

**EXHIBIT H**

March 5, 2013

Pleasanton Planning Commission Staff  
Attention: Janice Stern and Jenny Soo  
200 Old Bernal Avenue  
Pleasanton, CA  
94566

Re: Proposed Berlogar Development

Dear Pleasanton Planning Commission Staff:

The Home Owners Association of Silver Oaks Estates in Pleasanton, CA (the "HOA") is writing to express our significant concerns of the impacts of the proposed two-lot development (the "Development") as referenced in the City's Future Planning Calendar (restated in the following paragraph):

***PUD-84, Frank Berlogar (Jenny Soo)***

*Application for Planned Unit Development Plan (PUD) approval to subdivide an approximately 37.25-acre site located at 88 Silver Oaks Court into three single-family residential lots: two new lots and one lot for the existing dwelling and accessory structures. Zoning for the property is PUD-HR/OS (Planned Unit Development – Hillside Residential/Open Space) District.*

The Development contemplates two new hillside lots, one bounded by the designated development area in Lot 22 of the 1999 Vineyard Avenue Corridor Specific Plan ("Specific Plan"), and one lot relocated completely outside of the designated development area to the peak of the hill (530 foot elevation) that backs to the existing HOA properties. The new access road and retaining walls take a winding path up and across current Open Space terrain at the front of the hill (facing existing HOA homes and properties). The Development lots and access road are up to 100 foot elevation above the nearby existing HOA homes and property.

The HOA has expectations that the Specific Plan governs development in the Vineyard Corridor with stated goals to preserve natural features such as ridgelines, hilltops and slopes, to permanently designate Open Space, and to limit hillside development to areas that can physically and visually accommodate the development without disrupting the natural character of the site. Specifically, the HOA is concerned with the following impacts:

1. Intrusion upon Existing Homeowner Privacy.

The two Development lots and a majority of the proposed access road will be at significant elevation (up to ~100 feet) above the existing Silver Oak homes and remaining lots. The Development will have an unobstructed or only partially obstructed

line-of-sight view into existing HOA property, including direct views into back yards and windows. Additionally, the Development allows for two-story homes which will further erode privacy.

At a minimum, the Development should comply with Specific HR District Design Guidelines (pg 34-35 of the Specific Plan) which states:

*Site Planning - "The visual prominence of development should be minimized by utilizing existing features for screening such as tree clusters, depressions in topography, setback plateau areas, and other natural features."*

Therefore, the Development lots should be bundled within the designated development area at the lower topography elevation. The access road should be repositioned to the West side of the Development (away from existing HOA homes), instead of carving up the front side of the hill near to the existing homes. This modification would help to preserve privacy for the existing homes. Furthermore, as discussed in items 2 and 3 below, the modification will also protect the hilltop and Open Space, and reduce noise and light impact from access traffic and the Development lots.

## 2. Disruptive Visual and Noise Impact.

The Development is at significant elevation to the existing HOA homes and properties. The proposed retaining walls positioned below and above the new access road will in some areas exceed 11 foot vertical, with the sheer wall facing the back yards of existing HOA homes. The access road to the Development winds up the center of the hill facing the existing HOA homes and property. Traffic noise and headlights, and residential lighting will intrude on existing homes.

At a minimum, the Development should comply with Specific HR District Design Guidelines (pg 34-35 of the Specific Plan) which states:

*Landscaping - "Views of hillside homes from off-site areas which cannot be screened by way of location and architectural design should be substantially screened by use of evergreen tree planting."*

Therefore, the Development lots, access road and retaining walls should be screened with evergreen tree planting and supported by permanent irrigation. The screening may include landscaping installed on the HOA open space between the existing homes and the Development, in consultation with the HOA. However, even if a large number of evergreen trees were planted, it would still take many years to substantially screen the Development and provide an adequate buffer for the HOA homes.

## 3. Non-Compliance with the Mitigated Vineyard Corridor Specific Plan and related Environmental Impact Report.

On its merits, the Development is problematic for the reasons listed above. However, and perhaps most concerning, the Development conflicts with the spirit and the stated requirements of the Hillside Residential district of the Specific Plan as noted below:

- a) Specific Plan Design for Hillside Residential (pg-19) - *"The Hillside Residential (HR) district provides for 19 new homes on 40,000 square foot minimum sized lots. Development areas are located in the hilly portions of Subareas 1 and 3. The purpose of this designation is to allow for a clustering of homes in well-defined areas of the hills in order to preserve significant natural features such as ridgelines, hilltops, oak woodland, creeks and steep slopes. Open space land surrounding the HR district is to be permanently preserved."* (bold added for emphasis)
- b) Specific Plan Design Open Space (pg-22) – *No homes are permitted within the OS areas; however fencing and agricultural structures are allowed.* (bold added for emphasis)
- c) Residential Development Standards (p. 25) – *"In HR areas, all home sites must be located within the designated development areas as generally depicted on the land use plan (see Figure IV-2). Lot lines may extend into land designated as Open Space, but primary residential buildings and residential accessory structures may only be sited within the designated development areas.* (bold added for emphasis)

The location of the designated development area per the Specific Plan for Lot 22 is not imprecise, it is not a general 'blob' as previously mentioned by Staff. To the contrary, its location, size and shape fit the terrain and is intended to minimize disruption to existing topography. Moving the site to the top of the hill clearly violates the intent and letter of the Specific Plan and adversely affects the existing properties and future developments for which the Specific Plan should preserve the Open Space view and residential buffer.

The relocation or expansion as proposed by the Development contemplates a deviation of 100-300 feet in horizontal distance and over 50 feet elevation to the top of the hill, and a 25 foot partial flattening of the hill. To allow for this material deviation of the designated development area would amount to a de facto amendment to the Specific Plan. The Planning Commission Staff have stated that they have some discretion to approve deviations from the designated development areas, and that the words "generally depicted on the land use plan" afford them this flexibility. However, Staff's interpretation ignores the next sentence in the Specific Plan, which expressly limits this flexibility, by clearly stating all "*primary residential buildings and residential accessory structures may only be sited within the designated development areas.*" To overlook this second sentence renders moot the delineated requirements the Specific Plan that intentionally restrict building structures to only within the designated development areas.

Additionally, the designated development area per the Specific Plans for Lot 22 already affords enough flexibility to contain the Development within the existing designated

development area, without need for deviation. The effort to relocate the lot to the top of the hill is not driven for reasons of the environmental or technical suitability of the site for home construction. Furthermore, for this specific Development, there are not construction limitations (such as existing home structures per PUD-32, or Jurisdictional Waters in the U.S. as per PUD-54) that may require additional accommodations. Even if the Planning Commission Staff's interpretation of the language in the Specific Plan were correct, applying it in this circumstance would be an over reach of any compliance discretion allowed by the Specific Plan, and would potentially violate associated environmental mitigations studied and implemented as part of the related CEQA Environmental Impact Report.

Therefore, the HOA requests that the Planning Commission Staff not recommend for approval the proposed Development Plan until it is modified as described in this letter to (i) minimize intrusion on existing homeowners, (ii) buffer visual and noise impacts, and (iii) comply with the intent and letter of the Specific Plan.

Sincerely,



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President, Silver Oaks Estates Pleasanton

CC: Pleasanton City Manager  
Pleasanton City Attorney

**Cc:** Gevan Reeves

**Subject:** PUD-84 (meeting follow-up)

Jenny, Janice and Julie – thanks for taking the time to meet today.

A few follow-up items & requests are noted below:

1. As discussed for your reference, attached is the City Memo which includes the statement from Wayne Rasmussen, former Principal Planner and project planner for the Specific Plan that “...**due to the environmental constraints in the Hillside Residential areas, the house locations were meant to be fairly precise as represented by the ‘blobs’.**” Moving the second home to the top of the hill includes a material deviation of hundreds of feet in horizontal distance and over fifty feet in vertical distance away from the designated development area, and the HOA does not agree that the deviation is allowed by any compliance discretion under the Specific Plan. The designated development areas were intended as more than ‘illustrative’ markers.

2. Also attached, per discussion today, is a section from PUD 54 (Reznick) that describes some of the consideration for moving the driveway away from that depicted in the Specific Plan because the driveway conflicted with the Environmental Impact Report requirements (setback of 100 feet of the centerline of Jurisdictional Waters of the U.S.).

a) Question: Is there any conflict with the existing EIR that prevents completion in the designated development area of the Specific Plan for the Berlogar Development? If so, what?

b) Question: How will the City address additional studies and mitigations necessary to allow a material deviation from the designated development area? Under CEQA, which agencies will need consultation (ie, CA State Dept of Fish and Game)? How can the HOA be sure the city is following its CEQA obligations?

3. Frank offered to show a depiction of three homes within the designated development area, with the access road on the back side of the homes. A bird’s eye view shows that this development could be done with minimal impact to existing trees assuming, as allowed per the Specific Plan, that lot lines may extend into Open Space (only the residential structures need to be in the designated development area). We hope not to see a plan that compresses the lot lines within the designated development area so as to overstate potential impact to the terrain/trees.

4. The photos with the computer graphic seem to minimize the impact of the development as experienced by the HOA. Can we have pole structures erected on the hill side to better demonstrate the location and size of the proposed development?

Regards,

## Jenny Soo

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**From:** Gevan Reeves  
**Sent:** Wednesday, October 10, 2012 4:31 PM  
**To:** Jenny Soo  
**Subject:** follow up.

Hi Jenny, thanks for showing me the layout.

Based on the quick review, I have some preliminary questions as the process moves forward – and am very concerned about protecting my privacy and property value. The proposed layout is much more intrusive than I anticipated (actually, I originally didn't anticipate any development based on what the selling agent represented).

1. As the both proposed properties and the access drive will have elevation (from level with, to >75 feet higher than my property) and a direct line of sight into my backyard and back windows, what kind of screen and visual mitigation is going to be done? What are the additional open space requirements? My back view will transition from an open hill side to a residential area.
2. Why is the property footprint outside the area indicated in the vineyard corridor master plan? Why is the property allowed to go to the highest point on the hill?
3. Is the access road a private or public road? Are there any sound barriers to the drive?
4. Related to the driveway, why can't this road go straight up the back side of the properties (as shown in the vineyard corridor plan) instead of cutting through the hillside in front of the homes? As an alternative, why can't the existing private drive way act as the access road (instead of having to create another drive way ), and then have the drive access the proposed properties from the east side of the hill ?
5. Additionally, since there is an allowance for additional homes on the east side of the property, from where will those homes be accessed? Will there be yet another access road?
6. What will be the orientation of the homes?

Thanks,  
Gevan

**GEVAN REEVES**  
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**From:** Jenny Soo [<mailto:JSoo@cityofpleasantonca.gov>]  
**Sent:** Tuesday, October 09, 2012 12:39 PM  
**To:** Gevan Reeves  
**Subject:** RE: PUD MOD

Any time...

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**From:** Gevan Reeves [<mailto:gevan.reeves@calpine.com>]  
**Sent:** Tuesday, October 09, 2012 12:22 PM  
**To:** Jenny Soo  
**Subject:** RE: PUD MOD