

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

DRAFT

Wednesday, August 27, 2014

CALL TO ORDER

The Planning Commission Meeting of August 27, 2014, was called to order at 7:00 p.m. by Chair O'Connor.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by the Commission.

1. ROLL CALL

Staff Members Present: Brian Dolan, Director of Community Development; Adam Weinstein, Planning Manager; Julie Harryman, Assistant City Attorney; Steven Bocian, Assistant City Manager; Steve Otto, Senior Planner; Shweta Bonn, Senior Planner; Marion Pavan, Associate Planner; Jenny Soo, Associate Planner; Eric Luchini, Associate Planner; Mike Tassano, City Traffic Engineer; Maria L. Hoey, Recording Secretary

Commissioners Present: Commissioners Nancy Allen, Jack Balch, Greg O'Connor, Gina Piper, and Herb Ritter

Commissioners Absent: None'

2. APPROVAL OF MINUTES

a. July 23, 2014

Commissioner Balch requested that the word "survey" be added before the word "hoses" in the third sentence of the sixth paragraph on page 9.

Commissioner Allen moved to approve the Minutes of the July 23, 2014 Meeting, as amended.

Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, and Piper
NOES: None
ABSTAIN: Commissioners O'Connor and Ritter
RECUSED: None
ABSENT: None

The Minutes of the July 23, 2014 Meeting were approved as amended.

b. August 13, 2014

**Commissioner Ritter moved to approve the Minutes of the August 13, 2014 Meeting, as submitted.
Commissioner Allen seconded the motion.**

ROLL CALL VOTE:

AYES: Commissioners Allen, O'Connor, Piper, and Ritter
NOES: None
ABSTAIN: Commissioner O'Connor on Item 6.b.
RECUSED: None
ABSENT: None

The Minutes of the August 13, 2014 Meeting were approved as submitted.

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

There were no members of the audience wishing to address the Commission.

4. REVISIONS AND OMISSIONS TO THE AGENDA

Adam Weinstein advised that there were no revisions or omissions to the Agenda.

Brian Dolan reminded the Commission that Item 6.b., PUD-25, Mike Meyer/Tim Quinn, Greenbriar Homes, Lund Ranch II will address the adequacy of the Environmental Impact Report (EIR) prepared for the Lund Ranch II project and whether or not the environmental impacts have been adequately addressed. He indicated that the merits of the project or preferences for alternatives is not the subject of tonight's meeting and that another public hearing on the project will be held once the EIR is completed.

Commissioner Ritter inquired if staff will be answering comments on the EIR.

Mr. Dolan said no. He explained that the California Environmental Quality Act (CEQA) requires the consultant to respond in writing to comments on the EIR and the consultant will compile those questions, who asked the question, and the response to the question into a document called Response to Comments, which, together with the Draft Final EIR, will comprise the Final EIR. He added that any comments on the merits of the project and preferences for alternatives will be noted but will not be responded to in the EIR.

5. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved, or adopted by one motion unless a request for removal for discussion or explanation is received from the Planning Commission or a member of the public by submitting a speaker card for that item.

Chair O'Connor indicated that Item 5.c., P14-1139, McKay's Taphouse and Beer Garden will be removed from the Consent Calendar and will be heard as the first item under

6. PUBLIC HEARING.

Julie Harryman advised that consideration of the two items under **5. CONSENT CALENDAR** will be considered separately as Commissioner Balch will recuse himself for Item 5.a., P14-0833, Crosspoint Church, due to a conflict of interest.

- a. **P14-0833, Crosspoint Church**
Application for a Conditional Use Permit to operate a church in a portion of an existing building located at 5627 Gibraltar Drive, in Hacienda Business Park. Zoning for the property is PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District.

Commissioner Ritter moved to make the required Conditional Use Permit findings as listed in the staff report and to approve Case P14-0833, subject to the Conditions of Approval as listed in Exhibit A of the staff report. Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, O'Connor, Piper, and Ritter
NOES: None
ABSTAIN: None
RECUSED: Commissioner Balch
ABSENT: None

Resolution No. PC-2014-38 approving Case P14-0833 was entered and adopted as motioned.

- b. **P14-1128, Shuang Chinese School**
Application for a Conditional Use Permit to operate a Chinese language and culture school on Sunday afternoons for up to 90 students at Pleasanton Middle School located at 5001 Case Avenue. Zoning for the property is P (Public and Institutional) District.

Commissioner Ritter moved to make the required Conditional Use Permit findings as listed in the staff report and to approve Case P14-1128, subject to the Conditions of Approval as listed in Exhibit A of the staff report. Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Piper, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2014-39 approving Case P14-1128 was entered and adopted as motioned.

6. PUBLIC HEARINGS AND OTHER MATTERS

Item 5.c. P14-1139, McKay's Taphouse and Beer Garden

Application for a Conditional Use Permit to operate a bar with extended hours until 11:00 p.m. on Thursdays and 12:00 a.m. on Fridays and Saturdays at 252 Main Street. Zoning for the property is C-C (Central Commercial), Downtown Revitalization, and Core Area Overlay District.

Eric Luchini presented the staff report and described the scope and key elements of the proposal.

THE PUBLIC HEARING WAS OPENED.

Craig Semmelmeier stated that he is a partner in several Downtown properties, one of which is adjacent to the proposed taphouse. He acknowledged that while the proposal would contribute to the vitality of the Downtown, vitality also creates unpleasant consequences. He indicated that some conditions not included in Exhibit A should be added, such as those relating to smoking and parking. He questioned where the smoking area would be for the customers and employees. He noted that based on the smoking ordinance in place, the subject site cannot accommodate smoking, which would then negatively affect their property at 349 Main Street. With respect to parking, he stated that the parking lot at 234 Main Street would be very convenient and ideal for the taphouse customers and that he is not opposed to sharing the use of that lot. He expressed concern, however, that heavy activity would increase their cost for operating the property and adding

security and janitorial services, and he did not want that cost to be passed on to their tenants while the taphouse would be getting a free ride. He indicated that a condition should be added that the applicant purchase parking for employees somewhere so they do not park in the most convenient or retail spaces.

Mike Hosterman, Chair of the Downtown Vitality Committee, stated that the Committee members overwhelmingly support the proposal and agree that it is a good use for the Downtown. He indicated that one of the 2000 priorities of the Pleasanton Downtown Association (PDA) is to get more retail and restaurant in the Downtown. He noted that this application fits in with that priority and increases the footprint and vitality of the southern end of the Downtown, together with Mr. Semmelmeier's Fleet Feet and Mangia Mi businesses. He added that this is a perfect use for the property and would add to the nighttime vitality of the Downtown. He acknowledged Mr. Semmelmeier's comments on parking but indicated that parking is a separate issue. He requested the Commission to support the proposal.

Vic Malatesta, owner of Vic's All Star Kitchen, concurred with Mr. Hosterman's comment that the project is a step forward to increase Downtown vitality, which the PDA has tried to build over the years. He indicated that the parking issue is nothing new and has always been a Downtown issue. He noted, however, that everyone who comes to the First Wednesday and Concert at the Park events during summer always finds a parking spot somewhere in the Downtown. He asked the Commission to approve this application.

Mike Peel stated that he is in favor of the application. He indicated that Josh and Barbara McKay are long-time residents of Pleasanton and noted that both the Police and Fire Departments are in favor of this proposal. He added that his family is in favor of the project and supports Josh and Barbara McKay.

Mike O'Callaghan stated that he is a member of the PDA Board of Directors, a builder and a developer, and a Downtown resident longer than he can remember. He indicated that he supports this great project that boosts the southern end of the Downtown. He recalled the days when there was no parking problem in the Downtown but noted that having parking problems is a good sign of vitality. He added that the business would not impinge on daytime parking and would require parking mostly in the evenings when there would be a lot of available parking spaces. He stated that the applicants are doing the right thing and the right type of business in the right location.

Josh McKay, Applicant, stated that he knew these issues would come up at some point and agreed, as was pointed out, that no parking is a good sign of life, business, and people moving in and out of the area. He indicated that the taphouse would increase vitality for that end of the City. He added that he wants to work with everybody, that he is not close-minded, and that any input or information is valuable to him.

With respect to smoking, Mr. McKay noted that the taphouse would obviously and always be a non-smoking venue. He indicated that there is a space behind the building with a back gate that can be used for smoking and that they will provide ashtrays. As regards

parking, he indicated that right at the entrance to the taphouse would be a large, visible parking map which would clearly show all the open parking spaces as well as the “no-go” parking spaces.

Barbara McKay added that either Josh or she will be at the entrance to meet and greet customers and show them where parking is acceptable and where it is not. She noted that the taphouse has a maximum capacity of 230 people but seats less than 180. She further noted that there is plenty of parking available at Old Bernal Avenue, within a couple of blocks from and a very easy walk to the taphouse. She added that they are open to suggestions.

Mr. McKay stated that there is a lot of foot traffic coming from the other side of First Street and from the Fairgrounds. He further stated that there needs to be something on this end of the Downtown and that they would not be setting up business there if they did not believe in it.

Chair O'Connor inquired about employee parking.

Mr. McKay responded by asking if other businesses are required to have employee parking. He indicated that in the past few weeks, he was counting the parking on the railroad tracks. He noted that the hours of operation of businesses on First Street are earlier, and the taphouse opens when the retail business day ends.

Ms. McKay noted that the First Street businesses are busiest from 8:00 a.m. to 9:00 a.m. and from 3:00 p.m. and 5:00 p.m.; the taphouse does not open until 11:00 a.m.

Chair O'Connor inquired if there will be parking in front of the business.

Mr. McKay replied that customers will be told not to park there.

Chair O'Connor asked Mr. McKay if they could put some signage directing customers to the smoking area.

Mr. McKay said yes.

Commissioner Allen inquired if they could formally ask their employees not to park in the private lots and if a sign could be placed on the Semmelmeier properties that parking is not available for the taphouse patrons. She further inquired if the McKays could be around the first few weeks to manage this.

Mr. McKay said yes to both requests and added that they would be there from beginning to end. He indicated that he cannot guarantee 100-percent compliance but that every patron will know and be informed.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Piper stated that she was in favor of approving the application. She indicated that it was a wonderful idea and would enhance Downtown vitality. She noted that it was great to have Pleasanton residents establishing a business in the Downtown and thanked the McKays for doing so.

Commissioner Allen agreed. She stated that it was a wonderful project and that Pleasanton needs revitalization in that end of town. She indicated that she is comfortable with the proposal, with the additional conditions.

Commissioner Balch stated that staff did an excellent task and added that he is supportive of the application with the proposed changes addressing the issues.

Commissioner Ritter stated that he is supportive of this proposal, a great addition right next to City Hall and which would contribute to more economic vitality.

Chair O'Connor echoed the Commissioners' comments and indicated his support for the project.

Commissioner Ritter moved to make the required Conditional Use Permit findings as listed in the staff report and to approve Case P14-1139, subject to the Conditions of Approval as listed in Exhibit A of the staff report, with the addition of conditions that the applicant implement measures to ensure that parking demand does not spill over into private parking lots and to require the designation of a smoking area, if deemed necessary. Commissioner Balch seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Piper, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2014-40 approving Case P14-1139 was entered and adopted as motioned.

- a. **PUD-102/P14-0014, MD Roesbery, Inc.**
Applications at the approximately 0.78-acre Valero service station site located at 3192 Santa Rita Road for: (1) Rezoning from the C-N (Neighborhood Commercial) District to the PUD-C (Planning Unit Development – Commercial) District; (2) PUD Development Plan to convert approximately 1,752 square feet of the existing approximately 2,634-square-foot auto service building to a convenience store and the remaining floor area of the building to a drive-through carwash; construct an approximately 715 square-foot addition to the proposed convenience store;

construct a new trash enclosure and carwash equipment room; and undertake related site improvements; and (3) Conditional Use Permit to operate a convenience store with the sale of alcoholic beverages and a drive-through carwash in conjunction with an existing service station. Also consider the Negative Declaration prepared for the project.

Jenny Soo presented the staff report and briefly described the scope, layout, and key elements of the application.

Commissioner Allen noted that the 2013 crime numbers on the slide presented were different from those on the August 7, 2014 memo from Police Lt. Jeff Bretzing, Attachment E of the staff report. He asked Ms. Soo if the numbers on the slide were averaged per year with a few of the rows removed.

Ms. Soo replied that she added up the numbers for the two 7-Eleven stores on Hopyard Road and Valley Avenue.

Commissioner Allen stated that she was looking at the Hopyard Road 7-Eleven store, which had 48 incidents for one year, and removing the traffic stops which do not apply in this case brings down the number to 33. She indicated that she is trying to add up the numbers and she is coming up with higher numbers than what was shown on the slide. She requested staff to double check the numbers.

Mr. Weinstein explained that staff is not reporting total criminal activity but just some of the key criminal activities in the overall data. He pulled out the numbers for robbery for the two stores and the surrounding areas, and the Police report shows that there was one call, as opposed to the six incidents shown on the slide. He pointed out that there could have been other things that were counted under robbery on the prepared slide. He noted that the burglary numbers are correct based on the 2010-2014 numbers provided: one at the two 7-Eleven stores and four at the project site and its surroundings. He added that the vandalism numbers should be correct as well; and the numbers in the robbery section may actually be consolidated data from different criminal activities that are listed under that category.

Commissioner Piper noted that the juvenile numbers seem like they are off as well.

Commissioner Allen agreed that the numbers are way off.

Mr. Weinstein apologized for the errors on the chart and stated that staff will go back to review and then correct the numbers.

Commissioner Balch stated that the data source is from the Lieutenant's report.

Commissioner Allen noted that there is no crime data for a 7-Eleven store that includes a gas station. She pointed out that both the store and the gas station should be considered for crime data at the proposed location.

Mr. Weinstein agreed. He stated that crime is something staff spends a lot of time on, collaborating with the Police Department and looking and analyzing these this data. He indicated that Ms. Soo and he met with Lt. Bretzing, who provided this initial data, and Lt. Bretzing made it clear that he does not have any concerns with this proposed use. He added that Lt. Bretzing did call out the fact that he does not have data for a gas station with a 7-Eleven store, but he did not think that was a critical issue in terms of that specific combination of uses generating crime.

Commissioner Balch referred to the noise measurements from the summary of long-term noise measurements on Table 2 on page 10 of the noise assessment report and asked staff to verify the 82 dBA reading in the L-max column under weekday. He noted that the noise generated under the existing condition is greater than what the car wash would have generated without the sound wall. He inquired if the noise is louder with or without the sound wall.

Mr. Weinstein replied that the L-max reading is the highest volume of noise that was identified during that monitoring period when the noise consultants actually went out to this area and took noise measurements. He noted that 82 dBA may have been an ambulance driving down the street or something really loud happening. He added that that maximum is well in excess of the maximum noise that would be generated by the car wash with the noise barrier.

Commissioner Balch inquired if the LDN, which is kind of the mean or median, would be a more appropriate measure.

Mr. Weinstein stated that those are the day and night average levels. He added that that would be the reading one would get if noise were averaged over the course of the day.

Commissioner Balch requested confirmation that the noise from the car wash would go down to 68 dBA or 69 dBA with the sound barrier.

Mr. Weinstein said yes.

Commissioner Allen noted that questions and concerns were received from residents regarding the noise that might be generated in their homes from the car wash. She asked Mr. Weinstein if the noise analysis would show that the residents would hear the car wash at 9:55 p.m. on a hot summer day if their windows were open.

Mr. Weinstein noted that 9:55 p.m. would be a really quiet time of the day, and not much goes on during Sunday evenings. He stated that the noise study would include data for the worst case scenario of ambient noise levels versus the maximum noise level that the project could generate. He indicated that the consultants went out and gathered empirical data regarding noise in this area, and what they found was that the existing minimum noise level during weekend nights was about 45 dBA, which is fairly low. He

continued that the maximum noise level generated by the car wash at the nearest homes to the west across Santa Rita Road would be something like 45 dBA related to the car wash, which would not exceed the lowest noise values that exist on a Sunday night while nothing else is going on. He stated that based on that data, staff believes that the car wash would not generate perceptible noise at the nearest residences to the project site.

Commissioner Allen referred to Ms. Soo's statement that there were petitions on both sides and noted that the petition submitted by the applicant was presented to customers of the Valero gas station stating that they support the proposal to convert the existing service bays to a 1,627-square-foot food store and drive-thru car wash. She further noted that nowhere in any of those petitions did she see anything about the request for the addition of alcohol sales or that this is a 7-Eleven store. She pointed out that when people signed this petition, they were not signing something supporting alcohol or a generic 7-Eleven store; they were supporting a generic food store and a car wash. He asked staff if she was reading the petitions correctly.

Ms. Soo said yes. She added that she visited the site, and there is a big banner posted on the building showing the renderings of a future store. She indicated that those customers who signed the petition would have seen that banner because it is very large.

Commissioner Allen asked if the banner said anything about alcohol sales.

Mr. Soo replied that it did not.

Commissioner Piper stated that the petition did say it would be open 24 hours.

Commissioner Allen stated that the petition presented at the Planning Commission Work Session did not say 24 hours.

Ms. Soo explained that the petitions circulated before the Work Session stated that it was a 24-hour operation, which was what the applicants were originally proposing then.

Commissioner Allen inquired if this was at the neighborhood meeting with 10 people or so in attendance.

Ms. Soo said yes.

THE PUBLIC HEARING WAS OPENED.

Mike and Diane Roesbery stated that they have had this business for about 15 years as a gas station and auto repair shop and that they have been struggling with this for a while because they clearly had to shut down the repair shop. He indicated that their son had been operating the store for them in the last couple of years, but it had been a real struggle and so they shut it down about a month ago because it just did not work

anymore. He stated that they knew they needed to make some changes, and the convenience store and car wash seemed to be the best way to go. He added that it is good for the neighborhood, and it is also good for the business.

Mr. Roesbery stated that the gas station will stay with Valero as they have a contract with Valero, and the car wash will be touchless. He indicated that he had another gas station with a touchless car wash, and there has never been a problem with any damage to cars. He added that about three years ago, he converted the convenience store at his other gas station to a 7-Eleven. He noted that he is aware that a lot of people are really down on 7-Eleven, but to him, 7-Eleven is the best. He stated that he has run convenience stores over the last 20 or so years, and he does not know one small fraction about what the people at 7-Eleven know about convenient stores. He indicated that they are on top of everything that is supposed to be done at a convenience store as far as health, safety, and monitoring, and a consultant comes out every week and spends a lot of time with them. He added that they send out mystery shoppers to make sure everything is being done right. He indicated that he is a big fan of 7-Eleven and thinks that people who are opposed might be a little more surprised if they see the newer 7-Eleven stores: they have fresh food and a lot better products.

Mr. Roesbery stated that they have listened to the neighbors' complaints and staff's concerns about all those things that have been brought up. With respect to security, he indicated that he has two people at all times the store is open, and there will be two cashiers to help keep a clean store and monitor for crime and such. He added that they are making some really nice improvements for the neighborhood, they will change the lighting and put in all new LED lighting so it will be brighter and cleaner and have better usage, and they will put new gas pumps so they will be updated and a lot easier to use.

Mr. Roesbery stated that there are 12 gas stations in Pleasanton, and not one of them is operating an auto repair shop, including the one on Hopyard Road that he used to own until about a year ago, whose new owner tried a couple of times and has eventually closed down as well. He noted that it is clearly the way to go for most gas stations. He added that he knows beer is a concern, but they will monitor the sale of beer and lock the beer coolers at 11:00 p.m. so nobody can buy them late. He indicated that there are places around that sell beer, including the WalMart Neighborhood Market next door, and people who are going to buy beer will go and buy beer. He asked the Commission to see this project their way and assist them in making it a reality.

Commissioner Piper asked Mr. Roesbery where his other service station with a 7-Eleven store was located.

Mr. Roesbery replied that it is in Antioch.

Commissioner Piper inquired if it was close to a residential area.

Mr. Roesbery replied that behind the gas station were all residential properties. He added that the 7-Eleven was open 24 hours.

Commissioner Ritter asked Mr. Roesbery if his gas station would become a smog check station if he does not convert it into a convenience store. He noted that he does not know what else could be done at that location besides a convenience store.

Mr. Roesbery replied that he did not really know but that he cannot continue to be out of service. He indicated that they have working on this project for a long time and that if it does not work, he does not know what they could do.

Brad Hirst stated that on the subject of crime, to be precise, the two numbers the Commission should remember are zero and one: in the 15 years that Mr. Roesbery has been at this location, there have been zero robberies and one burglary. He noted that there have been more robberies at banks in Pleasanton than there have been at this property, and the one burglary, which occurred the past September, was caught on video.

With respect to noise, Mr. Hirst clarified that one thing that probably should be brought up and that no one at the City likes to hear this is that when the windows are open on Sunday night, the people in the house will hear noise, but it will be from the City streets and not from the car wash. He indicated that the City streets exceed the noise ordinance in Pleasanton. He added that if the neighbors have a problem with having their windows open on Sunday night, they should talk to the people on the street.

Mr. Hirst stated that this is the age of change, and change is all around. He indicated that he calls it the "Amazon" generation, and today's Pleasanton does not have Fisher's Drive-In at Main Street and Stanley Boulevard; it does not have a Valley Drive-In movie theater at Valley Avenue and Santa Rita Road; and most significantly, Rose Ranch, now known as Pleasanton Meadows, no longer floods. He pointed out that this property has been a gas station for 45 years; the Exxon two-bay service station was torn down years ago in 1989 and was replaced with the current building which has four service bays. He added that as has been mentioned by Mr. Roesbery, the trend of doing automotive service in service stations is out the window; it is a high-liability, low-margin, high-risk, labor-intensive issue, so there will be change.

Mr. Hirst stated that they notified the neighborhood about this proposal and personally knocked on the 200 closest doors across Santa Rita Road and West Las Positas Boulevard, on Weymouth Court and up Fairlands Drive. He added that they also invited 600 people to the neighborhood meeting, using the same list the City used, and of the 600 invitees, 11 residents showed up and three were opposed to the project. He stated that so much has been made about a petition with 30 signatures, but they have turned in a petition with 275 to 300 signatures in favor of the application, 90 percent of whom were Pleasanton residents and about 75 percent were from the neighborhood. He indicated that there will always be opposition, but they have overwhelming neighborhood support.

Mr. Hirst asked Ms. Soo to display the site plan and then described the proposed project. He stated that there has been some misconception that this is a two-story building, but it is not. He pointed to the three existing open service bays that will be converted to a storefront with an entrance and three parking places; and the trash enclosure, to the left of which will be the bike racks. He stated that there will be an entrance on the north side of the building, with the primary entrance with a new 23-foot tall tower element on the west side. He then pointed to an emergency-only door that will be locked from the outside as required by the Fire Department; the 11 coolers and reach-in coolers, four of which be for wine and will be locked; and two restrooms, men's and women's.

Mr. Hirst stated that Dee Church, the store manager, had the shrubs trimmed so they could be lower for better visibility, and proposed that a caution sign to watch for exiting vehicles be posted on the West Las Positas Boulevard side for pedestrians and particularly the students walking by the location of the gas station. He pointed out that the Santa Rita Road/West Las Positas Boulevard intersection is the busiest in Pleasanton with 44,000 cars going through there daily. He added that there is a 24-hour fire station across the street, and 20 percent of the service calls are between 10:00 p.m. and 6:00 a.m.; there is a 24-hour emergency room diagonally across the street, and 25 percent of the annual calls are also between 10:00 p.m. and 6:00 a.m.

Mr. Hirst stated that Santa Rita Road is obviously the primary entrance for the whole east side of Pleasanton to get to the freeway, and in the spirit of cooperation and compromise, Mr. Roesbery has made three major concessions: (1) He really wants to be open 24 hours, but he has agreed to operate from 5:00 a.m. to 1:00 a.m. (2) The beer and wine sales will be limited to 11:00 p.m., and the 6:00 a.m. to 11:00 p.m. hours of operation match those at WalMart. (3) The car wash will operate from 7:00 a.m. to 10:00 p.m. instead of during the store's operating hours. He asked the Commission for its approval, saying that Mr. Roesbery has complied with all the staff requests over the past year; he has staff's recommendation, and the Police Department has indicated that it has no problem with the operation.

Chair O'Connor stated that the biggest complaint that has been brought up, at least from the letters that have come in, is around the noise. He indicated that he knows this is a busy intersection and that there is already a lot of noise there. He noted that he believes the neighbors are more worried about the later night noise when traffic gets a little better on the street as opposed to the middle of the day. He asked if the applicants would be willing to look at a one-hour reduction in the car wash hours of operation and moving that back to 9:00 p.m.

Mr. Hirst replied that what might make sense is to limit the carwash to 9:00 p.m. during standard hours and 10:00 p.m. during daylight saving hours as it is still light then until 9:00 p.m. He indicated that the applicant is agreeable to that.

Dan Skinner stated that he has been a 7-Eleven employee for 35 years and has held various positions throughout the Bay Area but is currently running 91 stores in the South

Bay. He indicated that he is a market manager, but more importantly than where he has made his living the last 35 years is that he has lived with his family in Pleasanton since 1988, and his wife, whose family has lived in Pleasanton since 1968, was a member of the first graduating class of Foothill High School. He added that they are invested in this City and have lived in the Meadows since 1993, and that they love that neighborhood and would not do anything to see it go down. He stated that both his daughters went to Fairlands Elementary, Hart Middle School, and Amador High School.

Mr. Skinner stated that 7-Eleven has been a corporate resident of Pleasanton since the early 1980's and has a western region office in the City, the first over by Stoneridge Mall and now at the corner of Chabot and Stoneridge Drives. He added that 7-Eleven has been transforming itself over the last 20 years and is becoming a preferred food and destination, looking at "fresh" as a way to make itself more important to the communities. He noted that they have a daily delivery of fresh bakery, fresh sandwiches, fresh fruit, and fresh dairy, stating that a gallon of milk at 7-Eleven is bottled the night before it was delivered and has 16 days of code. He added that 7-Eleven has pioneered a number of programs in its stores to improve safety as well as control the sale of age-restricted products. He noted that it has a State-recognized program called "Come of Age" which trains its employees on how to responsibly sell age-restricted products, which includes a scan process for I.D. and alerts the sales associate if someone who is under age is trying to buy these products. He continued that it also has "Operation Alert" which speaks to providing a safe shopping environment, and uses a time-access safe which controls the amount of cash in the store, thus making it less favorable and less desirable for any crime that might occur, such as burglary or robbery. He added that it also has a program called "Operation Chill" where they cooperate with local police departments and youth.

Mr. Skinner stated that 7-Eleven franchisees are involved in community activities and offer local sports team sponsorships, holiday food drives, coat drives, Habitat for Humanity, and the Muscular Dystrophy Association; they have gone to Food Banks and helped sort food for less fortunate people, and have also done California Coast cleanups. He indicated that 7-Eleven is invested in California, in the Bay Area, and in Pleasanton. He added that its success is really based on establishments of partnerships with great, positive influences and business people like Mike and Diane Roesbery.

Kevin Shinmann stated that he is a market manager with 7-Eleven and oversees 89 stores in its East Bay market, which includes the Pleasanton area as well as Mr. Roesbery's store in Antioch. He indicated that he is present tonight to speak on behalf of Mr. Roesbery as an operator. He stated that someone can go into any 7-Eleven and get the same Slurpee, but the difference in the operation of each 7-Eleven is the operator. He noted that Mr. Roesbery, as an operator, has made the investment in people and time and has subscribed to the standards that 7-Eleven would like to see in its stores. He indicated that 7-Eleven is not a one-person operation; two people are really needed to keep the store clean. He added that Mr. Roesbery's food safety standards meet the expectations of 7-Eleven's fresh food program; he employs people

within the community and models and mirrors his community. He concluded that 7-Eleven is an international brand, but it is the operator that makes it a community store, and that is what Mr. Roesbery does.

Dennis Staley stated that he has worked for 7-Eleven for 22 years in a lot of different positions, including market manager, fresh food merchandiser, and training on the West Coast for five years. He indicated that he is currently a Senior Real Estate representative and has worked with Mr. Roesbery on his previous store in Antioch and on this site since 2011. He stated that the gas station service bay business is a dying business model and even though the Mr. Roesbery ran a car care business for 15 years that was Diamond Certified, and even though his business acumen is stellar and his reputation is excellent, he could not make that business work anymore because the car business has changed so much. He noted that the business needs a computer technician or an electrical engineer, and service stations with the bay set up cannot afford the training for these technicians and the equipment to work on these cars. He further noted that over the past two years, multiple service bay gas station type environments have been converted to 7-Elevens stores and have been quite successful and profitable. He indicated that this is what Mr. Roesbery is trying to do as his revenue stream and profit margins have gone away and they have had to close the bank and the car care business. He added that Mr. Roesbery wants to open a beautiful 7-Eleven store on that site and be the best neighborhood store in that part of the community.

Jay Sarang stated that he is a 7-Eleven franchisee and has been in the business for about 12 years, operating four stores, two 2 of them locally in Dublin and in Livermore. He indicated that he has been involved with 7-Eleven for actually quite longer than that as his father has been a franchisee for a long time as well. He stated that things have changed with this company, and they have all been working hard to change the image which I so often hear about, with a state-of-the art delivery system, fresh sandwiches, donuts, and milk made and delivered every day. He added that the company has constantly invested in infrastructure development inside the store, installing camera systems for security, and a great training program related to alcohol sales, tobacco sales, and loitering, and community involvement. He stated that corporate and some franchisees got together recently during the Mt. Diablo fire and delivered dozens and dozens of cases of water and supplies to firefighters at Camp Parks, among other things. He indicated that this community would benefit from having a 7-Eleven store rather than some other store.

Dee Church stated that she has worked for Mr. Roesbery for over 25 years and at this business for about 15 years. She indicated that she has a lot of customers who want 7 -Eleven because it provides a lot of fresh food and a lot of other products that can be carried in the store. She added that they need a bigger store and is looking forward to having a 7-Eleven store at this location.

Tamara Battista stated that she has lived in Pleasanton for 16 years and has worked for Mr. Roesbery's for three years now at the Valero station. She indicated that a 7-Eleven store will not only help the community but also the shopping center that is sometimes

half empty due to the lack of pedestrian traffic coming through there so that businesses such as Boswell and Girasole have not been able to make it. She added that she thinks 7-Eleven would be a good change for Valero; it would help the neighborhood in and of itself, and the children who come through all the time would also love to have a Slurpee.

Weldon Theobald stated that he spent the last 28 years in the gas, convenience, and car wash industry, and has run as many as 40 gas stations at one time as a company. He indicated that for the last 15 years exclusively, he dealt mainly with Shell and has closely hovered over the building or revamping of 15 gas stations, one of which is at the Bernal Corners on Bernal and Valley Avenues. He added that he has searched the Circle K's, the Extra Miles, the On The Go, and all of them had a program, but none of them was as complete as what he has experienced with 7-Eleven when he joined Mr. Roesbery about two years ago. He noted that what 7-Eleven brings to the plate truly makes a difference in an operation.

Mr. Theobald stated that they worked very hard with City staff concerning the noise, and this was not an instant type situation, as having faced the same music at Bernal Corners, they wanted to minimize it to a point that there would be no problems.

Tiffany Driscoll stated that she would like to begin tonight by saying that this meeting is not about 7-Eleven, not about whether 7-Eleven is a great company, or what it has done in other neighborhoods, but about whether a 24-hour convenience store selling alcohol is compatible with the site and the surroundings. He pointed out that the only support she has heard in any of these meetings, including the neighborhood meeting, has come only from 7-Eleven corporate people and employees of the current gas station. She referred to the discussion on the neighborhood meeting on page 3 of the staff report and noted that all these things were covered but not really appropriately. She indicated that with respect to hours of operation for the convenience store and drive-thru car wash, they were told at the neighborhood meeting that the owners would be temporarily willing to be open for now from 5:00 a.m. to 1:00 a.m. and that this would not be a permanent situation. She stated that the neighborhood fully understands that if the zoning change is granted, neither they nor the public will no longer have any input on whether or not they would be allowed to go to a 24-hour store. She noted that a zoning change is something that has been tried before, and as a resident of the area, she has been through all the litigation with the two original shopping centers being built, including putting in a delivery driveway in an alley that would have backed up to her fence. She indicated that they asked for specific amendments to the property agreement which included not only the restricted delivery hours but the restriction of trucks being able to park back there overnight and idling with their refrigerator units after 10:00 p.m.

Ms. Driscoll stated that the applicant has put in a petition, saying they have some 200 odd signatures. She pointed out that these are not signatures from people of the neighborhood but from their customers who shop for gas and coffee. She noted that the petition signed by 30 residents were gathered in less than an hour in areas that Mr. Hirst said he originally covered knocking on doors.

Ms. Driscoll stated that this would be not only a zoning change but would also change the original property agreements that no alcohol would be sold on the premises. She indicated that when the gas station was rebuilt in 1989, the owners applied for a zoning change to be able to sell alcohol, and the neighborhood all got together and said no, and no to a 24-hour grocery store behind them. She added that there has been little talk tonight about the traffic studies, and what is failing to be shown on this map is that right across from the driveway onto West Las Positas Boulevard, there is an opening that is only used for the Fire Department to come in and out of the fire station. She indicated that they have tremendous traffic problems in the morning; there is an elementary school right down the street, and all the children who come will need to cross that driveway getting to and from school because there are no crossing lights or crossing guards on that side of the street from West Las Positas Boulevard across Santa Rita Road. She noted that when they mentioned this at the neighborhood meeting, they were told that the traffic studies and traffic engineer did not find a problem in this area at that time and that if it became a problem later, the neighbors would have to deal directly with the City. She stated that they are not interested in doing that and that they would like to prevent these traffic problems at this time.

Ms. Driscoll stated that another thing that was indicated to them at the neighborhood meeting was the crime numbers, and it appears that they never get the right numbers. She indicated that at the last Planning Commission meeting, it was determined that 7-Eleven had been robbed twice in 27 months, and now they are saying that there has been only one robbery at one location. She added that Mr. Hirst had told them specifically that there were no robberies at any convenience stores in Pleasanton in the last five years, and this is untrue. She noted that a lot of the information that the neighborhood residents have received have either been false or misrepresentative of the issues. She pointed out that WalMart is open from 6:00 a.m. to 12:00 midnight, but they do not allow any of their trucks in there again to park. She added that they have not seen any environmental study or traffic studies, and when she asked for the noise studies at the neighborhood meeting, she was specifically told that the noise studies had been put into the Planning Commission staff report and were unavailable for her to see or for any of them to get numbers or clarification on when these studies were done, how they were done, and who they affected. She indicated that they were talking about the townhouses which are across the street from the location, while she actually backs up on the other side of the shopping center. She noted that she has a sound wall but she hears every truck that comes in and out of there, and she knows she will hear the car wash. She stated that she would also like to point out that the applicants sold their Valero gas station on Hopyard Road once it was determined that they would never get a 7-Eleven or any kind of store there.

Dan Sanders stated that he is a businessman in town with ProForma Construction and more importantly, a customer of the Valero station. He indicated that one of the reasons he buys a lot of gas and food items there is because there is a lot of driving in his business, and it would be a welcome addition for him and his staff to have additional

menu selection items when they purchase gas at the station. He encouraged the Commission to approve the 7-Eleven proposal.

Maurice Turner stated that he has lived in Pleasanton for 28 years. He indicated that when this matter came up at the last Planning Commission meeting, his interest was in the school on the right hand side there, not 500 yards away from this site. He noted that there are lots of children coming through and he can see chaos happening with lots of traffic and cars as well. He stated that he heard about a petition going around so he checked on it and decided that he would take part in it so he can hear for himself what is going on. He indicated that he managed to get 28 signatures and all the people spoke about the problem with this except one person who said "I love 7-Eleven's" and a couple of people who said they needed to talk with their spouse. He stated that all the rest indicated that they are the people and should have some control over what goes on in their neighborhood. He stated that it is all right for the applicants to come in and want to do something, but the neighborhood does not want a 7-Eleven. He agreed with what was mentioned earlier that things change; they evolve, and with that evolution, things die. He added that perhaps this gasoline station is at a point where it is dead and gets to go, and something else takes its place.

Cele Gutierrez stated that she is actually a patron of the gas station and can attest to the fact that they do run a very tight ship: the gas pumps always work and there is always somebody at the counter. She noted, however, that she has some concerns as a resident in the neighborhood. She indicated that when she first heard about this, she was very strongly opposed to it and attended two of the neighborhood meetings. She stated that her first concern was the 24 hours since this area is extremely residential, and the fact that they have agreed to drop the hours down is working in the right direction. She stated that her second concern is the egress onto West Las Positas Boulevard. She noted that in addition to the hours that children come and go, 7-Eleven and gas stations that stay open late at night do attract people who are just driving through, and if they go out on West Las Positas Boulevard, the odds are they are going to get lost in the neighborhood. She stated that this is a concern because this is a quiet neighborhood. She then expressed concern with the noise. She indicated that her house backs onto Santa Rita Road, so 82 dBA is big. She then stated her fourth concern, the issue of crime. She indicated that her perception of 7-Eleven as poor has been elevated with her attendance at the two neighborhood meetings, although she cannot testify to that as she does not shop at any. She noted, however, that a lot of people in the neighborhood do not want it because the neighborhood just recently got the WalMart Neighborhood Market and a Dollar Store was shoved in at the same time; then they lost a nice Italian restaurant, and now they are getting a 7-Eleven, which is a perception of taking down the neighborhood. She added that they have to think about their property values and that she spoke to a realtor who said that having a WalMart and a Dollar Store and a 7-Eleven is not so good. She indicated that while she has elevated her opinion of the project, she is not totally in favor of it and requested that the issues she brought up be addressed.

Rob Putman stated that he lives in the neighborhood and that he would like to characterize the 30 signatures they gathered in the petition as a beginning of an audit rather than just a petition. He indicated that one of his concerns that caused him to spend four hours on a Saturday knocking on doors within a quarter mile radius of the proposed project was that he did not feel the neighborhood had an adequate understanding of the scope of the project and how the project was being presented to the community. He noted that they were not thinking through what the potential impacts to our community may be with the zoning change. He added that he was able to speak with the 30 people who signed the petition, who agreed that the property should and can be developed, but their main concern is that they do not want to change the look and feel of their neighborhood, and they like the fact that there is zoning in place that happens to govern development to some degree. He indicated that they spoke about all the details mentioned here tonight: noise abatement, crime, traffic impact, proximity of the school, alcohol right behind the school there, and even bottles in the park potentially. He noted that a lot of these problems would go away if they organize as a community and say that they have a chance here to just voice their opinion and what is characterized in the petition: keep the existing zoning and many of these issues will go away. He indicated that the numbers are growing and is actually up to 60 now, and there are other folks canvassing the community.

Mr. Putnam stated that his opinion is that 7-Eleven is great and that they are doing an excellent job at rebranding and representing themselves as a corporation that wants to come into a community. He indicated that he has no real issue there; his main issue is the scope of the project, what it represents in terms of changing the look and feel on the corner of one of the two entrances to their community, with the other entrance having a McDonald's, a Shell, and many other things. He added that there is nothing of these amenities or distinct options in 7-Eleven that they cannot get in other business within a half mile of this location: there are two car washes within a half mile, and beer, liquor and wine are easily accessed within normal business hours.

Mr. Putnam stated that it all comes down to the idea of the zoning change, considering what the real impact would be on their community. He added that they are not anti-development; he respects everything that Mr. Roesbery wants to do as he is a businessman and needs to operate his business in a way that allows his margins to make it successful. He reiterated that the concern is really about the character of their community, and they believe that the existing zoning represents that.

Brad Hirst stated that two points he would like to make initially is that Mr. Roesbery is not only the dealer and has been for 15 years, but he also owns the real property, so he is doubly vested; and the other point is that he has the right to operate 24 hours today as there are no restrictions on the existing zoning or use permit with respect to operating hours, as there are for the adjoining shopping centers in terms of operating and delivery hours. He added that the Conditions of Approval that staff has put forward contain a number of restrictions on delivery hours, and Mr. Roesbery is in agreement with those.

Mr. Hirst indicated that customers matter, and when 275 to 300 existing customers support the project versus 30 people, most of whom may not be customers, are opposed, the decision would be to take care of the customers, and that is exactly what Mr. Roesbery is doing. With respect to traffic on West Las Positas Boulevard, all the issues raised exist today, and there is not one problem about access or traffic that does not already exist; therefore, the project is not making the traffic issues more difficult. He indicated that Mr. Roesbery is as concerned about the opening on West Las Positas Boulevard and the fire station turn as everybody else, and that is the reason his manager came up with the idea of the caution signs along the sidewalk. He added that the City Traffic Engineer came out and took a look at this matter at the request of one of the neighborhood residents and the City immediately put up a second "No U-Turn" sign at the fire station left-turn. He also pointed out that the opening does not line up with the driveway from West Las Positas Boulevard into the fire station; and turning left into the fire station from westbound Santa Rita Road is at a diagonal angle, which is both dangerous and illegal.

As far as the inadequate presentation is concerned, Mr. Hirst stated that they have been out to a lot of people. He noted that probably 15 percent or 20 percent of the information in the staff report is from the applicant, and there were four or five levels of traffic studies that were done. He added that all this documentation is public information as anything an applicant turns in to the City is public information, so there is nothing the applicant is trying to hide.

Mr. Hirst stated that there is something distinct about what Mr. Roesbery is proposing: a food store with fresh delivery. He admitted that their petition did not say they were going to sell beer and wine, but it also did not say they were going to have yogurt, bananas, grapes, or sandwiches either. He indicated that each of the 2,300 products available would not be listed on a short petition.

In conclusion, Mr. Hirst stated that the City Traffic Engineer has pointed out no problems; so that is adequately cared for. He added that the Police Department has also reported adequately, and City staff is in support of the project. He asked the Planning Commission to approve the proposal.

Commissioner Allen addressed Mr. Hirst regarding his comment about the petition, stating that he knew that the residents at the Planning Commission Work Session and the neighborhood meeting, as well as through letters, had serious questions about the 7-Eleven brand and about the sale of alcohol. She noted that the sale of alcohol is not just yogurt; it is a change to the conditions that exist today in a commercial neighborhood. He asked Mr. Hirst why the sale of alcohol was not disclosed in the petition that he had spent so much time creating and walking around.

Mr. Hirst replied that it probably for the same reason that Safeway does not say that they sell beer and wine when they submit an application. He stated that when someone has a food store, it is pretty common knowledge that you are going to have beer and wine. He added that it is not a big deal and that they are not trying to hide anything. He

noted that if the question were ever asked, they would have certainly said so. He pointed out that Mr. Roesbery does not sell beer and wine now, and he does not have a 2,000-square-foot food store or LED lighting or bike racks now either, and none of those things were mentioned in the petition.

Commissioner Allen asked Mr. Hirst why the 7-Eleven was not mentioned.

Mr. Hirst replied that he thinks what Commissioner Allen is really asking is why there is a distinct bias against the 7-Eleven brand, and he would turn around and ask why there is a distinct bias against the 7-Eleven brand.

Commissioner Allen addressed Mr. Hirst that they were not here to debate but that what she is saying is the fact that he had made a decision on 7-Eleven and people were not informed.

Mr. Hirst stated that what made this decision, as was mentioned tonight by many people in the business, is that 7-Eleven is the best operated small food store in the business. He added that 7-Eleven is the 9th largest food store retailer in the country.

Commissioner Balch inquired if the applicant looked at other providers beyond 7-Eleven and gave them a serious thought.

Mr. Hirst said yes. He indicated that Mr. Roesbery had an independent, “unbranded” store for his Antioch gas station, and after serious consideration, he converted it to a 7-Eleven. He noted that Mr. Roesbery testified that he was happy with 7-Eleven, and Mr. Weldon talked about the 40 stores he had, including the ones he has built locally in Pleasanton, and he is proud and believes in the 7-Eleven brand.

Commissioner Balch asked Mr. Hirst, with the mechanic bays being shut down, what would happen with that area if the application were denied. He added that he understands Mr. Hirst does not have a crystal ball into the future, but it is common to see that certain types of uses such as automotive and dry cleaning have contaminants or other concerns with soil.

Mr. Hirst asked Commissioner Balch if he is talking about the future or the past.

Commissioner Balch clarified that he was asking what the alternative road might be if the application does not pass.

Mr. Hirst replied that they never had that discussion because it has never been a consideration.

THE PUBLIC HEARING WAS CLOSED.

Chair O'Connor stated that two or three speakers talked about a future zoning change being in the works and noted that this is a PUD with Conditions of Approval. He asked

staff to speak to that future zoning change possibility and, if it did happen, if it affects the PUD with the Conditions of Approval.

Mr. Weinstein asked Chair O'Connor if he was talking about the 24-hour issue.

Chair O'Connor clarified that his question is, if there were a zoning change, and even if the applicant is able to operate 24 hours a day now, the business could go to 24 hours right away. He indicated that it does not sound plausible to him, but he just wanted staff to address that.

Commissioner Balch stated that he thinks one of the speakers mentioned that the applicant is willing to take restricted hours, less than 24 hours, and the concern the speaker had was that they could then put through a zoning change and request to be reinstated to 24 hours. He added that he had the same question.

Mr. Weinstein replied that if that request were made, it would be considered a substantial change and would have to be brought back to the Planning Commission.

Chair O'Connor asked staff if the applicant has the right to run 24 hours a day under the current zoning, because they could then have asked for it.

Ms. Soo replied that she is not certain if the current Conditional Use Permit for the existing gas station has any restriction for hours or operation because the site is separate from the two shopping centers which have such restriction.

Chair O'Connor requested confirmation that under a PUD and with the conditions that would be placed on it, the applicant would have to come back if he wanted to make a change.

Ms. Soo confirmed that it has to come back to the Planning Commission.

Mr. Dolan replied that it would actually come back to the City Council as well.

Commissioner Balch indicated that he counted three exists off of the ingress or egress at the property: two off of Santa Rita Road and one off of West Las Positas Boulevard. He asked if staff observe the volumes among those three as it sounds like the one at West Las Positas is a sticking point.

Mike Tassano, City Traffic Engineer, stated that he has been out to the site on several occasions: one because it is close to a school, and two because the applicants asked him to come out and take a look at it. To answer the question on if staff specifically looked at the volume, he stated that the volume is going to change considerably with the 7-Eleven going in. He noted that while knowing what the volume increase would be, the convenience store use may not represent the exact same numbers. With respect to what would happen more specifically with the volume on West Las Positas Boulevard, he stated that over half of the northbound traffic would be pass-by traffic, and these

vehicles from turn off on Santa Rita Road into the convenience store and then turn right back onto Santa Rita Road to continue on their way northbound. He indicated that the area of concern for him was the southbound traffic that would have to make that left turn on West Las Positas Boulevard or continue down and make a U-turn and pull into the Santa Rita Road driveway; then coming back out, the vehicle would either go back to Santa Rita Road, and cross those three lanes, and make a U-turn to continue southbound, or go into the neighborhood to the first location and make the U-turn. He indicated the last option was his concern, making sure the turn was adequate and that that volume was not going to be too much of an impediment. He stated that he did not see anything there that would need someone to write up a report for the applicant to say there was not going to be a volume issue, so that was not counted. He added that a traffic study could be done but these studies would normally look at volume concerns, and their peak hours of operation early in the morning and later in the afternoon were not enough for him to see it as a significant concern.

Chair O'Connor inquired if a sign has already been put in place at that one location where vehicles have been known to make the illegal U-turn on West Las Positas Boulevard.

Mr. Tassano replied that there was a sign there, and a second one was put in. He indicated that it is not a location that he had received complaints on, that he has never seen a U-turn occur there or a left turn come out of there, and that was the first time he heard of that issue. He noted that the sign is obviously there for the Fire Department, and if it becomes a safety issue, staff can look at it and put something more mountable for the Fire Department if it became a safety issue. He reiterated that he did not see that as a concern at this point.

Commissioner Balch stated that at some stations he has visited, they had restrictions with signage like "Do not exit this exit" or something of that nature. He asked Mr. Tassano if he did not believe anything of that nature would be warranted to prevent exiting so that it is only an ingress and people would be forced to go out on Santa Rita Road where there would then be a signal at the intersection.

Mr. Tassano replied that southbound vehicle would then have to go sideways across four lanes to get into the second left-turn lane to make the U-turn. He indicated that he would have to give that a lot of consideration on whether he would want to restrict them from going and making a U-turn at a low-volume residential location to come back to a signal as opposed to crossing four lanes of traffic. He added that it is not impossible but it is an option, although people do not always watch those signs and adhere to them.

Commissioner Balch stated that part of his initial concern was if it is warranted, and Mr. Tassano is saying that it is not, but that there is that option available if it became an issue.

Mr. Tassano said yes.

Commissioner Allen stated that one resident whose house backs on the east side of the shopping center asked if the noise study addressed noise that might impact her home. He asked staff if it did.

Mr. Weinstein replied that the noise study addressed and analyzed the sensitive receptors that were at the closest proximity to the project site – the townhomes on the other side of West Las Positas Boulevard and the townhomes to the west at Santa Rita Road –.so residences beyond those two sensitive receptors are farther away from the project site or where there are obstructions between the project site and those residences did not experience noise levels that are greater than the sensitive receptors analyzed in the report.

Commissioner Allen inquired if there were any receptors analyzed that were on the east side of Santa Rita Road. She stated that the reason she is asking is because Santa Rita Road is busy and the base level of noise is at a certain level; and the base level going down West Las Positas Boulevard, which is a dead end road would be lower.

Mr. Weinstein replied that is correct. He added that there is also a lot more blocking the residences to the east of the project site than the ones to the west or to the north. He stated that staff did look at the noise levels at the commercial uses to the east of the project site and found that the noise levels even at those uses which are closer to the site than the residential uses would be relatively low.

Commissioner Allen noted that Ms. Soo was going to help with potentially analyzing the applicant's petition to identify how many of the folks who signed were from the direct neighborhoods. She stated that she glanced at that petition and saw that only a handful of people who signed the applicant's petition were from the direct neighborhoods, and the vast majority were residents from other areas of Pleasanton or outside Pleasanton such as Tracy. She asked Ms. Soo if that analysis was done.

Ms. Soo replied that Commissioner Allen's observation was correct. She indicated that the customers who were visiting the site were more spread out rather than concentrated in the neighborhood surrounding the site.

Chair O'Connor noted that it seemed to him that the majority of the signatories were Pleasanton residents but he could not tell if they were from neighboring sites.

Commissioner Ritter stated that he was looking at what the best use for that property, which is currently zoned Neighborhood Commercial (C-N) District, would be, and what other uses could be located there, maybe a cigar shop or a massage parlor or a tattoo shop. He inquired what other uses would go in there in that current zoning and what would they be able to do without having to go through a permit process or rezoning.

Mr. Weinstein replied that there are obviously lots of other uses theoretically that could go into the site. He stated that the C-N District is pretty extensive in terms of what it permits, but the surroundings and traffic volumes, among other things, would have to be

considered to figure out what is an appropriate use on this site. He noted that these roads are not super quiet, there is a shopping center to the south and another to the east, there are pretty high-intensity uses in the surrounding area, so these would need to be considered and taken into account in figuring out what a different appropriate use would be.

Chair O'Connor stated that a lot of his questions have already been answered because they were asked by others. He indicated, however, that he knows that under the Conditions of Approval, delivery times for trucks have been restricted, but someone brought up a concern of overnight parking or running their engines with their refrigeration going. He stated that he was not sure if that was included and that he knows the restricted hours were included but could not find the condition.

Mr. Weinstein replied that Conditions 6 and 7 would be construed to mean that trucks could not idle and that restriction would not only be for deliveries but also for trucks sitting on the property with their engine running.

Ms. Soo added that the condition would be in Exhibit A-2, the Conditions of Approval linked to the Conditional Use Permit.

Commissioner Piper stated that her initial thought when this came to her was that similar to a lot of people in the room: whether 7-Eleven is something we want in Pleasanton. She indicated that as a 40 year resident of Pleasanton, she grew up around a 7-Eleven and as a high school student, she saw a little bit of loitering at that 7-Eleven. She stated that her first or initial reaction was that she was not really excited about the thought of another 7-Eleven in town. She noted that she did read through the materials quite extensively and also visited the site quite a bit; she had a lot of questions that she addressed to Mr. Hirst and got a lot of answers. She stated that with that, she is extremely pleased with the type of 7-Eleven that is going in at this site. She added that hearing so many representatives from 7-Eleven, she encouraged them to beautify the other two 7-Elevens in town.

Commissioner Piper stated that she does not drink Slurpee and goes to gas stations only to get gas, not candies. She indicated that from a personal standpoint, she likes the idea now that she understands what the 7-Eleven is going to be and is very excited about the fact that they have fresh milk and produce. She added that she is pretty certain that she would go there to get miscellaneous items, which is good. She indicated that she is also impressed with the fact that that corner is going to look a whole lot better, and she does not want to see this property be dilapidated and empty. She added that the elevations are very nice and that she thinks this is a good project. She stated that she is aware that change is really, really hard, and everyone wants to keep this small-town feel; however, these are changing times and people have to change with the times. She indicated that she thinks this project is appropriate for the site.

Commissioner Ritter stated that the Commission's job is to set zoning and not necessarily pick the business or pick the company that goes in that place. He indicated that the Commission has to look at the location, make sure the project fits in the neighborhood, and that there is a service to the community. He stated that he struggles with trying to set a zoning requirement that is not feasible to sustain, and he truly believes that a 7-Eleven is probably the best use for that location. He noted that the Police Lieutenant said the data reveals no significant issues or concerns related to the presence of the two existing 7-Eleven stores, and he thinks the police understand that. He added that the noise is 45 dBA, and some dogs in his neighborhood are louder than that. He noted that the applicant did a lot of changes based on the Commission's last comment period which he respects, and feels that they have taken a little bit out of what they really wanted and their ideal. He indicated that he thinks everyone needs to keep working towards getting something that looks nice in that location as it is one of the entrances into Pleasanton off of Santa Rita Road, and he would hate to see what those stalls could be in that location if the Commission did not approve something that would feel good like this project. He stated that he likes that the hours were changed for the alcohol permit sales and that he is leaning in favor of staff's recommendation.

Commissioner Allen disclosed that she met with the applicant as well as with the neighbors. She indicated that this has been a tough one for her, and she thinks that she is in support of a 7-Eleven and the overall picture at a high level because it looks a lot better. She stated that it is clear that Mr. Roesbery needs to have a business model that works, and she is not sure what the other use would be for that property. She noted, however, that she is really struggling with the alcohol issue and with the potential for loitering. She stated that she also reviewed the crime report with Hopyard Road as the benchmark given by the Police Lieutenant, where there were 33 incidents in 2013 that were non-traffic related. She pointed out that it is not significant, but it does not mean that there will be less crime and loitering.

Commissioner Allen stated that fundamentally, the overarching principle she has is that she thinks about the conditions related to this property, about alcohol sales, and the potentially changing of zoning. She indicated that she believes as Planning Commissioners, they need to have the support of the residents who live in that neighborhood indicating that they want this rezoning, especially that they believe that the biggest concerns they have are mitigated, and she has not heard that. She added that her number one concern being a Planning Commissioner is that if the zoning is changed from the Neighborhood Commercial District to something that allows alcohol especially and other potential things that could come around that, she needs the support of the neighbors, and she does not have that. She noted that the applicant has a petition, but the applicant's petition does not address alcohol, and the vast majority of the people signing the petition are not from the neighborhood. She continued that in contrast, she has a number of letters, a number of one-on-one conversations, the folks who came out today, and petitions from the neighborhood that clearly weigh to having concerns.

Commissioner Allen stated that in order for her to get comfortable in approving the application, she would like to see the following three modifications in the proposal:

1. Limit the hours for alcohol sales to 6:00 a.m. to 8:00 p.m. She noted that originally, she was not even going to open up considering alcohol, but she would be open to alcohol because she does realize that to make this a go financially for the applicant, the applicant needs to have alcohol as that is the key driver. She noted that four of his eleven refrigerator cases are alcohol. She continued that she would then like to have staff do an evaluation of the project in six months and come back to the Planning Commission, making sure the neighbors are aware so they can also come back, and if the Commission finds that there is no issue, she would be very willing to entertain extending those hours to what the applicant wanted. She indicated that she realizes that the downside to the applicant is that he will need to wait a little longer, but the benefit to her is that she can honestly say that she is listening to the community and being a little cautious about this one item that was not disclosed and that they are concerned about.

Chair O'Connor asked staff is the current zoning would allow alcohol even though the applicant does not have alcohol today.

Ms. Soo said no.

2. Supporting Chair O'Connor's earlier proposal and which the applicant agreed to of bringing the car wash hours down to a 9:00 p.m. end time during standard time.
3. Keeping the existing hours of operation which are 5:00 a.m. to 12:00 midnight and not going to 1:00 a.m. She indicated that she is also willing to evaluate this in six months and if everything looks good, she is also open to going to 1:00 a.m. She stated that her reason for this is, again, being a little cautious and secondly, looking at the last application that came through and reading through the Council Minutes that we got from the gas station convenience store on First and Ray Streets, where there was a discussion about 5:00 a.m. to 11:00 p.m., and another gas station with a similar situation that also has 5:00 a.m. to 11:00 p.m. She noted that keeping the current hours is consistent with what is going on today and certainly even more than the last application that came through. She added that, again, it is honoring the neighbor feedback to not go too far today and evaluate where we are later on, and if everything is good, it can happen in six months.

Commissioner Allen indicated that she can support the application with those three changes. She added that she is also fine with the employees working there during that additional time from midnight to 5:00 a.m.

Commissioner Piper stated that it seemed like the push back the Commission was hearing was from the standpoint of traffic and noise and not necessarily from the hours

of operation. She indicated that she does not necessarily support the change because it does not feel like it is what the Commission was hearing the pushback on.

Commissioner Allen replied that she can totally hear what Commissioner Piper was saying. She stated that the way she is thinking about the difference between 12:00 midnight and 1:00 a.m. is a noise issue. She indicated that there are more cars in that store, more lights, more activity and people shutting doors, and just more activity than has ever happened before. With respect to the alcohol sales, she stated that she did not want to say no alcohol because the applicant could not make a good business case and would end up possibly with this gas station going out of business, and she is not sure what the better use is. She noted, however, that the residents are concerned about the crime and the noise and the loitering that has come up a lot, and the alcohol could drive some additional people in too. She added that cutting back the hours minimizes that potential risk there, and this was sort of a compromise to show that the Commission values the neighbors' input as well as the applicant's position, allowing him to get started, assuming everything is good, and where we hope it would end up after the Commission evaluates and possibly approves it in six months.

Chair O'Connor indicated that the applicant has already agreed to bring down the timeframe for noise purposes on the car wash to 9:00 p.m. during standard time and asked Commissioner Allen if she could live with closing at 9:00 p.m. instead 8:00 p.m. for alcohol sales.

Commissioner Allen stated that she could live with that.

Commissioner Ritter inquired what WalMart's cutoff for alcohol is

Commissioner Balch replied that he believes it is 11:00 p.m., which is what the applicant used as basis. He indicated that he is probably not so supportive of Commissioner Allen's comments on the three items, and the reason he does not support the alcohol to only 8:00 p.m. is because several times he has been at various events in the area and that is about the time they send someone to restock.

Commissioner Balch stated that with respect to the carwash, he could agree with the time. He stated that the 10:00 p.m. was definitely causing concern with running the car wash that late, but he does hear the applicant agreeing for 9:00 p.m. during standard time and 10:00 p.m. during daylight saving time. He stated that he thinks that is actually a good concession because of the daylight.

Commissioner Balch stated that he is debating the hours of operation a bit he has a young child, and when he has to go get milk or something, that little bit of extra time does help in some cases since some stores do close early.

Commissioner Balch then proceeded to give his other comments, the main concern being that the property in general is tired. He indicated that retail space needs a facelift every fair amount of time to keep it fresh, to keep it where it is desirable in the areas

and people want to visit. He added that it is competing against other areas in town just as much as in perception. He stated that he did meet with the applicant at the location in the morning, and the place needs renovation dollars to bring it up to any type of business that would go in, whether it be this use or any other particular uses. He stated that from his perspective, he does not have any bias or opinion whether the convenience store is 7-Eleven or any other provider, and would leave that to the applicant to choose. He noted that anyone willing to put the money into making it a use that can succeed is a very positive element because it is a long-term investment that could be of benefit to the applicant and the community.

Commissioner Balch stated that the Fairlands community is a little gem in the back there, and it is important to note that this neighborhood is a very nice, quiet, and enjoyable area past this really busy area of Santa Rita Road. He noted that he was actually a bit surprised at the feedback to this from the neighborhood because this was not, in his initial view, part of the neighborhood but more just the periphery. He indicated that he does not mean to be rude or to discount the fact that the neighborhood is close; he noted that this really does matter and that he listened to the feedback provided.

Commissioner Balch stated that he agreed with Commissioner Ritter that the Commission set the zoning, and the business fits that zoning. With respect to the concerns the residents had about 24 hours, he noted that the applicant has conceded, and has looked at what they can do to operate their business, what hours they need to stay open versus what hours they need to have people on site to clean it. He added that he thinks this is also commendable.

Regarding the noise issue, Commissioner Balch stated that this is unfortunately a very busy intersection in town but this issue has been addressed and the study indicates that there actually is not going to be a significant impact.

Chair O'Connor disclosed that he also had met with the applicant's representative some time ago and went through the project. He expressed some concern in the area of noise, and that is the reason he asked the applicant tonight if he would be willing to reduce the car wash hour down by an hour. He indicated that he also thought about the alcohol but did not realize at the time that this was actually a zoning change and alcohol sale is not allowed. He stated that given a change that allows the applicant that, he is not as opposed to a temporary reduction in hours to see if things work without a problem, but he is not sure he would want to go down to 9:00 p.m. because he realizes that it is not only the zoning but also the location of the zoning. He indicated that he realizes there are homes right behind this site, but Santa Rita Road is one of the major roads in this town, a six-lane boulevard that is an entryway, and it is going to be fraught with a lot of this kind of commercial business. He stated that again, he would be fine with a temporary reduction in hours if it would be no more than six months, if the re-hearing can be scheduled and data ready fairly quickly so it does not drag out to be a year.

Commissioner Ritter stated that he likes the idea but he would rather go the other way and let the applicant move on as proposed, and then get a police report after six months to see if there were any issues. He agreed with Commissioner Balch that the applicant has invested a lot of money into this initially, and he would not want to withhold them from keeping the finances going. He added that maybe having a six-month review and have some data by then may get more neighbors out here saying that it was not as bad as they thought or that they hate it, and the Commission could look at reducing alcohol sale down to 5:00 p.m. or so. He stated that he would like to give the applicant the benefit of the doubt and then redo it later.

Chair O'Connor stated that it would still give the Commission a chance for review. He then asked Commissioner Allen if this is something she could live with.

Commissioner Allen said no, because it puts so much burden on the neighborhood.

Chair O'Connor noted that it would not if it is a mandatory review in six months; the Commission would not have to put it on them to bring the matter back to the Commission, and the Commission can also schedule a time to have a police report.

Commissioner Allen noted that it is always harder to give someone something and then have to pull it back. She reiterated that she has heard strongly from the neighborhood, and the entire Commission did as well, and she believed that it is really important that the Commission honor some of the concerns and do something that shows that the Commission listened to them. She indicated that she would like to start smaller and be cautious and be safe, as opposed to the applicant potentially having a problem in the next six months.

Commissioner Ritter stated that the applicant has done a lot of things to support the neighborhood and to compromise by reducing some hours. He noted that if the Commission allowed the applicant to make it work initially, the applicant would not want to upset the neighbors since he knows it will be reevaluated by the Commission in six months and it is also their livelihood and their neighborhood. He added that he thinks if there were a lot of issues, it would not be hard to take it away because the applicant would be willing to comply.

Commissioner Allen stated that she is just not comfortable with that because that puts the burden on the neighbors to live with any issues that could arise. She noted that the applicant agreed with the hours of operation, but she would rather the Commission went cautiously on the alcohol sale and come back in six months.

Commissioner Balch stated for clarification purposes, he would like to take a straw poll on the three items the Commissioner Allen brought up: the alcohol sale, the hours of operation, and the car wash hours, which the Commissioners agreed would be up to 9:00 p.m. during standard time and up to 10:00 p.m. during daylight saving time.

Chair O'Connor said yes and added that the applicant is willing to do that.

Commissioner Balch asked Commissioner Allen if the Commission has addressed her concern regarding the hours of operation from 5:00 a.m. to 12:00 midnight versus from 5:00 a.m. to 1:00 a.m.

Commissioner Allen replied that she is willing to bend on that one if the Commission can support her proposal on the alcohol sale. She stated that the alcohol sale is a show stopper for her.

Chair O'Connor asked Commissioner Allen to clarify that she is willing to have the standard operation go from 5:00 a.m. to 1:00 a.m. if the alcohol sale is reduced to 9:00 p.m.

Commissioner Allen said yes.

Commissioner Balch stated that the focus now is on the alcohol issue, and he is not sure he agrees that this, compared to the Ray and First Streets case, is a valid comparison mostly because of the surrounding commercial uses here.

Chair O'Connor added that it is also not a six-lane boulevard.

Commissioner Balch agreed that it is a smaller street. He asked if the Commission could leave it in the purview of the Director of Community Development to evaluate this matter.

Mr. Dolan stated that he has a number of comments on the current band of discussion. He indicated that he believes giving the applicant something and then pulling it back is harder than going the other way. He continued that that being said, he understands why the Commission wants to do it; however, the whole idea of review is not a subsequent review down the road, and it is not something he is a big fan of. He added that he can see that becoming what will be done with every application from now on and administratively, that just does not work. He stated that the Commission cannot be revisiting items that it has already labored over. He indicated that he appreciates the Commission's interaction in trying to get something everyone can support; there is some value to it, but if the Commission cannot get there, but it would be cleaner to just pick a time and vote on it. He added that this would be his preference, but the Commission can do what it is talking about.

Commissioner Allen asked Mr. Dolan if the Commission voted on an item on whichever way it went, if the Commission could ask the Police Department for a report in six months. She explained that the Commission would not commit to it now, and the residents can certainly let the Commission know if there are issues.

Mr. Dolan said yes.

Commissioner Allen asked if, assuming there were issues, the Commission would have every right to bring this back for re-evaluation without it being set today.

Mr. Dolan replied that the Commission can re-visit a Use Permit if there are issues. He clarified that it would not be six months from now, but six months after it is operating, which would probably be a year and a half from now.

Commissioner Allen asked Mr. Dolan to share what is involved in re-looking at a Conditional Use Permit.

Mr. Dolan replied that there would have to be some sort of violation. He asked Julie Harryman to explain.

Ms. Harryman explained that a condition that the Commission sees normally with CUP's is similar to the one discussed in the taphouse case earlier, and it could and should probably be added to this application to alleviate some of the concerns. She read the condition, granted that it is for a bar: *"If operation of the bar results in conflicts pertaining to parking, interior or exterior noise, traffic circulation, odor, smoke, or other issues related to outdoor grill area or other factors verified by City enforcement staff, the notification of Conditional Use Permit noise standards violations verified by City enforcement staff shall be provided to the Planning Commission by City staff. The Planning Commission may schedule a public hearing to re-review the Conditional Use Permit, and at the public hearing, the Planning Commission may revoke or modify the Conditional Use Permit to require additional measures as necessary to address any issues."* She stated that rather than have these six-month automatic reviews for the reasons Mr. Dolan already explained, and every controversial item would start to get those because the neighbors would want it, staff should see first if there is a problem and then have them come back. She indicated that she can think of many, many projects that she thought the Commission might see again, and they actually did not. She noted that they worked out just fine and did not need to come back, although some of them did.

Chair O'Connor asked Ms. Harryman if she would be able to craft a condition to add to this project that would be similar to the one for the taphouse that would be able to address these items should there be problems at this location for noise, alcohol, police, or whatever other issue.

Ms. Harryman said yes. She indicated that it is the standard condition that was tweaked to meet the taphouse project.

Mr. Weinstein stated that there is already a similar condition, Condition No. 3 under Exhibit A-2, that staff could modify which somewhat parallels the condition that Ms. Harryman just read. He indicated that it is focused mostly on the car wash right now, but staff could customize it to deal with noise, parking, and crime issues as well.

Commissioner Ritter stated that with respect to alcohol sale, he still believes the zoning should be kept the same as what is in place for WalMart so it is fair in that same neighborhood.

Commissioner Allen stated that given what Ms. Harryman mentioned under any Conditional Use Permit with all the caveats, it still puts the burden on the community, who will have to live with any problem for the next six months, and she did not think that was fair to the community because they are not supporting this.

Chair O'Connor explained that the community will not have to wait six months because if it is a problem, staff could bring it to the Commission's attention immediately.

Commissioner Allen stated that staff would have to find it first and then analyze it.

Chair O'Connor indicated that staff would know if there is a problem.

Commissioner Ritter moved to find that the proposed project would not have a significant effect on the environment and that the proposed PUD Rezoning and Development Plan are consistent with the General Plan and the purposes of the PUD ordinance; to make the PUD and Conditional Use Permit findings as listed in the staff report; and to recommend approval of Case PUD102, the PUD Development Plan, subject to the Conditions of Approval listed in Exhibit A-1 of the staff report; Case P14-0014, the Conditional Use Permit, subject to the Conditions of Approval listed in Exhibit A-2 of the staff report, with the addition of language to Condition No. 3 to specify that if any problems arise related to parking, traffic, noise, or the sale of alcohol, the Conditional Use Permit shall be referred back to the Planning Commission for review at a public hearing; and the revision of Condition No. 4 to limit the drive-thru carwash hours to 7:00 a.m.- 9:00 p.m.; and the Negative Declaration prepared for the project as shown in Exhibit H of the staff report.

Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Balch, Piper and Ritter
NOES: Allen and O'Connor
ABSTAIN: None
RECUSED: None
ABSENT: None

Chair O'Connor stated that the only reason he is opposed is that I does not like the idea of the community having to come back and raise that issue for the Commission. He indicated that he wished the Commission could find it the other way, but he really believes this is going to be a good project for this corner. He added that he knows that with the investment the people are putting in, and since they own both the real estate and the business, the applicant is really going to make this work.

Resolution No. PC-2014-41 recommending approval of the Negative Declaration, Resolution No. PC-2014-42 recommending approval of Case PUD-102, the PUD Rezoning and Development Plan, and Resolution No. PC-2014-43 recommending approval of Case P14-0014, the Conditional Use Permit, were entered and adopted at motioned.

Chair O'Connor called for a break at 10:08 p.m. and thereafter, reconvened the regular meeting at 10:20 p.m.

- b. PUD-106, John Gutknecht for Habitec Architecture
Application for PUD Development Plan for the construction of an automobile dealership consisting of an approximately 31,792-square-foot building with a 2,175-square-foot service canopy and 1,250-square-foot car wash, and related site improvements on the Auto Mall site at Staples Ranch. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.**

Shweta Bonn presented the staff report and described the scope, layout, and key elements of the proposal.

Chair O'Connor noted that on page 9 of the staff report, it states that a maximum lighting level of 12.9 footcandles is being proposed in the customer, employee, and service area where 10 footcandles is allowed. He inquired if this is a transition between the 30-footcandle area and the 10-footcandle area.

Ms. Bonn replied that the 12.9-footcandle area occurs where the customer service and employee area transitions into the sales and display area. She noted that because it is right at the border between the two areas and it is difficult to draw an exact boundary, staff deemed it appropriate and acceptable to have a higher level at that location.

Chair O'Connor then referred to the bottom of page 15 of the staff report that reads: "Further, a condition requires that the project developer contribute to the design and construction of a roadway entry feature near the southeastern corner of the 16-acre site." He requested confirmation that this is not the old entry off of El Charro Road that has now been eliminated.

Ms. Bonn confirmed that this does not refer to the old entry but to the southeastern corner of the 16-acre site. She explained that the objective is to establish a stone entryway feature on this site and the site to the south, conceptually similar to that seen on the City of Livermore side, which would identify this area as a gateway to Pleasanton.

Chair O'Connor requested clarification that this is not a landscape feature but some type of a welcome or Pleasanton gateway signage feature. He also inquired if this would be for the two corners on either side of El Charro Road.

Steven Bocian stated that the City has just entered into an agreement with the architect to work on the design and that his sense is that it will be a combination of landscaping and signage. He added that staff is waiting on how the design process works for a gateway sign on Bernal Avenue and I-680 and will transition that process over to the Staples Ranch property.

Commissioner Allen asked Commissioner Balch if he is comfortable with the pedestrian plans as he expressed concern about that at the last Commission meeting on this project.

Commissioner Balch commented that it is a great improvement but indicated that his initial concern was not with the landscaping or the entry sign or the entry area but the vehicle maneuvering required to access the area. He noted that it looks like the median has been moved back a little farther, was shaved back, and made flat across and asked Ms. Bonn if the applicant did indeed make those changes.

Ms. Bonn replied that she does not know if they made a change specifically to the landscape or the curvature of the landscape; however, the hatched pavement marking areas in the entry area right next to the right turn have been removed.

Commissioner Balch noted that the curb next to the building is running flat and has a little graphical detail showing a point.

Ms. Bonn stated that she would refer that to the applicant.

THE PUBLIC HEARING WAS OPENED.

There were no speakers.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Balch apologized for his initial comment at the last meeting that the aluminum on the northern, eastern, and western façades of the building was blinding, as he now realizes and understands that this is the interior of the arch and not the façade itself. He noted that the applicant addressed a lot of the interior concerns he previously had. He further noted that while they were primarily looking at Lot 1, all three lots look more connected and all together, and that the stop sign that was not previously there and the right turn around Building 3 make the area look better.

Commissioner Allen stated that the project is a good addition and that she appreciates the changes that were made.

Chair O'Connor indicated that he appreciates the changes made as well. He noted that his only concern has been the entry coming off of El Charro Road, which did not have a

lot of discussion and which may be revisited later. He added that he agreed with Commissioner Allen that the project is a good addition to the City.

Commissioner Ritter concurred and stated that the applicant did a great job. He indicated that he was not present at the first meeting but that he read through everything and all his questions were answered. He added that he would support the project.

Chair O'Connor thanked the applicant for being so thorough on the changes.

Commissioner Allen moved to find that the previously prepared Environmental Impact Report (EIR) and Supplemental Environmental Impact Report (SEIR), including the adopted California Environmental Quality Act (CEQA) Findings and Statement of Overriding Considerations, are adequate to serve as the environmental documentation for this project and satisfy all requirements of CEQA and that the proposed PUD Development Plan is consistent with the General Plan; to make the PUD findings as listed in the staff report; and to recommend approval of Case PUD 106, subject to the Conditions of Approval listed in Exhibit A of the staff report.

Commissioner Piper seconded the motion.

ROLL CALL VOTE:

AYES: Commissioners Allen, Balch, O'Connor, Piper, and Ritter
NOES: None
ABSTAIN: None
RECUSED: None
ABSENT: None

Resolution No. PC-2014-44 recommending approval of Case PUR-106 was entered and adopted as motioned.

- c. **PUD-25, Mike Meyer/Tim Quinn, Greenbriar Homes, Lund Ranch II**
Review and provide comments on the Revised Draft Environmental Impact Report (July 2014) for the Lund Ranch II Planned Unit Development, a proposed 50-lot residential development located at 1500 Lund Ranch Road (end of Lund Ranch Road). Zoning for the property is PUD-LDR/OS (Planned Unit Development – Low Density Residential/Open Space) District.

Chair O'Connor recused himself due to a conflict of interest. Commissioner Allen chaired the discussion.

Mr. Dolan started by stating that he would like to take this opportunity to repeat the announcement he made earlier regarding the purpose of this hearing, reiterating that it is not a public hearing on the project, but rather, essentially the Planning Commission

hosting a meeting where people can submit and give comments on the adequacy of the Environmental Impact Report (EIR). He stated that comments about which alternative is preferred will be useful to staff at the public hearing on the project.

Mr. Dolan stated that staff will respond to comments on the EIR in writing and will not be responding to the comments tonight. He indicated that a full, thoughtful, written response on any comment that addresses the adequacy of the EIR will be given, identifying the speaker or the comment, followed by a response. He noted that sometimes the response would be a change in the EIR, and at other times, it is an expansion of some explanation about certain sections of the EIR. He stated that it is a somewhat limited scope and that he recognizes that it is sometimes difficult to distinguish the difference. He asked everyone to do their best to try and focus on the EIR.

Marion Pavan presented the staff report and stated that the comments will be addressed in the Response to Comments, which, combined with the Revised Draft EIR, would comprise the Final EIR, which includes revisions to the text as well as a Mitigation Monitoring and Reporting Program which is required by CEQA. He indicated that the EIR is an information document only and addresses environmental impacts, mitigation, impacts that cannot be mitigated, and alternatives. He stated that the purpose of the EIR is to fulfill CEQA requirements by addressing the environmental impacts of the project; it does not constitute approval or rejection of the project.

Mr. Pavan stated that approving the Final EIR or finding it complete for CEQA purposes does not compel the City to approve the project; the City can still deny the project. He added that approved Mitigation Measures must be incorporated in the project either as revisions to the design or as part of the Conditions of Approval.

Mr. Dolan reminded everyone that written comments are treated exactly the same as comments made tonight. He noted that staff has received a number of written comments, a lot of which are on the project and not on the EIR. He stated that these will be saved and will be evaluated and submitted to the Commission. He added that these comments will be more relevant at the next hearing because there is so much on preferences. He noted that staff will be taking additional comments beyond tonight's meeting through the end of day September 2, 2014.

Acting Chair Allen stated that someone asked her if there is any more weight given to one person asking the question versus ten people asking the same question.

Mr. Dolan replied that the obligation staff has is to provide an answer to the question. He explained that what often happens is that 20 people will ask the same question, and staff will answer it once, and when it is asked the next time, the commenter will be recorded and then referred back to the response to the original comment, except if there is a certain twist on the question, which might provide something new to the response. He indicated that a valid comment is a valid comment if one person makes it or 20 people make it.

THE PUBLIC HEARING WAS OPENED.

Bill Lincoln first thanked the Commissioners for what they do. He then asked what process was used to identify and then develop the alternate access scenarios for Lund Ranch: if there were other scenarios considered and then left off or if everything that was considered added to the EIR. He further inquired if there was input from neighborhoods, from the Planning Division, the Planning Commission, the developer, or the Ventana Hills neighborhood.

Mr. Lincoln stated that he measured Sunset Creek Lane, and it is 29 feet wide. He indicated that if there is a car parked on each side of Sunset Creek Lane, there is enough room for only one car to go down the street. He pointed out that that is a significant fact and is not included in the EIR. He added that he then went down and measured Independence Drive, Lund Ranch Road, and Junipero Street, and they are all 37 feet wide, with room for two-way traffic and with Lund Ranch Road going all the way up. He again pointed out that this should be reflected in the EIR.

Finally, Mr. Lincoln noted that there are several references in the EIR to some sort of agreement or contract between the neighborhood which prohibits the use of Lund Ranch Road. He stated that if that document exists, he would like that to appear in the EIR because it is significant and also impacts many of the residents in that area.

Kay Ayala noted in the EIR that of the 146 trees to be removed, 80 are heritage trees. She stated that she agrees with the comments to save more heritage trees and requested that this please be addressed. She then referred to the view shed and Figures 4.2-3B, where the proposed project is shown in green. She stated that she has been told that someone standing in a certain spot and can see the valley can certainly be seen from that valley. She requested that staff look once more at the view shed of the project.

Ms. Ayala then addressed the subject of roads. She stated that her number one goal in this project is to do the right thing for Pleasanton, do the thing that was planned since 1991 when Ken Mercer was the Mayor, and Pleasanton being a community of character means being true to the written word. She noted that back in 1991, the written word on the Lund Ranch project was that if it were to be developed, the access would be through North Sycamore. She continued that in 1992, 1998, 1999, 2003, 2011, in the General Plan of 2005, and in all the PUDs from 1991 until the present day, there is not any one document that designates Lund Ranch Road as an access road to this property. She indicated that she would like to meet with each of the Commissioners individually, if they would allow her the time, to give them the history that should have been done for this application.

David Melaugh complimented the Commissioners as well for their patience and dedication. He then inquired whether it was appropriate to consider the nature of the residences on the streets being studied as two facilities have recently opened in the

Sycamore Heights neighborhood: the Sunol Creek Memory Care Center, which specializes in the care of Alzheimer patients, and the Care Meridian facility, which specializes in the care of people who suffer traumatic brain or spinal cord injuries. He noted that residents of both facilities, located at the mouth of the Sycamore Heights neighborhood, would be particularly sensitive to changes in traffic patterns, in noise, and in things and scenarios that route significant additional traffic through the Sycamore Heights neighborhood. He added that to some extent, Sycamore Heights residents have done their share for the expansion of Pleasanton, and with these two new facilities that have increased traffic to their neighborhood, it would seem fair to route traffic to the north end.

Mr. Melaugh stated that he would like to address the letter submitted by the Ventana Hills advocacy group, Exhibit I of the staff report. He referred to Table 4.6.1, page 4.6-4 of the Revised Draft EIR, which shows that there are 3,400 cars per day on the Sycamore Heights collection point, and indicated that it might be more persuasive to phrase the EIR in comparative effects. He noted that Ventana Hills complains that the EIR claims the noise impact in Scenario 6 (Sunset Creek Lane connection) to be significant, yet the difference in decibel levels compared to the noise on Lund Ranch Road to Independence Drive and Junipero Street is only 0.2 dBA. He pointed out that the percentage increase between the current road noise and the proposed noise level in Sycamore Heights is about 20 percent versus the 5-10 percent increase in road noise level for Ventana Hills. He suggested that the comparative numbers be taken into account in staff's response to the Ventana Hills letter.

Phyllis Lee submitted a speaker card but left the meeting earlier and did not speak.

Justin Brown stated that he had previously submitted his comments and wanted to speak on behalf of the Ventana Hills neighborhood. He noted that the letter submitted by the Ventana Hills Steering Committee addressing the EIR points out a number of inconsistencies and apparent biases in the assessments, including a distinction that a 0.2 dBA difference is significant in one scenario but not in other scenarios. He indicated that he thinks this is a bit erroneous, especially after the discussion in an earlier application tonight about car washes and street noise being excessive, and the example of a 0.2 dBA difference makes a material difference in the EIR report.

Chris Markle stated that his fundamental concern is around the adequacy of the EIR with respect to the environmental impacts of Lund Ranch Road and entry options. He inquired if the EIR covers the environmental impact of properties outside of the actual Lund Ranch II area, such as the section of unfinished property above Sunset Creek Lane and above Sycamore Creek Way. He noted that the EIR refers to visual analysis and aesthetics but does not address the mighty aesthetics of running a road through the hills at the top of the Sunset Creek Lane and Sycamore Creek Way areas, into Sunset Creek Lane and Sycamore Creek Way, and down into the property. He stated that the EIR is possibly focused now on a primary alternative, but there is also a secondary alternative for traffic. He added that the aesthetics associated with the eight other scenarios should be considered as that was not adequately covered in the EIR. He

noted that the access scenarios in the EIR have a basic layout of alternatives from above and shows the layout of the various road alternatives and ingress or egress alternatives from above. He pointed out that while those are helpful, there should also be diagrams, mockups, and simulations for the eight alternatives that cross hills, that show these elevations coming in or out of the property and from a sideways view as opposed to a vertical view, which masks some of the aesthetics and visual impacts of these various routes.

Mr. Markle stated that he just learned tonight that the Bonde Ranch PUD 90-18 approval included some conditions about street connections. He indicated that some clarification is needed with respect to those other two roads or accesses associated with the Bonde Ranch approval in relation to the Lund Ranch Road.

Raj Rasagopalan stated that he wants to make sure that some of the 80 heritage trees included in the 140 trees to be removed could be saved because losing those many trees is an issue. He then addressed the traffic issue and referred to the two care centers in the Sycamore Heights area mentioned earlier by Mr. Melaugh, noting that every evening, he sees about two or three elderly in wheelchairs, generally where the bicycle traffic is, and the attendants sometimes do not pay attention to the oncoming traffic around them. He added that there is definitely more jobs in that area, and what used to take him two minutes to get onto Sunol Boulevard now takes him five minutes with all the vehicles coming into the two complexes. He suggested that staff address this traffic issue as well.

Amy Lofland, an original owner at Ventana Hills and a member of the Ventana Hills Steering Committee, stated that the Ventana Hills Steering Committee was formed as a result of a motion adopted by the Pleasanton City Council at the April 2, 1991 meeting to provide orderly input from Ventana Hills and other surrounding neighborhoods to reach successful negotiation of the Bonde Ranch development. She indicated that these discussions and negotiations were initiated by then Mayor Ken Mercer, and the agreements are significant as they were negotiated in cooperation with Brian Swift, then Director of Planning and Community Development for the City of Pleasanton, agreed to by the residents of Ventana Hills and the developer, Shappell Industries of Northern California, and adopted by the Pleasanton City Council. She noted that all the members appointed to the Steering Committee were, at that time, and continue to be, residents of the Ventana Hills Subdivision. She continued that along with traffic circulation for the Lund Ranch II property being discussed during the Bonde development negotiations, further meetings and workshops were held in 1991 and 1992 between surrounding neighborhoods in the southeast Pleasanton, Brian Swift, and other Pleasanton City representatives to lay out the foundation for the North Sycamore Specific Plan and the Happy Valley Specific Plan, which were adopted into the General Plan.

Ms. Lofland stated that a letter from their Committee, dated August 15, 2014, is included in the Commission packet. She indicated that there is a lot of history over the past 22 years with regard to potential traffic flow from any development from the Lund Ranch II site. She noted that all past agreements and understandings with previous City

Councils, the Bonde Ranch development, and the North Sycamore Specific Plan, and as re-affirmed by the City General Plan, indicate that the traffic from this development would flow to the east/west collector now known as Sycamore Creek Way out to Sunol Boulevard. She added that the list of documents substantiating this planned traffic flow is attached to the letter from the Committee.

Ms. Lofland stated that she would like to provide additional documentation tonight to assist the Commission in gaining a more complete understanding of the area: a copy of the original Letter of Understanding from the Bonde Ranch approval, which will help clarify Exhibit D of the staff report, Condition 2.b.13) of Ordinance 1509 approving the Bonde Ranch development. She noted that the Sycamore Heights and the Bridal Creek CC&R's, which were part of the closing documents each homeowner approved and signed prior to purchasing their home and their public record, clearly detail the anticipation of future development to the east, including specifically the Lund Ranch II PUD and the road connections to this development. She pointed out that each homeowner in the Sycamore Heights and Bridal Creek areas had full disclosure of the road connections to Lund Ranch II. She added that the statement on page 10 of the staff report regarding connection to Sunset Creek Lane that "...construction of the street connection from the Lund Ranch II development to Sunset Creek Lane is not required to reduce congestion on Lund Ranch Road or to provide a second access for emergency vehicles" is incorrect, because the road connection at Sunset Creek Lane is required to maintain previous agreements and understandings and to fulfill the City's adopted circulation plan with no connection to Lund Ranch Road. She stated that in order for this EIR to be legally adequate, the development of Scenario 6; the Sunset Creek Lane connection, must be completed so the Planning Commission and City Council have an approvable and environmentally reviewed option consistent with what the City's adopted Circulation Plan through the North Sycamore Area and the General Plan.

THE PUBLIC HEARING WAS CLOSED.

Acting Chair Allen thanked all the speakers for their thoughtful comments and for being so concise.

Commissioner Ritter inquired if the original EIR was started before Measures PP and QQ were approved.

Mr. Dolan said yes.

Commissioner Ritter further inquired if the EIR was then stopped, and tonight's EIR is the new one using the new Measures PP and QQ approved by the citizens of Pleasanton.

Mr. Dolan replied that is correct. He indicated that the project changed in response to Measure PP, so the EIR is new and is all based on the current situation.

Commissioner Piper stated that she does not have any specific comments other than to thank people for coming out and spending hours participating in this subject.

Commissioner Ritter also thanked everyone for coming. He indicated that one thing he wants to make sure is included in the EIR is more details on the calculations on the exit and the egress rights, including Measures PP and QQ, as a number of letters came in saying the calculations were based on rooftop or pad heights.

Commissioner Balch stated that he would like to see additional discussion and possible alternatives other than the standard mitigation on the heritage trees issue that was brought up by several speakers and commented on in the EIR. He indicated that a second thing he has concern with is the connection point at I-680 in lieu of standard traffic impact fees, which do not appear to help or do anything to that intersection.

Mr. Dolan replied that these are legitimate questions and that staff will respond to it in the EIR.

Commissioner Balch noted that there is an entire section on Measures PP and QQ but that he has some difficulty understanding the comments in relation to what structures are qualifying for or not. He indicated that that would be another broad leaf check to make sure that definitions are included.

Mr. Dolan explained that Measure PP does not address a lot of the detailed issues, and the analysis on Measure PP in the EIR evaluates and discusses the various interpretations. He stated that the City Council will ultimately opine on some of those issues related to this project, and staff will make use of them. He indicated that when the Planning Commission discusses the merits of this project, it will be perfectly legitimate and appropriate for the Commissioners to include its recommendation on certain aspects of the implementation of Measure PP. He stated that it will not necessarily be an EIR issue, but it will be fair game in staff's analysis. He added that that does not mean staff is going to ignore them but that, fundamentally, the primary issue in the comments is the way the road connects to the existing system, and there is no way to avoid it. He indicated that this is going to take up almost all of the discussion, and there will be analysis outside of the EIR because some of it does include consideration of environmental impacts, but ultimately it is about who has to put up with more traffic in their neighborhood. He further indicated that triggering a level-of-service impact would not necessarily be identified in the EIR, but it will still involve whether or not the level of service slips from one level of service to the next.

Commissioner Balch stated that he recalls that, based on the traffic calculations, various intersections will be addressed, including three or four intersections beyond the I-680 interchange, because those would be the first to fail. He asked staff if that was correct.

Mr. Dolan replied that any intersection that would potentially have an impact is evaluated.

Acting Chair Allen stated that she has four or five items: (1) Include a table in the EIR that indicates the street-facing setbacks proposed along some of the primary streets that have been considered for major access points, such as Sycamore Creek Way, Sunset Creek Lane, and Junipero Street. (2) Provide the Commission with a copy of the disclosures that have been referred to and include that somewhere in the EIR for the benefit of new homeowners in the Sycamore Creek area and where they relate to the access points (3) Provide a clear chronology around the history of this project relative to road access and agreements that have been made historically, including Measures PP and QQ and the General Plan. (4) Create a thorough analysis for the scenarios, especially of Scenario 6, including the full mitigation measures for the scenario and some of the points in Ms. Lofland's memo, as this is really important for everyone, particularly the Ventana Hills Steering Committee, to really understand what the issues would be and how they could be thoroughly mitigated.

THE PUBLIC HEARING WAS RE-OPENED.

Mr. Melaugh inquired if staff will do a detailed analysis of just one particular alternative and why that particular one and not all of them, since all of them have already been done in the EIR anyway.

THE PUBLIC HEARING WAS CLOSED.

Acting Chair Allen stated that staff will take note of that. She added that the important thing is that all alternatives be analyzed well.

Mr. Dolan explained that CEQA requires that the environmental impacts of the application be evaluated, and that is the reason there is always concentration on one, which is the application that was made. He added that staff is also obligated to evaluate a reasonable range of alternatives, and that determination is based on what the logical alternatives are. He indicated that that is what staff did, and the analyses do not have to be at the same level of detail because they could be easily dismissed or a project that is one of those alternatives could ultimately be approved.

Acting Chair Allen thanked Mr. Dolan for the clarification and informed the audience that additional questions or comments on other alternatives and issues can be submitted to staff through 5:00 p.m. on September 2, 2014.

No action was taken.

Chair O'Connor returned to the dais.

7. MATTERS INITIATED BY COMMISSION MEMBERS

No discussion was held or action taken.

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

a. Future Planning Calendar

No discussion was held or action taken.

b. Actions of the City Council

No discussion was held or action taken.

c. Actions of the Zoning Administrator

No discussion was held or action taken.

d. Matters for Commission's Information

Mr. Dolan informed the Commission that the September 10, 2014 meeting is being canceled as there are no items for discussions.

9. ADJOURNMENT

Chair O'Connor adjourned the Planning Commission at 11:20 p.m.

Respectfully,

ADAM WEINSTEIN
Secretary