighbor could pour a patio and wheel out a portable basketball hoop and never move it, and this does not take away the nuisance.

Commissioner Blank agreed with Commissioner O'Connor.

Acting Chairperson Fox noted that the nuisance level is not only regarding visual and noise but is also dependent upon whether the sports court is there for casual use or as a private recreational facility bordering on commercial use.

Commissioner O'Connor indicated that he does not want to see lighted courts in residential areas or any kind of ten-foot high fence and would like to require a certain amount of feet from the fence line.

Commissioner Blank proposed that this item be scheduled for a second workshop with more structure in terms of questions and technical underpinnings. Ms. Decker replied that this can be done and that she has enough information to include more technical information, noise evaluations, and possibly some photographs of existing sports courts in the City.

Acting Chairperson Fox agreed that noise should be addressed and that sports courts be allowed in properties that are zoned at least R-1-6,500 or R-1-10,000. She noted that the goal is to move children from playing in streets, which is a safety issue, and if any possibility in the back yard is eliminated, the children will be playing with portable hoops in the streets, especially if there is no park in the neighborhood. She indicated that the definition of sports courts should specify the kind of sports allowed as there are neighborhoods that have putting greens, batting cages, or skateboard ramps in their backyards. She stated that fencing and lighting should not be mandatory since some existing areas without lights and fences look like sports courts. She added that the discussion should include what would be permitted, what would require a use permit, and what would be prohibited.

Commissioner Pearce requested clarification regarding the language on Section 18.84.160 on page 3 of Exhibit A with respect to sports courts being classified as accessory structures. She added that to minimize noise and nuisances, sports courts could be subject to setbacks and square footage limitations as provided in this section's language "...in the aggregate no more than 500 square feet or ten percent of the area of the required rear yard..." but whichever is *lesser* rather than greater.

Ms. Decker advised that staff would refine the language before it is brought back to the Commission.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Frost commented that his problem concerning the noise nuisance is that he never knows when the sports court will be used and that whenever it is used, it impacts whatever he is doing. He added that frequency is not necessarily the issue but the impact of any individual event, which affects his quality of life and property values.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Blank moved to refer the item back to staff for further refinement, to be brought back to the Commission for another work session.

Commissioner Olson seconded the motion.

ROLL CALL VOTE

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: None.

The motion carried.

b. PRZ-37, City of Pleasanton

Consideration of amendments to the Pleasanton Municipal Code to modify where schools, tutoring, and recreational facilities are allowed to be located and to allow these types of uses as permitted uses in many districts, if certain criteria are met.

Ms. Decker requested the Commission to consider discussing this item as a work session rather than as a public hearing item.

Commissioner Blank moved that Item 6.b., PRZ-37, City of Pleasanton (Conditional Use Permits) be considered as a work session instead of as a public hearing item.

Commissioner Olson seconded the motion.

Commissioner O'Connor noted that there did not appear to be any controversy regarding this Code amendment, and he thought that this was a matter the Commission could vote on at this meeting. He inquired why staff is requesting it to be a work session.

Ms. Decker replied that there were some issues that staff had been deliberating on and that due to the holidays have not had sufficient opportunity to discuss with interest groups that may be affected by the Code amendment. She noted that staff is working at streamlining this process to make it an over-the-counter approval for applications with 25 students or less. She added that there were also other primary issues for which she would like the Commission's input.

Commissioner Blank indicated that there were other issues such as reviewing the recent approvals shown on Exhibit B of the staff report. He noted that there were public testimonies given on some of those applications, and he would not know which had special conditions or considerations under this Code amendment as they would have been approved without discussion. He added that there are other Code amendment items that the Commission had prioritized before this one.

ROLL CALL VOTE

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

NOES: None.

ABSTAIN: None.

RECUSED: None.

ABSENT: None.

The motion carried.

In response to Acting Chairperson Fox request that staff provide some history on this Code amendment, Ms. Decker replied that she did not have this at hand but that she could bring the matter back to the Commission at a later date.

Acting Chairperson Fox recalled that for about a year, there were numerous applications that came before the Planning Commission for tutoring facilities in the Downtown area that required a conditional use permit. She added that at one point, Michael O'Callaghan of the Pleasanton Downtown Association had requested the Commission to consider tutoring facilities as a permitted use.

Commissioner Blank stated that he was in favor of this amendment but that staff had previously indicated that the Planning Commission does not have the authority to have staff work on projects that were not prioritized by the City Council. He noted that he does not recall any advisory vote by the Commission or direction from the City Council to consider this Code amendment, whereas there are other Commission items that are on the Council's priority list. He indicated that he would like to see the staff reports for at least the ten most recent applications from the list on Exhibit B to give the Commission a good background on applications that may have had controversial issues or public testimonies.

Ms. Decker indicated that the minutes would be more informative in terms of discussions and motions made as well as testimonies given. She added that the vast majority of the applications were hearing items until the Consent Calendar was effected fairly recently, which then included a very brief staff report and moved the process very quickly. She noted that for Exhibit B, staff looked at recent approvals and the number of students at any one time; and cognizant of the impacts brought about as the number of students increased, staff determined that 25 students would be a reasonable number which would not likely have any impact on parking, traffic, and noise. She added that staff has required parking and project analyses for any application with over 25 students, and this would require another process.

Commissioner Blank commented that the Consent Calendar would provide a much easier format than an over-the-counter approval with an appeal process; it also gives the Commission the opportunity to review the applications and the public to comment on them.

In response to Commissioner O'Connor's inquiry if the public would still be noticed, Ms. Decker said no. She explained that this would become permitted uses with certain standards that needed to be met and with an appeal process. She added that the intent was to provide a streamlined process that targeted specific projects that clearly have no issues or community-wide impacts. She explained the tenants generally sign a lease for available tenant space and then find out when they come in for their business license that a use permit is required. She pointed out that the ensuing Planning Commission hearing process can then be very frustrating for the small business owners who have already made an investment but would have to wait for several weeks before their business can take off. She indicated that the proposed Code amendment would provide a quicker process for approving such projects.

Commissioner Blank inquired if a community outreach or ordinance could be considered that would require the lessor to check if a conditional use permit is required prior to having the tenant sign any lease for commercial property.

Commissioner O'Connor commented that this might get the tenants out of a financial bind but would not give them the ability to open their business 30 days earlier and get their business going.

Commissioner Blank noted that the proposed process might be the wrong approach because it makes it easier for the applicants, who should not be signing a lease before getting a business license or use permit, to get approval for their applications.

Commissioner Pearce stated that this process is not a reward for bad behavior but a practical way of helping small business owners adhere to guidelines in a manner that would make it easier for them to manage their businesses. She added that the Commission would still consider businesses with over 25 students under the Consent Calendar.

Acting Chairperson Fox agreed and stated that she felt small businesses which now require permits in the Downtown area are being penalized for uses that are less intense than other permitted uses in the City.

Discussion ensued regarding the number of students that would be covered by this Code amendment. Ms. Decker explained the process by which staff arrived at 25 but indicated that the Commission had the discretion to change that number.

Commissioner Blank requested staff to put together an analysis of the numbers with medians and standard deviations to give the Commission a sense of where the numbers fall. Commissioner Pearce also requested a list of which projects had issues with them or community opposition.

Commissioner O'Connor noted that having items on the Consent Calendar has helped the Commission and recalled that only two items have been pulled from the Calendar for further discussion but was also approved that evening. He stated that this would streamline the process, cutting down on the amount of time applicants have to wait for staff to put a report together and then schedule for a Commission hearing, something the City wants.

Commissioner Olson recalled that Ms. Decker had key points to which she wanted to call the Commission's attention.

Ms. Decker noted that there were two items whose language needed to be reviewed: (1) Item 4 of Exhibit A on page 2, which relates to the ability of the Planning Director to refer an approved permitted use to the Commission for mitigation or revocation if a neighbor were to complain about impacts such as noise or parking. She noted that staff wanted to take a closer look at this matter because they may be in conflict with other provisions of the Code in terms of where it puts the City and the risks that may ensue from such actions. (2) Item 5 of Exhibit A on page 2, which relates to incompatible uses in the I zoning district such as large daycare facilities and gymnasiums in the same complex as a roofing company which may emit noxious fumes. She noted that staff would like to take a closer look at this matter and have the Commission's input in terms of whether to limit or prohibit incompatible uses, have the tenant sign an acknowledgement of the existence of businesses with are noise or emit fumes, or something else.

Acting Chairperson Fox requested staff to give a general idea of where the different zoning districts in the City are located. Ms Decker replied that it might be more helpful to the Commission if staff brought this back with additional information and a zoning map which would identify where those areas are located.

In relation to Item I. under Chapter 18.40 on page 6 of Exhibit A, Commissioner Blank requested clarification on the location of private schools with 300 feet of personal wireless service facilities. Acting Chairperson Fox explained that the original amendment provided that no nursery schools, childcare facility, elderly facility, or similar facilities may be located within 300 feet of a personal wireless service facilities.

Commissioner Pearce stated that she found streamlining the process for facilities with 25 students or less to be a great idea and would like to have additional information on the recently approved conditional use permits to nail down some of the issues in the past and see what the right number is based on the nexus of size and problems.

Commissioner Blank agreed and stated that doing something for less than 25 would be amenable.

Acting Chairperson Fox preferred the number to be between 15 or 20. She added that she would also like to look at parking in the Downtown area for all those who might arrive at one time, for example, for a class of 25 who might need to find parking, as opposed to those who are dropped off. Commissioner O'Connor noted that parking analysis would be part of the process. Commissioner Blank noted that this would depend on uses, for example, a tutoring class of two hours each would generate less trips than a 30-minute class. Ms. Harryman noted that the number includes employees at the facility.

Acting Chairperson Fox requested that the language be simplified and examples be included in the different categories so the texts can be more easily read and understood by the general public.

Ms. Decker clarified that staff was trying to be as concise as possible while capturing everything in a generalized sense and providing breadth. She noted that enumerating items within a category could result in exceptions that eventually would need to be fitted in. She added that this would be a good discussion point when the matter comes back to the Commission.

Acting Chairperson Fox noted that Beth Emek's conditional use permit had a restriction on the types of classes that could be offered because of traffic considerations. She inquired if a facility with an approved conditional use permit would now be allowed to conduct private uses within the facility or would the conditional use permit have to be revised to allow these permitted uses regardless of the pre-existing restrictions such as hours of operation and number of students.

Ms. Harryman replied that if these uses are now permitted in the zoning district and all the criteria are met, then these uses are permitted, and the conditional use permit will not have to be revised.

Commissioner Olson stated that he was in favor of this Code amendment and inquired if a facility with a permitted use that initially has 24 students but eventually exceeds that number and the neighbors complain would now require a conditional use permit.

Ms. Harryman replied that this would not become a Code Enforcement matter.

Commissioner Olson inquired if this would be handled on the staff level or if it would need to come before the Commission. Ms. Decker explained the Code Enforcement procedure and stated that a dialogue with the applicant would determine if a conditional use permit would be required, in which case, it would come before the Commission either as a Consent Calendar or public hearing item.

Commissioner O'Connor inquired what the process would be for a facility with a conditional use permit that allows only 15 students because of parking considerations and is now grandfathered in but does not have parking for 25.

Ms. Harryman replied that the permit is not just that the facility has 25 students or less but that they also meet certain criteria, which include adequate parking; therefore, if there is no adequate parking, then it would not be a permitted use.

Ms. Decker stated that staff would send the materials for this proposal as soon as they are collated and organized and not wait for the week before the hearing date to give the Commission sufficient time to review the materials.

7. MATTERS INITIATED BY COMMISSION MEMBERS

Alternate Planning Commissioner

Commissioner Pearce inquired if a decision has been made on an Alternate Planning Commissioner. Ms. Decker said no.

Commissioners Handbook

Commissioner Blank requested clarification on some items in the Commissioners' Handbook, including serial emails and the Brown Act, giving out names and addresses, and receiving packet reports a week before the meeting.

Ms. Harryman replied that the Handbook needs to be updated and that she had spoken with Steve Bocian, Assistant City Manager, regarding this.

Ms. Decker noted that the current Handbook may not reflect all the current laws that have recently been passed.

Speakers' Residential Address

Commissioner Olson inquired if speakers who address the Commission can be asked where they lived. Ms. Harryman replied that the Commissioners may ask for that information to weigh in on their decision and for credibility reasons, but State law does not require the speaker to give out that information.

Closed Session

Acting Chairperson Fox noted that there was a closed session for the City Council regarding real property negotiations for Staples Ranch development and the Sharks ice arena. She recalled that she was told by Steve Bocian that if the Sharks were located in the parkland, the land would be leased from the City for \$1. She noted that it appears from the Closed Session agenda that the City is selling or acquiring land and inquired how this would fare with the Commission process if there are already in negotiations to sell the land to the Sharks.

Ms. Decker replied that she was not aware of the conversations that occurred during the Closed Session nor with the terms of agreement of the buying or selling of land. She stated that the Staples Ranch development is moving forward; the plans for the automall project are being reviewed, and staff is waiting for the plans for the elderly continuing care facility to be able to put it in perspective with the existing land use plan for the Scoping Session for the Staples Ranch project. She indicated that no date has been set for the Scoping Session.

In response to Commissioner O'Connor's inquiry regarding what type of things would be discussed in Closed Session, Commissioner Blank stated that the Commissioners Handbook has a list of topics that would be exempt from the Brown Act such as personnel issues, litigations, real estate negotiations.

Acting Chairperson Fox inquired if the Commission will be given the additional information regarding pre-existing agreements made in Closed Session for Staples Ranch when it comes before the Commission. Ms. Decker replied that the project description in the Future Planning Calendar is one of the first descriptions for the project. She added that any appropriate additional information related to the EIR scoping for the project would be included in the staff report in detail.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

a. Future Planning Calendar

Residential Sprinkler System

Commissioner Blank noted that the list of future items include eight proposed amendments to the Pleasanton Municipal Code, which does not include one on the residential sprinkler system. He added that some of those amendments were not specifically directed by the City Council, while the residential sprinkler system had already been prioritized by the Council. He indicated that he would like to see a planner assigned to this Code amendment.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

“Just Tires” Signage

Acting Chairperson Fox requested that the “Just Tires” signage be taken away when RyNick takes over the building.

8. MATTERS FOR COMMISSION'S REVIEW/ACTION

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

No discussion was held or action taken.

12. ADJOURNMENT

Acting Chairperson Fox adjourned the Planning Commission meeting at 10:00 p.m.

Respectfully,

DONNA DECKER
Secretary