



## PLANNING COMMISSION MINUTES

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

**APPROVED**

**Wednesday, October 18, 2006**

### **CALL TO ORDER**

The Planning Commission meeting of October 18, 2006 was called to order at 7:02 p.m. by Acting Chairperson Fox.

#### **1. ROLL CALL**

Staff Members Present: Donna Decker, Principal Planner; Steven Bocian, Assistant City Manager; Julie Harryman, Assistant City Attorney; Wes Jost, Development Services Manager, and Cory Emberson, Recording Secretary.

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

Commissioners Absent: None.

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

a. September 27, 2006

Ms. Decker noted that because the meeting of October 11, 2006 was adjourned for lack of a quorum, only the minutes of September 27, 2006, would be presented for approval.

Commissioner Blank noted that the second sentence of the third paragraph on page 13 should be modified to read as follows: "While he was sensitive to the privacy issue, he did not believe it was watershed event *that created an implied view easement.*"

Acting Chairperson Fox noted that the fourth sentence of the second paragraph on page 13 should be modified to read as follows: "She would support a project of about 2,700 square feet, which would be around the square footage of a 40-percent FAR *as well*

*as consistent with the square footages that were the maximum for the FAR variances in the surrounding neighborhood presented by staff in the hearing.”*

The minutes were approved as amended.

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

Ms. Decker noted that with regard to Item 5.a., PMSC-2, City of Pleasanton (Pleasanton Memorial Garden), comments had been received from individuals concerning maintenance, landscaping, costs, ground cover, and so forth. She noted that this would be an appropriate time to take public comment on those issues because they are unrelated to the action that the Planning Commission is requested to take on this item, which is a determination of General Plan consistency.

Mr. Clark Scott noted that the cemetery may revert to a pioneer-type cemetery, and he did not see why raised headstones could not be used. He was concerned that some plots were marked off with cement markers surrounding the plots. He would like the cemetery to remain the way it has been rather than revert to pioneer status. He would like the City to take over the maintenance of the cemetery, whether it remains in its present status or reverts to a pioneer-type cemetery.

In response to an inquiry by Chair Fox regarding the controlling body of the cemetery, Ms. Decker replied that staff would forward Mr. Scott’s comments to the appropriate staff member and then report back with respect to the appropriate individuals or committees.

Ms. June Scott inquired whether the City would take over the cemetery. Ms. Decker noted that the proposal to have the City take ownership of the cemetery went before the City Council, which was attached to the staff report. In terms of plans for the maintenance and upkeep, she would determine who the responsible party would be and then report back to the Commission.

Ms. Scott expressed strong concern about the maintenance of the cemetery and noted that she and other families of those interred there had to perform the maintenance. She noted that her son was buried there 22 years ago at age 19, and they thought the cemetery would be taken care of. She was very concerned about the apparent lack of progress with respect to the care of the cemetery.

Commissioner Blank noted Ms. Scott’s frustration and indicated that this was the first time this item had come before the Planning Commission.

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

Ms. Decker noted that the same agenda as that of the October 11<sup>th</sup> meeting was before the Commission at this meeting.

Ms. Decker advised that government code requires a procedural change with respect to requests for changes to the agenda. She indicated that the Planning Commission may continue items under Item 4 of the agenda; however, the Commission will need to open the public hearing for that item and continue it with the public hearing open. This process will not require the item to be re-noticed and would be continued to a specific date. If this is not done, the item will need to be re-noticed.

Staff then requested that Item 6.b., PUD-56, Michael Aminian/Mohsen Sadri, be continued to the December 13, 2006 meeting.

Staff requested that Item 6.c., PUD-93-02-8M/PCUP-181, Michael Callahan, be continued to the October 25, 2006 meeting.

Staff requested that Item 6.d., PRZ-35, City of Pleasanton (Condominium Conversion and Inclusionary Housing), be moved to the first item under Public Hearings.

Ms. Decker noted that Item 8.a., Election of Vice-Chair, was agendized inappropriately because, as noted in the Pleasanton Municipal Code, the City Council adopted procedures in 2002 whereby the Planning Commission should elect the Chair And Vice-Chair by a majority vote in December of each year.

Acting Chairperson Fox expressed concern that because Item 6.d. was listed last on the agenda, members of the public may miss it if it were to be moved up on the agenda.

Commissioner Blank noted that the Ruby Hill restaurant item was supposed to be the first item on the agenda as it was continued from the last meeting, but it was not listed that way. Ms. Decker noted that the applicants would not able to attend tonight's meeting and requested that it be heard at the November 8, 2006 meeting. Commissioner Blank requested that it be scheduled as the first item on that agenda.

In response to an inquiry by Commissioner Pearce regarding whether both Ruby Hill items could be held on the same evening, Ms. Decker noted that Mr. Nagy could not attend on the October 25<sup>th</sup> meeting.

#### **5. CONSENT CALENDAR**

##### **a. PMSC-2, City of Pleasanton**

Determination of General Plan consistency for the Acquisition of the Pleasanton Memorial Gardens Cemetery located at 5780 Sunol Boulevard.

**b. PDR-547, Glenn Hicks**

Application for design review approval to construct an approximately 4,044-square-foot single-story custom home and an approximately 748-square-foot attached garage and related site improvements located at 2529 Yolanda Court. Zoning for the property is PUD-LDR (Planned Unit Development-Low Density Residential) District.

**Commissioner Blank moved to make the determination that the acquisition of the Pleasanton Memorial Gardens cemetery is consistent with the General Plan and to approve PDR-547, subject to the conditions of approval listed in Exhibit B of the staff report, as recommended by staff.**

**Commissioner O'Connor seconded the motion.**

**ROLL CALL VOTE:**

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

**NOES: None.**

**ABSTAIN: None.**

**RECUSED: None.**

**ABSENT: None.**

**Resolutions Nos. PC-2006-53, determining that the acquisition of the Pleasanton Memorial Gardens cemetery is consistent with the General Plan, and PC-2006-54, approving PDR-547, were entered and adopted as motioned.**

**6. PUBLIC HEARINGS AND OTHER MATTERS**

**a. PUD-99-7-3M/PDR-578, Heartwood Communities**

Application for: (1) a major modification to the approved PUD development plan for Tract 7162 (formerly TTK Properties) to incorporate design guidelines for the Heartwood Communities development and to modify the design review and approval process; and (2) design review approval to construct an approximately 7,128-square-foot two-story home with an approximately 1,668-square-foot garage and a 1,088-square-foot basement on Lot 8. The property is located on the south side of Happy Valley Road at its junction with Alisal Street, within the Happy Valley Specific Plan Area. Zoning for the property is PUD-SRDR, GC, & OS (Planned Unit Development – Semi-Rural Density Residential, Municipal Golf Course, and Open Space) District.

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

Commissioner Blank noted that he would not support a project without automatic fire sprinklers and inquired whether each similar project must be checked to ensure it had sprinklers. Ms. Decker confirmed that was true and noted that this was an opportunity to request that be made part of the standard conditions to be checked by staff.

Commissioner Olson noted that he had seen a house in that area that appeared to be purple and inquired whether there was any process to prevent that from happening in this development.

Acting Chairperson Fox noted that particular custom house was denied by the Planning Commission several years ago by a vote of 4-1, which was then appealed to the City Council with staff's recommendation to change the colors. The City Council approved the appeal by a vote of 5-0.

Ms. Decker noted that the design guidelines provided a color palette, and if a house were to be painted contrary to those guidelines, it would be a code enforcement issue.

In response to an inquiry by Commissioner O'Connor regarding whether it was staff's recommendation to change the proposed development guidelines back from the proposed 30-foot front and rear yard setbacks to the Specific Plan 35-foot front and rear yard setbacks, Ms. Decker replied that the City is reluctant to process Specific Plan amendments in general. She noted that these documents are typically written whereby the decision-makers, staff, and the applicants are provided with the flexibility of interpretation. In this particular case where the Specific Plan defines the setbacks, there appeared to be less flexibility. The City typically uses the PUD modification process to vary setbacks or other variances from the PUD development standards. The applicant is requesting consideration to modify the design guidelines as a part of the proposed action to allow the reduced front and rear yard setbacks to 30 feet.

Commissioner O'Connor suggested that if the setbacks were to remain at 35 feet to be consistent with the Specific Plan, and if a specific lot had difficulty and needed a variance, that may be the best procedure, rather than setting setbacks differently from what is required in the Specific Plan.

Ms. Harryman noted that it would not be so much a variance than a modification to the PUD, along with a Specific Plan amendment.

Ms. Decker requested a five-minute recess to allow staff and counsel to confer on this matter.

A recess was called at 7:42 p.m.

Acting Chairperson Fox reconvened the meeting at 7:52 p.m.

After conferring with counsel, Ms. Decker clarified that with respect to Commissioner O'Connor's question regarding a PUD modification to allow a setback reduction in the future, not only a PUD modification but also a Specific Plan Amendment would technically be required to actually reduce those setbacks.

**THE PUBLIC HEARING WAS OPENED.**

Mr. Don Babbitt, 9647 Crosby Drive, developer, noted that he would be satisfied with the 35-foot front and rear yard setbacks and added that only Lots 6 and 11 would be of concern because of the parcel configurations. He noted that the lots had been intended for a tract subdivision, and he turned them into a custom lot subdivision.

Acting Chairperson Fox noted that she was concerned about Lot 1 and any lot that was 9,000 square feet and over, such as Lots 6, 8, 9, 10 and 11. Mr. Babbitt noted that those listed square footages were calculations indicating the allowable square footage for the floor area ratio (FAR) as approved in the PUD. He did not believe houses that big would be built, although the Happy Valley Specific Plan would allow it. He expected that the homes would be between 5,400 and 6,400 square-feet.

In response to an inquiry by Acting Chairperson Fox regarding whether these were the same home designs as those in Mariposa Ranch, Mr. Babbitt noted that the examples followed the Mariposa Ranch design guidelines with respect to the style of homes in the area. He noted that he has integrated several green building measures into his home design and encouraged the buyers of his lots to do the same. He would rather get 150 points than 50 points and encouraged everyone to put at least a two-kilowatt system on their roof. He noted that the home designs were Craftsman and that he would never allow a purple house in this project. The homes would be earth tone colors, which are consistent with the Craftsman style. He added that the CC&R's would include a provision that colors outside that palette would not be allowed.

Mr. Terry Townsend, project architect, displayed the site plan and described its layout. He described some of the green building measures, such as water tanks that pre-heat water before they go into the tankless systems. The ducts would be run in an enclosed space instead of in a crawlspace, which is more energy-efficient. He displayed the homes' elevations and described the details characteristic of the Craftsman style, including traditional materials and muted colors.

Mr. Kevin Close, 871 Sycamore Road, requested that the Commission deny this application until the proper amendments to the Happy Valley Specific Plan have been brought forward to the City Council. He believed there were numerous problems with this application, including:

- The project is not a part of the Callippe Golf Course PUD known as Mariposa Ranch; the project is a part of the greater Happy Valley Specific Plan project area.
- If the proposed design guidelines and development standards are allowed, then they would be applicable to the entire Happy Valley Specific Plan area.
- The density is inappropriate and does not meet the Semi-Rural Residential density requirement.
- There were more modifications done than are indicated.
- The proposed guidelines do not meet the required maximum of 50-percent structure-to-lot-width requirement.
- There is inadequate neighbor separation.

He then referred the Planning Commission to the Happy Valley Specific Plan Matrix #5. He noted that the Planning Commission should recommend denial of the project to the City Council.

**THE PUBLIC HEARING WAS CLOSED.**

Ms. Decker wished to clarify that this PUD and the density have already been established by the approval of PUD-99-07. During this hearing, the Commission is to consider a change in the design guidelines from production to custom homes and in the design review process. She noted that Mr. Babbitt stated that due to geotechnical issues, there was already a 30-foot setback from top of bank. She advised that Planning setbacks are required and were set from the property line; they did not consider top of bank or the geotechnical building setbacks required.

**THE PUBLIC HEARING WAS RE-OPENED.**

In response to an inquiry by Commissioner Olson regarding whether the CC&R's would be structured to promote the green building approach, Mr. Babbitt replied that the CC&R's were already reviewed, approved, and recorded with the Final Map. He believed the design guidelines were addressed in the CC&R's, but he did not believe that green building was addressed in that text. He advised that each builder must submit the plans to him first before they may be submitted to the Planning Department for design review approval.

In response to Commissioner Blank's previous question about fire sprinklers, Mr. Babbitt believed they were a condition of approval in either the Tentative Map or the PUD because the development was outside the five-minute response time radius.

**THE PUBLIC HEARING WAS CLOSED.**

Regarding the concern about the square footage of the homes, Commissioner Olson believed that if a lot of green building points were accumulated, it would mitigate the larger square footage of a home in terms of energy consumption and construction materials.

Commissioner Blank noted that while he did not believe people would build to the full FAR calculations shown on the maps, the first house before the Commission was 24 percent of the maximum 25 percent FAR allowed. He expressed concern about deviating from the setbacks.

Commissioner Pearce would prefer to leave the setbacks at 35 feet and review them on a case-by-case basis. She believed that building to green standards included not building to the biggest possible square footage. She would like to see some kind of square footage limitation more restrictive than the FAR; she proposed that 10,000 square feet might be considered an appropriate limit.

Ms. Decker suggested that if the Planning Commission were to consider a square footage limit, staff would recommend that it be phrased into a motion as being “25-percent FAR or 10,000 square feet,” since there are variations in the lot sizes.

Commissioner Fox suggested “25-percent FAR or 10,000 square feet, whichever is less.” She expressed concern about maintaining this area’s semi-rural character, as well as the open space between the adjacent homes, even with the setbacks. She was also concerned about the visual prominence of a 10,000-square-foot home.

**Commissioner Blank moved to recommend to the City Council that the proposed modification is covered by the previously approved Final Environmental Impact Report for the Happy Valley Specific Plan and by the previously approved PUD development plan and to recommend approval to the City Council of the proposed modification and the design review, subject to Exhibit B-1 and Exhibit B-2 of the staff report, Draft Conditions of Approval for the modification and the design review, respectively, with the addition of three new conditions that the setbacks be in conformity with the Happy Valley Specific Plan, that all the homes be equipped with an automatic fire sprinkler system, and that the FAR of the homes be 25 percent but in no case more than 7,500 square feet, excluding any garage and/or basement area.**

Commissioner Blank noted that the Commissioners may wish to amend the “in no case larger than 7,500 square feet” to read “7,500 square feet of livable space.”

Ms. Decker noted that the Planning Department did not consider the basement or the garage as habitable or living area, and if the garage or basement were used as habitable space, they would be included in the FAR. The basement in this house did not count as habitable space.

A discussion regarding habitable space ensued.

In response to an inquiry by Commissioner Olson regarding whether it would be possible to build a home greater than 7,500 square feet on the other side of the golf course, Ms. Decker confirmed that would be possible. Commissioner Olson did not understand why the homes must be limited to 7,500 square feet on this side of the golf course.

Commissioner Blank called for a point of order regarding debating a motion that had not been seconded.

**Commissioner Pearce seconded the motion.**

**Commissioner O’Connor requested an amendment to the motion to include a cap on total square footage, including accessory buildings and garages, to avoid excessive square footage in those buildings. He suggested a cap of 10,000-square-foot total for home, garage, and accessory structures.**



Ms. Decker noted that may preclude one of the homes (7,128 square feet with a 1,668-square-foot garage) from having any accessory structures.

Commissioner O'Connor noted that the conditions started with Number 3; Ms. Decker noted that was a typographical error and that the conditions should start with Number 1.

**Commissioners Blank and Pearce did not accept the proposed amendments; the previous motion was maintained.**

**ROLL CALL VOTE:**

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

**Resolution No. PC-2006-55, recommending approval of PUD-99-7-3M/PDR-578, was entered and adopted as motioned.**

Commissioner O'Connor stated that he was concerned that the buildable mass on a lot can still be too large, including garages that can house many cars.

Commissioner Blank stated for the record that he would have supported the 150-point green building requirement.

Acting Chairperson Fox believed that it was important to minimize the visual prominence of homes, and while she was happy with the 7,500-square-foot maximum, she would have liked to have seen 5,000–square-foot homes in the Happy Valley area.

Commissioner Blank inquired whether a motion to add a green building requirement may be made.

Ms. Decker noted that a motion to reconsider may be made in order to modify the motion.

**Commissioner Blank moved to reconsider the previous motion to add the language that the FAR square-foot restriction would not apply if the building has at least 150 LEED points.**

**Commissioner Olson seconded the motion.**

**ROLL CALL VOTE:**

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

**The motion failed.**

**b. PUD-56, Michael Aminian/Mohsen Sadri**

Application for Planned Unit Development to allow the development of an approximately 2.45-acre parcel into three lots ranging in size from 27,700 square feet to 44,240 square feet; three two-story homes ranging in size from approximately 5,060 square feet to 5,550 square feet, each with a three- to four-car attached garage; and related site improvements. The property is located at 865 Clara Lane within the Vineyard Avenue Corridor Specific Plan Area and is zoned PUD-LDR (Planned Unit Development – Low Density Residential) District.

**THE PUBLIC HEARING WAS OPENED.**

**Commissioner Fox moved to continue this item to December 13, 2006.  
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 passed.**

This item was continued to the meeting of December 13, 2006.

**c. PUD-93-02-8M/PCUP-181, Michael Callahan**

Application for: (1) a major modification to the Ruby Hill PUD development plan to allow the construction of an approximately 19,872-square-foot event center; and (2) a conditional use permit to allow the operation of the event center and a winery and to allow alcoholic beverage service at the event center after 10:00 p.m. The property is located on the southwest corner of Vineyard and Isabel Avenues, south of Ruby Hill Drive and is zoned PUD-LDR (Planned Unit Development – Low Density Residential) District.

Also consider the Negative Declaration prepared for the project.

**THE PUBLIC HEARING WAS OPENED.**

**Commissioner Pearce moved to continue this item to October 25, 2006.  
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.**

**The motion passed.**

This item was continued to the meeting of October 25, 2006.

A recess was called at 8:49 p.m.

Acting Chairperson Fox reconvened the meeting at 9:04 p.m.

**d. PRZ-35, City of Pleasanton**

Application to amend Chapters 17.04 and 17.44 of the Municipal Code pertaining to Condominium Conversions and Inclusionary Housing, respectively.

Mr. Steve Bocian presented the staff report. Staff recommended that the Commission recommend approval to the City Council of the revised Condominium Conversion Ordinance and the amendments to the Inclusionary Zoning Ordinance. Staff recommended that 25 percent of the units be made available to very-low-, low- or moderate--income households because of its consistency with the Housing Element of the General Plan, which sets a target that 25 percent of all new housing be affordable.

**THE PUBLIC HEARING WAS OPENED.**

There were no speakers.

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

In response to an inquiry by Commissioner Blank regarding the current vacancy rate in Pleasanton, Mr. Bocian replied that he did not know but believed it was more than five percent. At Commissioner Blank's request, he described the difference between very-low-, low-, and moderate--income households.

In response to an inquiry by Commissioner Blank regarding whether there was an anti-flip provision, Mr. Bocian confirmed that was the case for the affordable units but not for the market units.

In response to an inquiry by Commissioner O'Connor regarding whether there was a garage requirement for condominiums, Mr. Bocian noted that he believed that was a Planning question.

Ms. Decker noted that the Parking Ordinance stated that approved condominiums must have at least two parking spaces and that one must be covered. However, if a project were to be approved under a different set of requirements or converted, whatever was approved at that time would be allowed.

Ms. Harryman advised that there was a provision in this proposed Ordinance (Section 17.04.040.a.3., page 4) that stated, "Parking shall be provided according to standards established for condominiums by Chapter 18.88 of this Code, or, in the event the project was approved initially as a common interest development, parking requirements set forth in the project's approval."

Ms. Decker described the calculations for various iterations based on number of bedrooms. In addition, one guest space per seven units must be provided. The current Code requires that for all of those conditions, at least one space must be located in a garage or carport.

Acting Chairperson Fox inquired whether the Planning Commission may recommend revisions to the Ordinance and have staff bring the revised Ordinance back to the Commission for recommendation to the Council.

Mr. Bocian noted that this Ordinance did not impact parking requirements for condominiums, which was set forth in the Code. There would be no changes made to those areas of the Code. The preferred action by the Commission is to recommend approval or denial of the Ordinances and to provide comments related to that action.

Ms. Harryman noted that Exhibit D listed the number of units. She added that to assume a parking deficit would assume that only the minimum number of parking spaces were built and that the parking requirements at that time were the same as they are today. She noted that was difficult to assess and did not believe there would automatically be a deficit. If a deficit were to exist, the current Ordinance (Section 8, 17.04.080, page 7) has

language to provide flexibility in that regard and reads as follows: “The City Council may also waive particular requirements of this chapter or any other section of the Code if it finds that meeting a particular requirement would cause an undue hardship or if the conversion, despite the failure to meet all the requirements, is consistent with the General Plan, any specific plan policies, and the Inclusionary Zoning Ordinance, and conforms to the purposes of this chapter.” She believed the City Council could weigh the parking issue in that situation.

In response to an inquiry by Commissioner Olson regarding whether it was State law that 25 percent of all new housing be affordable to low- and very-low-income households, Mr. Bocian replied that it was not. Commissioner Olson noted that the moderate-income household was left out of that guideline. Mr. Bocian noted that the City’s Inclusionary Zoning Ordinance was directed towards very-low-, low-, and moderate-income households. Because the Condominium Conversion Ordinance was linked to the Inclusionary Zoning Ordinance, staff decided to retain those three income levels.

In response to an inquiry by Commissioner Blank regarding whether it would be acceptable for developers to propose that 25 percent of the units be affordable to moderate-income households, Mr. Bocian replied that they typically do. Commissioner Blank inquired why the Ordinance did not specify that a minimum number of units, within 25 percent, must be affordable to low- or very-low-income households. Mr. Bocian believed the reason was the variability in economics on different projects, especially with new development with different funding sources. If the developer could not afford that, the City may decide that the proposed affordable housing allocation within the project would meet the intent of the Ordinance. Commissioner Blank believed it sent the wrong message not to have at least one very-low- and one low-income unit.

Commissioner Olson agreed with Commissioner Blank’s comments.

In response to an inquiry by Commissioner Pearce regarding the cities examined by staff to develop this Ordinance, Mr. Bocian replied that staff looked at a number of cities, including Berkeley, Dublin, and Santa Monica.

In response to an inquiry by Commissioner Pearce regarding whether staff anticipated a rush of applications to convert because of the tightening housing stock, Mr. Bocian did not believe that would be the case. He noted that the City Council decided to look at this in August 2005 because of significant interest in condominium conversions throughout the region. He noted that 525 rental units in Stoneridge Apartments recently converted to condominiums. The City Council expressed significant concern about losing this rental housing and drafted an ordinance to protect the interest of the owners while trying to maintain some of the affordability with the current rental stock.

Acting Chairperson Fox noted that some friends who lived in Mountain View underwent condominium conversions of their apartments, and the new owner asked the existing residents to leave immediately. The complex became a blighted property, and the buildings were ultimately proposed to be bulldozed in order to build high-end luxury

condominiums. She inquired what protections within the Ordinance would prevent that from happening.

Mr. Bocian replied that the entire public process would prevent that kind of occurrence and added that the City Council must approve the conversion with a very detailed plan. There must also be adequate notification of the tenants, who would have the right to have no rental increases, an opportunity to purchase the unit, and relocation assistance.

In response to an inquiry by Acting Chairperson Fox regarding whether a converted property must be retroactively made ADA-compliant and meet the open space ordinance requirements, Mr. Bocian believed that may be possible and that it may be more of a Planning question than a process. He believed that in the application process, a variance may be requested for those sorts of issues.

In response to an inquiry by Acting Chairperson Fox with respect to people with vouchers for Section VIII housing, Mr. Bocian replied that the Section VIII vouchers generally go with the tenant rather than with the development. It would be possible to get some unit-based vouchers, but he did not know of any developments in town that met that criterion. The Ordinance did contain provisions that those tenants, depending on their income level or their age, have the opportunity to stay in the unit for a certain period of time. For instance, a senior may stay in the unit for nine years. Very-low-income tenants may stay for an additional three years.

Acting Chairperson Fox inquired what would happen if an existing apartment complex in Pleasanton already has reserved below-market-rate affordable housing units within the City's affordable housing plan. Mr. Bocian replied that the change proposed in the Inclusionary Zoning Ordinance indicated that if there was an existing affordable housing agreement on the development that exceeded the required affordability within the existing development, that agreement would have to be extended to the converted project as ownership units.

In response to an inquiry by Acting Chairperson Fox regarding whether this Ordinance applied to seniors in the mobile homes in the area, Mr. Bocian replied that it was possible to have a common interest development in a mobile home park; he noted that they did not exist in Pleasanton at this time.

A discussion ensued addressing the inclusion of moderate-income households in affordable housing and the focus of various City Councils with respect to those households and home ownership.

In response to an inquiry by Commissioner Pearce regarding whether apartment units are required to have a certain percentage of Section VIII vouchers accepted, Mr. Bocian replied that was not the case.

Acting Chairperson Fox suggested that the Commission make comments page by page.

## **Exhibit A, Residential Condominium Conversions**

### **Page 1**

Acting Chairperson Fox inquired whether the approval referred to in Item C. (Date of approval) meant a PUD, conditional use permit, or some other means of approval. Mr. Bocian interpreted that as being a general approval, or an agreement with the developer regarding the terms of the conversion. There would also be an affordable housing agreement.

Acting Chairperson Fox suggested that the approval process include a legislative act by a rezoning action, a PUD, or some mechanism whereby if an item is approved, it could be reconsidered or referended at a future date.

### **Page 2**

Regarding Item J, Commissioner Olson inquired what the current area median income was in the Oakland Primary Metropolitan Statistical Area; Mr. Bocian replied that for a family of four, it is \$83,800.

Acting Chairperson Fox suggested that “tenant, moderate income” and “a tenant who holds a Section VIII voucher” be defined.

### **Page 3**

Commissioner O’Connor noted that the project description discussed 25-percent affordable housing as serving low-, very-low- and moderate-income households; Number 6 on this page did not mention moderate income. Mr. Bocian noted that referred to Program 13.8 of the Housing Element of the General Plan.

Commissioner Blank would like language to be included that specified that no condominium conversions may take place without at least one unit being very-low income.

Commissioner O’Connor suggested that be taken a step further as the City was not meeting the low- and very-low-income numbers; the moderate-income numbers were acceptable. He suggested forcing the issue by requiring that the 25-percent figure be applied to very-low- and low-income households, especially with respect to the units with smaller square footage figures. The Commission generally agreed with that suggestion.

Mr. Bocian advised that the affordability requirements apply to developments that have more than 15 units.

Commissioner Blank suggested that the 25-percent requirement apply to low- and very-low-income households and that the moderate-income requirement be removed. The Commission generally agreed with that suggestion.

Regarding Physical Standards (Section 17.04.040), Acting Chairperson Fox wanted to ensure that of the 25-percent units, the affordable units were not clustered in one or two units so that they would be identifiable as an affordable housing cluster. Mr. Bocian noted that was set forth in the Inclusionary Zoning Ordinance.

With respect to Item 3 addressing CC&R's and maintenance, Acting Chairperson Fox noted that she has seen many balconies being used as storage areas. Mr. Bocian believed that would be covered by the CC&R's.

Acting Chairperson Fox inquired about retroactively converting developments to the Federal ADA requirements. Mr. Bocian noted that if the units were being retrofitted, they must meet all of the zoning and building code requirements.

#### Page 4

With respect to Item 3 (Parking), Acting Chairperson Fox would like to clarify that parking shall be in accordance with the current parking ordinance if the existing project was initially approved as an apartment. Mr. Bocian advised that Item 3 required that it conform to the condominium parking requirements.

With respect to Noticing Requirements (Section 17.04.050), Acting Chairperson Fox inquired whether the property owner, the developer, or the City would be responsible for delivering the notice. Mr. Bocian replied that it would be the responsibility of the property owner who submits the application for conversion. Acting Chairperson Fox requested that that be clarified within the document.

With respect to Item D.1., Acting Chairperson Fox would like to see the extension of time for low-income tenants to be increased from one to two years. She would also like to see some language stating that Section VIII voucher-holders may have similar rights to continue their residency for at least the amount of time allowed for low-income tenants. Mr. Bocian noted that depending on the rent cycle, the low-income rents may equal or exceed market rents. The thought was to give low-income households some extra time.

In response to an inquiry by Acting Chairperson Fox regarding when the clock started with respect to lease extensions, Mr. Bocian confirmed that it would start from the date of the notice of the intent to convert.

#### Page 5

With respect to Item E.2. (Price Reductions), Commissioner Pearce inquired whether the "as-is" price reduction may be taken on top of the price reduction after 18 months of tenancy. Mr. Bocian confirmed that was the case.

Acting Chairperson Fox noted that in the Mountain View instance she cited, there were multiple renters on the lease agreement. She inquired how the condominium conversion



options would be handled. Mr. Bocian noted that it was not intended that if there were four names on the lease, four people could buy units. While it was not spelled out in the document, the intention was that there was an opportunity to buy the unit at a discounted price. Staff would clarify that language in the document.

#### Page 6

Acting Chairperson Fox noted that she liked the tenant relocation assistance program (Item F.1.). She inquired whether that would apply to the seniors, low-, and very-low-income households that were allowed to stay on a lease extension. Mr. Bocian confirmed that would be the case.

#### Page 7

Regarding Section 17.04.070 (Public Hearing Required), Acting Chairperson Fox would like to see a Planning Commission hearing. She believed that in many cases, they would require parking ordinance variances or some sort of physical modification of the property in order to meet the parking requirements. She also believed that the process should be similar to that used when new owners took over an existing project. Mr. Bocian noted that any planning-related matter, such as parking or a variance issue, would go to the Planning Commission through the normal course of action. The final decision on the conversion would be handled by City Council, and the decision regarding the affordable housing agreement would be handled by the Housing Commission.

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

Mr. Charles Clark noted that two years ago, he bought the property that initiated this process. He agreed that parking was an issue and added that they had to configure the property to reduce the number of units in order to meet the parking requirements. At the time he was looking at the property, it included a 15-percent below-market-rate inclusionary units. He would be willing to accept the 25 percent and noted that parking would still be an issue. He would like to get a variance on those units to have one parking space per unit. He believed that having two parking spaces per unit would make it more difficult to improve the property. He noted that more than 40 percent of the condominium units were rented. If the parking requirements were not reduced, he would have to demolish two units and would go from 51 units to 43 units. He would be able to make the single space a garage or covered parking space and would be able to meet the 25 percent.

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

Page 8

In response to an inquiry by Commissioner Pearce for clarification of Item 8 (Program 11.1. of the Housing Element), Mr. Bocian noted that it indicated that the City should strive that 50 percent of the multiple-family units in the City should be rental units.

**Exhibit C, City Inclusionary Zoning Ordinance**

Page 1

There were no comments.

Page 2

On line 2 of paragraph 1, “Moderate” would be stricken from the redlined language.

Page 3

There were no comments.

Page 4

In response to an inquiry by Acting Chairperson Fox regarding whether subleasing these units would defeat the process of opening the units up to prospective tenants, Mr. Bocian noted that the affordability requirements are required in the agreements that are signed with the City when an inclusionary unit is purchased. Those agreements state that the units may not be subleased, and the tenants must occupy them as their primary resident.

Acting Chairperson Fox inquired whether the senior units were protected against converting a designated senior apartment into condominiums. Mr. Bocian replied that there was no blanket protection provided by the City, but for that particular project, there are both tax credits and bonds on that project that require that they be rented. There is also an affordable housing agreement that the developer has with the City that indicates that they must be rented to particular income levels in perpetuity.

Page 5

Acting Chairperson Fox noted that in Item A., “Moderate Income” should be stricken.

Page 6

Acting Chairperson Fox requested additional language requiring that inclusionary converted units be dispersed throughout the property. Mr. Bocian confirmed that Section A (Section 17.44.050) may be amended to state, “Inclusionary units, *including*

*converted units*, shall be dispersed throughout the project unless otherwise approved by the City.”

Page 7

There were no comments.

Page 8

There were no comments.

Page 9

Regarding “B. Design Modifications,” Acting Chairperson Fox inquired whether that applied only to new development or whether fewer design standards apply in general to converted properties. Mr. Bocian noted that they could apply to converted units, but there were no grants *per se*. This section related to potential incentives that could be offered by the City to accommodate affordable units.

Page 10

There were no comments.

Page 11

There were no comments.

Page 12-13

There were no comments.

Acting Chairperson Fox inquired whether a tenant would be able to receive temporary relocation assistance if the developer made substantial modifications to the interior or safety/Code retrofits. Mr. Bocian noted that paragraph 1 on page 5 addressed this issue, stating that they may be relocated to a comparable unit, with all relocation costs to be assumed by the developer, including additional rent.

Acting Chairperson Fox expressed concern about the “as is” units becoming the affordable units. Mr. Bocian noted that the buyers have the option of buying the units in an “as is” condition for a price reduction.

**Commissioner Olson moved to recommend approval to the City Council of the Condominium Conversion Ordinance and the Inclusionary Zoning Ordinance, as revised by the Planning Commission on Exhibits A and C, respectively, of the staff report.**

**Commissioner Blank seconded the motion and suggested an amendment that when the recommendations are brought to the City Council, the Planning Commission be copied on the revised documents.**

**The proposed amendment was accepted by Commissioner Olson.**

Mr. Bocian confirmed that staff would provide that information.

**ROLL CALL VOTE:**

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

**NOES: None.**

**ABSTAIN: None.**

**RECUSED None.**

**ABSENT: None.**

**Resolution No. PC-2006-56, recommending approval to the City Council of PRZ-35, was entered and adopted as motioned.**

**7. MATTERS INITIATED BY COMMISSION MEMBERS**

Natural Lighting for Color and Paint Samples

Commissioner Blank inquired whether there had been any progress on providing a day lamp for the inspection of the paint samples brought before the Commission.

Ms. Decker noted that staff was working on that request.

Just Tires

Acting Chairperson Fox noted that the former Just Tires building appears to be vacant and inquired whether the property owner could remove the signage. Ms. Decker noted that staff would look into that matter.

Pedestrian/Bicycle Safety

Acting Chairperson Fox expressed concern about the fatal bicycle accident involving a nine-year-old child and that another person had been critically injured on Main Street. She inquired what pedestrian and bicycle safety measures could be taken that the Planning Commission could integrate when approving developments. Ms. Decker noted that staff would discuss this issue with the Traffic Engineer and would examine items that the Planning Commission may consider.

Commissioner Olson noted that many accidents occur because residents are speeding on the way home.

Appointment of Traffic Engineer Mike Tassano

Ms. Decker noted that Mike Tassano has been appointed the City's Traffic Engineer and is no longer serving on an interim basis.

Gathering for Former Commissioner Brian Arkin

Acting Chairperson Fox inquired whether a get-together for former Planning Commissioner Brian Arkin could be scheduled for November 8, 2006. Ms. Decker noted that could be arranged, or it could be delayed to December 13, 2006. Staff would follow up with him to see what his preference might be.

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

**a. Election of Vice Chair.**

This item will be considered at the December 13, 2006 meeting.

**b. Future Planning Calendar**

Ms. Decker noted that the Sarich project would be scheduled as a work session at the next Planning Commission meeting.

**c. Actions of the City Council**

Acting Chairperson Fox noted that the Ponderosa project was approved 4-1 and that the Planning Commission's decision regarding the Boyce application was upheld 5-0.

Ms. Decker remarked that the Austin application was approved 5-0.

In response to an inquiry by Commissioner O'Connor regarding whether the Georgatos appeal had taken place, Ms. Decker noted that it would go to the City Council on November 7, 2006. She stated that they had gone through the mediation process as the Planning Commission had requested prior to the case being heard by the City Council.

**d. Actions of the Zoning Administrator**

No discussion was held or action taken.

**9. COMMUNICATIONS**

No discussion was held or action taken.

**10. REFERRALS**

No discussion was held or action taken.

## **11. MATTERS FOR COMMISSION'S INFORMATION**

Ms. Decker advised that the Commissioners would receive a memo from Ms. Harryman or herself with respect to procedures. One of the procedural changes included is that when the public comment period is closed for an item that has been continued, the public hearing may not be opened at the next meeting.

Ms. Harryman noted that if the Planning Commission would like the opportunity to hear more public speakers for an item they are considering continuing to the next available hearing date, the public hearing should not be closed.

## **12. ADJOURNMENT**

Acting Chairperson Fox adjourned the Planning Commission meeting at 11:08 p.m.

Respectfully,

DONNA DECKER  
Secretary