

PLANNING COMMISSION REGULAR MEETING AGENDA

Wednesday, April 24, 2024
7 p.m.

City Council Chamber
200 Old Bernal Avenue
Pleasanton, CA 94566

The meeting will be held at the City Council Chambers at 200 Old Bernal Ave and will be broadcast live at <https://www.youtube.com/user/TheCityofPleasanton>.

Public participation: It is requested that members of the public wishing to address the Planning Commission submit a speaker card. When public comment is opened on an agenda item, individuals may speak once per agenda item.

In Person at the City Council Chambers:

- Submit a physical speaker card to the Recording Secretary at the meeting. When your name is called, please provide comment at the podium.

PUBLIC HEARING PROCEDURE

Each of the items listed will be heard as shown on the agenda unless the Planning Commission chooses to change the order. As each item is called, the hearing will proceed as follows:

- A Planning Division staff member will make a presentation on each case and answer Planning Commission questions, as needed.
- The applicant will be asked to present, if desired, or answer questions. Applicant presentations should be no longer than ten minutes.
- The Chair then calls on anyone desiring to speak on the item. Speakers are requested to state their names for the public record and to keep their testimony to no more than three minutes each, with minimum repetition of points made by previous speakers and by being as brief as possible in making their testimony.
- Following public testimony, the applicant will be given the opportunity to respond to issues raised by the public. The response should be limited to five minutes.

The public hearing will then be closed. The Planning Commissioners then discuss among themselves the application under consideration and act on the item. Planning Commission actions may be appealed to the City Council. Appeals must be filed with the City Clerk's Office within 15 days of the Planning Commission's action.

The Planning Commission Chair may enforce other rules as may further the fair and efficient running of the meeting, such as reducing the amount of testimony time allotted to the applicant and all those who wish to speak when the meeting agenda is lengthy or when there are numerous speakers for any specific item. The audience is requested to respect and extend courtesy to all those wishing to testify on all cases by being quiet while others are speaking.

CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

AGENDA AMENDMENTS

CONSENT CALENDAR - *Consent Calendar items are considered routine and will be enacted 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.*

1. Actions of the Zoning Administrator
2. **P24-0127, Chevron Stations Inc., 1875 Valley Avenue** - Application to amend PCUP-61, an existing Conditional Use Permit, which currently allows for the sale of beer and wine, to also allow for the sale of distilled spirits for off-site consumption (Type 21 ABC License) at an existing gas station located at 1875 Valley Avenue.
3. Approve the minutes of April 10, 2024

MEETING OPEN TO THE PUBLIC

4. Public Comment from the audience regarding items not listed on the agenda – *Speakers are encouraged to limit comments to 3 minutes*

PUBLIC HEARINGS AND OTHER MATTERS

MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION

5. Reports from Meetings Attended (e.g., Committee, Task Force, etc.)
6. Actions of the City Council
7. Future Planning Calendar

MATTERS INITIATED BY COMMISSION MEMBERS

ADJOURNMENT

Notice

Under Government Code §54957.5, any writings/documents regarding an item on this agenda provided to a majority of the Planning Commission after distribution of the agenda packet will be available for public inspection at City Hall in the Planning Division, 200 Old Bernal Avenue, Pleasanton.

Accessible Public Meetings

The City of Pleasanton can provide special assistance for persons with disabilities to participate in public meetings. To make a request for a disability-related modification or accommodation (e.g., an assistive listening device), please contact Melinda Denis, Planning and Permit Center Manager, by phone at 925-931-5631 or by email at mdenis@cityofpleasantonca.gov at the earliest possible time. If you need sign language assistance, please provide at least two working days' notice prior to the meeting date.

SUBJECT: Actions of the Zoning Administrator

P24-0200, Adam Jenkins/Proficient Landscape Inc

Application for Administrative Design Review approval to construct an approximately 630-square-foot, 13-foot and 2-inch-tall patio cover in the rear yard of the existing residence located at 3300 Medallion Court.

Approved. Appeal period expires May 8, 2024. (*Sachiko Riddle, 931-5607*)

P24-0202, Angelo Madrigal

Application for Administrative Design Review approval to install one new window on the second-floor, rear elevation, of the existing single-family residence located at 1455 Maple Leaf Court.

Approved. Appeal period expires May 8, 2024. (*Diego Mora, 931-5618*)

P24-0203, Kumar Dhuvur

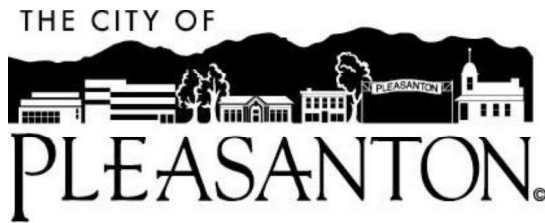
Application for Administrative Design Review approval to construct approximately 273-square-foot, single-story addition to the left (south) of the existing residence located at 3635 Portsmouth Court.

Approved. Appeal period expires May 8, 2024. (*Sachiko Riddle, 931-5607*)

PUD-93-02-20M, (P24-0262), Terry Townsend

Application for a Planned Unit Development (PUD) Minor Modification to the approved PUD development plan (PUD-93-02) and an Administrative Design Review (P24-0262) to construct an approximately 1,341-square-foot addition to the first and second floors of an existing two-story structure, which will encroach approximately 2 feet, 6 inches into the required 30-foot rear yard setback area. Proposed addition includes four new second-story windows and a new second-story balcony to the rear (northeast) of the existing residence located at 1901 Via Di Salerno.

Approved. Appeal period expires May 8, 2024. (*Sachiko Riddle, 931-5607*)



Planning Commission Agenda Report

April 24, 2024
Item 2

SUBJECT: P24-0127

APPLICANT: Steve Rawlings, Chevron Stations Inc c/o Rawlings Consulting

PROPERTY OWNER: Kent Cowan, Chevron USA Inc.

PURPOSE: Application to amend PCUP-61, an existing Conditional Use Permit, which currently allows for the sale of beer and wine, to also allow for the sale of distilled spirits for off-site consumption (Type 21 ABC License) at an existing gas station market.

LOCATION: 1875 Valley Avenue

GENERAL PLAN: Retail/Highway/Service Commercial Business and Professional Offices (Industrial, Commercial, and Office)

ZONING: PUD (Planned Unit Development) District

EXHIBITS:

- A. Draft Resolution and Conditions of Approval
- B. Project Plans and Narrative dated "Received" April 1, 2024
- C. City Council Agenda Report for PUD-02-4 and PCUP-61 and Resolution No. 02-100 approving PCUP-61
- D. Planning Commission Agenda Report for PCUP-61, Modification
- E. Excerpt of Planning Commission Minutes, July 28, 2004
- F. Public Comment
- G. Location and Notification Map

STAFF RECOMMENDATION

Staff recommends the Planning Commission approve the amendment to the original Conditional Use Permit (CUP) application (PCUP-61), filed as P24-0127, based on the required findings, and subject to the draft conditions of approval in Exhibit A.

EXECUTIVE SUMMARY

The applicant requests to expand the range of alcoholic beverages offered for sale at an existing gas station market at 1875 Valley Avenue from the approved beer and wine to include distilled spirits and ready-to-serve beverages. Concerns about alcohol sales and associated late-night noise were expressed by neighbors of the property in March 2004 after the existing gas station market began operating, and at a July 2004 public hearing, the Planning Commission considered a request from neighbors to modify the Use Permit. At the March

hearing, the complaints were determined to be unfounded since, at the time, the gas station market had not yet begun the sale of alcohol. Since the 2004 public hearing, staff has no record of complaints or concerns regarding the sale of alcohol at this location. Thus, as conditioned, staff finds the proposed amendment to the previously approved CUP (PCUP-61) would be consistent with the intent of the General Plan, the objectives of the zoning district, and the original approval. The use will continue to be compatible with the surrounding uses, and therefore, staff recommends approval of the request.

BACKGROUND

In September 2002, the City Council unanimously approved a Planned Unit Development (PUD) development plan and Conditional Use Permit for Bernal Partners, LLC, to construct a self-service gas station, a quick-service restaurant with a drive-through lane, and a convenience market that would be permitted to sell beer and wine.

In 2004, after construction was completed and operations began, staff received complaints from the community members living in the adjacent Walnut Hills neighborhood, one of which pertained to the sale of alcohol and the associated customer and evening crowd noise on Friday and Saturday nights. This concern, along with the others, was brought before the Planning Commission on July 28, 2004, where community members asked for modifications to the previously approved CUP (PCUP-61), to address the concerns. The complaint summary included in the July 28, 2004 agenda report is below:

The late evening crowd and customer noises that are occurring on Friday and Saturday nights could also be reduced. In the Moores' opinion, because this establishment sells alcohol, it should fall under Section 9.04.35B of the Pleasanton Municipal Code as a bar serving alcohol. The only difference between the service station and a bar is that the bar serves the alcohol indoors and the service station complex sells the alcohol to be consumed elsewhere. According to the attached letter, the unfortunate situation is that sometimes it is consumed in the extended parking lot which is their neighborhood. The remedy is reducing operating hours which would also curtail the teens from gathering at the service station complex. An eight-foot-tall sound attenuating wall located at the south-east corner of the complex would help to reduce the transmission of intrusive noises, and removing the pedestrian pass-through will prevent the utilization of the Walnut Hills neighborhood as an extended parking lot.

During staff's presentation, it was reported the gas station market had not yet received its alcohol sales permit from the California Department of Alcohol Beverage Control (ABC), and there was no alcohol in containers being sold at that time. Weldon Theobald, the applicant for the original CUP reiterated staff's point during his presentation, stating that no alcohol had yet been sold at the premises. Additionally, the police department confirmed there was no alcohol being sold from the location at the time of the complaints. Based on this information, the Planning Commission imposed several additional conditions (see "Discussion" section below) to address noise and incursion of patrons into the adjacent neighborhood but did not revoke the approval for the business to sell beer and wine.

SITE AND AREA DESCRIPTION

The subject site is approximately 1.39 acres in area and is located on the southeast corner of Bernal Avenue and the Valley Avenue extension into the Bernal property (see Figure 1). The subject building is approximately 2,799 square feet in area and includes the gas station

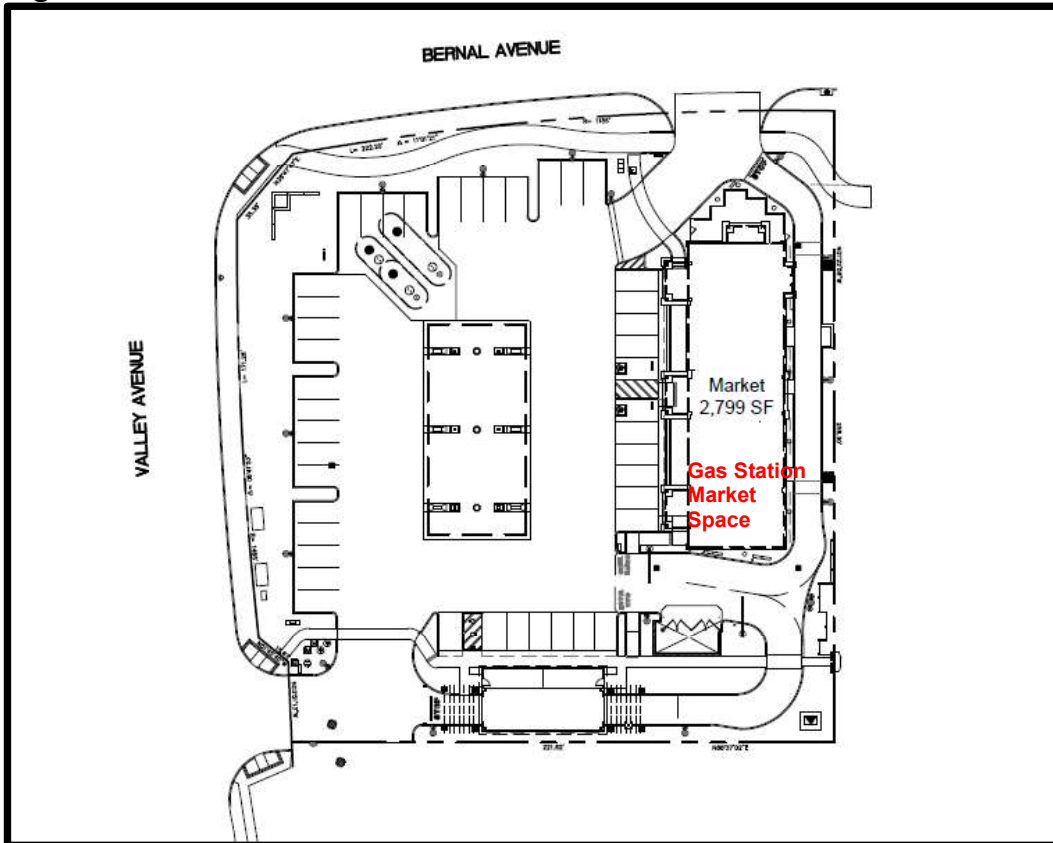
market, carwash, and a Jack in the Box fast food restaurant with drive-through. The gas station market is located in the southern quadrant of the building (see Figure 2). The surrounding uses are primarily residential, restaurant, and retail.

Primary access to the site is provided by two driveways, one from Bernal Avenue and one from Valley Avenue. The project site does not share drive aisles or parking with the adjoining parcels. There are a total of 43 on-site parking spaces, including two accessible parking spaces.

Figure 1: Project Site and Surrounding Areas



Figure 2: Site Plan



PROPOSED EXPANSION

The current operations for selling alcohol at the existing gas station market are summarized below:

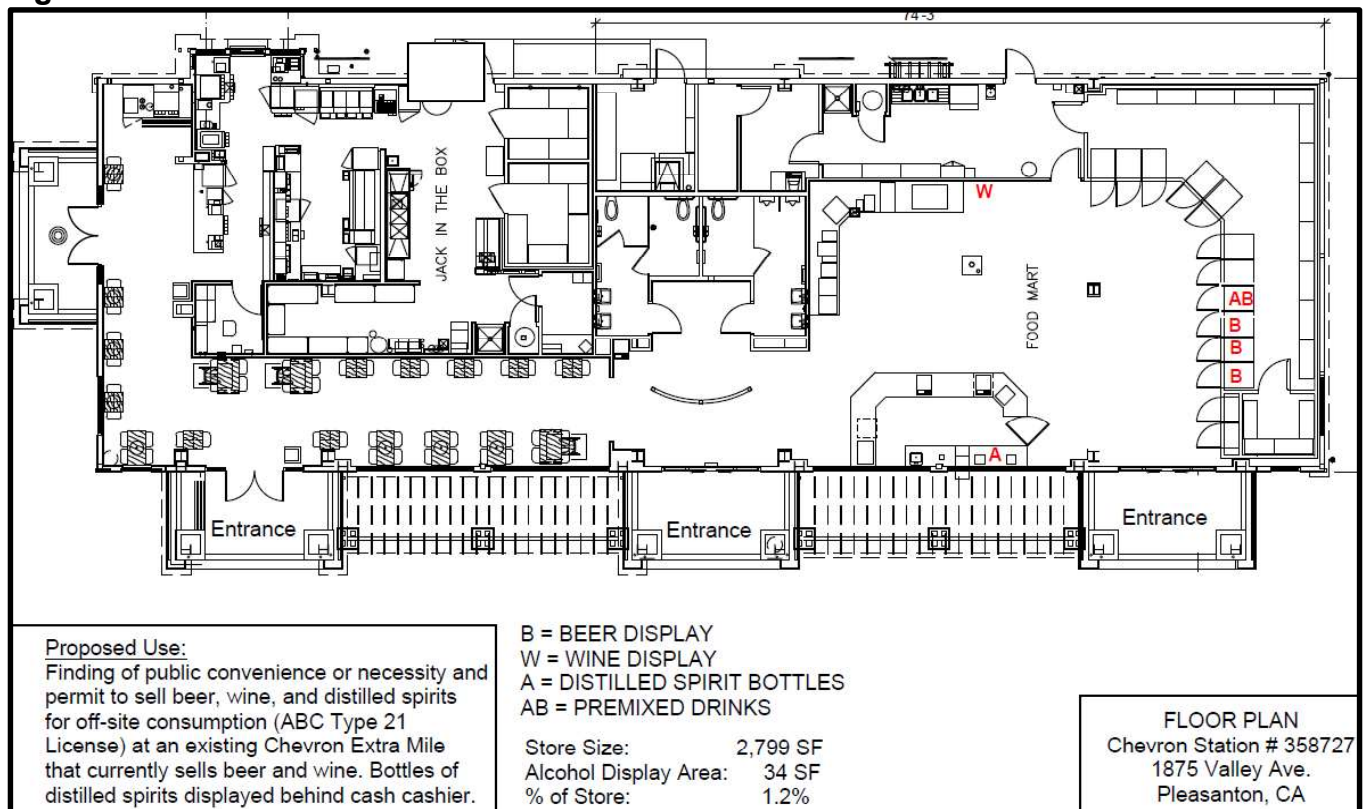
- Liquor sales are limited to beer and wine only;
- No more than five percent of the total shelf area including refrigerated shelf area within the convenience market may be used to display beer and wine;
- Beer and wine cannot be displayed within five feet of the cash register or front door unless it is being stored in a permanently located cooler;
- No advertisements of alcoholic beverages may be displayed at the fuel islands;
- Beer and wine may not be displayed from an open ice tub;
- No self-illuminating advertising of beer and wine is allowed on windows or doors at any time;
- Employees on duty between the hours of 10 p.m. and 2 a.m. selling beer and wine must be at least 21 years old;
- The applicants shall maintain a clear line of sight from the cash registers to the shelves storing the beer and wine products; and
- The applicants shall provide ongoing training programs to the convenience market operators on identifying and dealing with inebriated drivers wanting to purchase beer and wine from the convenience market.

The proposed distilled spirits offering expansion includes the following:

- Though the market is open 24 hours, alcohol sales would only be permitted from 6 a.m. to 12 a.m.;
- Policy signs will be posted on the premises: “No Open Containers,” “No Consumption of Alcoholic Beverage on the Premises,” and “No Loitering;”
- No exterior advertising or window signs will advertise alcohol products;
- No fortified wines or malt liquor will be sold;
- Cooler doors containing beer and ready-to-serve beverages will be locked from 12 a.m. to 6 a.m. daily; and
- All distilled spirits will be displayed and stored behind the cashier.

Figure 3 shows where beer, wine, ready-to-serve beverages, and distilled spirits will be kept and displayed.

Figure 3: Revised Floor Plan:



For reference and comparison, the original resolution approving PCUP-61 and City Council agenda report are included as Exhibit C.

STAFF REVIEW/ANALYSIS

Conditional uses are those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Pleasanton Municipal Code and with respect to their effects on surrounding properties. To achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for CUPs.

Land Use

The subject site has a General Plan designation of Retail/Highway/Service Commercial Business and Professional Offices (Industrial, Commercial, and Office) and is zoned PUD (Planned Unit Development) District. The City approved a PUD Minor Modification (Case No. PUD-02-4M) for the subject site to conditionally permit the sale of beer and wine from a convenience store operated with a gas station market. One of the primary concerns in reviewing a CUP application is the effect on, and compatibility of a proposed use with surrounding uses, including consideration of the operational characteristics of the project with respect to nearby uses.

The original CUP application was reviewed and unanimously approved by the City Council in 2002. The gas station market began operation in February 2004. As noted, at a public hearing in response to neighborhood complaints about noise and nuisance issues, the Planning Commission determined that, while there were issues at the site, they were not attributable to alcohol sales. The Planning Commission voted to impose 11 new conditions off approval, two of which were intended to address the neighbors' concerns:

- An eight-foot-tall masonry wall with landscaping matching the design of the wall along the eastern edge of Stoneridge Drive at Newton Drive, to be constructed on the east and south sides of the site, generally from the entrance to the carwash to the exit of the Jack-in-the-Box drive-through.
- The pedestrian pass-through from the Walnut Hills neighborhood to the gas station market is to be eliminated.

Since the approval of the modification to the CUP, there have not been any complaints made to the City regarding the sale of beer and wine at this gas station market.

The applicant requests to expand the range of alcoholic beverages offered for sale at the gas station market. Specifically, the applicant requests a modification to the original CUP to allow for the sale of distilled spirits and ready-to-serve beverages. If the newly proposed operational procedures are followed in conjunction with the original CUP's operational conditions of approval, staff does not anticipate the expanded range of alcoholic beverages would cause significant adverse impacts. The Police Department agrees with this assessment and does not have any concerns about permitting the sale of distilled spirits and ready-to-serve beverages at this location.

To ensure the gas station market would continue to be operated appropriately, staff has included a standard condition of approval requiring the CUP be brought back to the Planning Commission for review should future issues arise in terms of noise, traffic, or parking that result in impacts to surrounding uses and neighborhood. If that occurs, the City would have the ability to mitigate the impacts through modification or imposition of further conditions of approval or to revoke the CUP, if necessary. Therefore, from a land use perspective, staff finds the proposed expansion of alcoholic offerings to be acceptable at this location, as conditioned.

ALTERNATIVES

As outlined in the above analysis staff believes the use, as proposed and conditioned, would be compatible with the other uses in the vicinity and not create adverse impacts, and recommends the Planning Commission approve the project as proposed and conditioned.

However, alternatives to the proposal that could be considered by the Planning Commission include:

1. Approval of the request subject to the recommended conditions of approval; or
2. Denial of the request, therefore the existing gas station market would continue to offer only beer and wine; or
3. Approval of the request with modified hours, location of alcoholic beverages, percentage of square footage allowed for alcohol, etc.

PUBLIC NOTICE AND COMMENTS

Notices of this application were sent to surrounding property owners and tenants within a 1,000-foot radius of the site. At the time this report was published, staff had received one public comment regarding the project from a community member who is not in support of the modification to the CUP. The comment has been included for your reference as Exhibit F.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt (Section 15301, Class 1, Existing Facilities) from the requirements of the California Environmental Quality Act (CEQA). Therefore, no environmental document accompanies this report.

SUMMARY/CONCLUSION

The gas station service market has proved it is being operated in a professional manner, without a history of complaints or issues since the prior modification to the Use Permit in 2004, and is a desirable and necessary business in the community. As proposed and conditioned, staff believes the proposed expansion of alcoholic beverage offerings will be compatible with and will not detrimentally affect the existing or future adjacent/nearby uses. Conditions of approval have been included which will ensure the safety and general welfare of the surrounding area, and the City in general, is maintained. Therefore, staff believes the requested expansion is supportable.

Primary Author:

Sachiko Riddle, Assistant Planner, 925-931-5607 or sriddle@cityofpleasantonca.gov

Reviewed/Approved By:

Eric Luchini, Senior Planner

Melinda Denis, Planning and Permit Center Manager/ Deputy Director of Community Development

Ellen Clark, Director of Community Development

Julie Harryman, Assistant City Attorney

RESOLUTION NO. PC-2024-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLEASANTON APPROVING THE APPLICATION TO AMEND PCUP-61, AN EXISTING CONDITIONAL USE PERMIT, WHICH CURRENTLY ALLOWS FOR THE SALE OF BEER AND WINE, TO ALSO ALLOW FOR THE SALE OF DISTILLED SPIRITS FOR OFF-SITE CONSUMPTION (TYPE 21 ABC LICENSE) A AN EXISTING GAS STATION MARKET LOCATED AT 1875 VALLEY AVENUE, AS FILED UNDER CASE NO. P24-0127

WHEREAS, on September 3, 2002, the City Council held a duly-noticed public hearing and unanimously approved the Planned Unit Development and Conditional Use Permit (PUD Case No. PUD-02-4M and CUP Case No. PCUP-61) from Bernal Partners, LLC to construct a self-service gasoline station on an approximately 1.3-acre site consisting of six fuel pumps, an approximately 2,500-square-foot convenience market, an approximately 2,500-square-foot quick-service restaurant with drive-through lane, and a modification to the Bernal Properties PUD development plan to allow an approximately 1,300-square-foot drive-through carwash and beer and wine sales from the convenience market; and

WHEREAS, on February 15, 2024, Rawlings Consulting, on behalf of Chevron Stations Inc, submitted a CUP application requesting a modification of the previously approved CUP to allow distilled spirits and ready-to-serve beverages to be sold at the gas station market in conjunction with the available beer and wine;

WHEREAS, zoning for the property is PUD (Planned Unit Development) District; and

WHEREAS, the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301, (Existing Facilities), since the project would not result in the expansion of the exterior of the building and/or would be limited to an expansion of the use at the existing building. Therefore, no additional environmental review is required; and

WHEREAS, on April 24, 2024, the Planning Commission held a duly-noticed public hearing, considered relevant exhibits, recommendations of the City staff concerning this application, and received testimony from the applicant and interested parties.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Pleasanton, based on the entire record of proceedings, including the oral and written agenda reports and all public comment and testimony:

Section 1: Findings for Conditional Use Permit Approval

With respect to the approval of P24-0127, the Planning Commission makes the following findings as required by Section 18.124.070 of the Pleasanton Municipal Code:

A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The subject site has a General Plan designation of Retail/Highway/Service Commercial Business and Professional Offices (Industrial/Commercial, and Office) and is zoned PUD (Planned Unit Development) District. The City approved a PUD Minor Modification (Case No. PUD-02-4M) for the subject site to conditionally permit the sale of beer and wine from a convenience store operated with a service station. One of the primary concerns in reviewing a Conditional Use Permit (CUP) application is the effect on, and compatibility of a proposed use with surrounding uses, including consideration of the operational characteristics of the project with respect to nearby uses.

The original CUP application was reviewed and unanimously approved by the City Council in 2002. The gas station market started operation in February 2004. Staff received some complaints about the gas station market from the adjacent neighbors, including regarding the sale of alcohol. A CUP modification was requested in response to these complaints and was heard at a Planning Commission meeting on July 28, 2004. At this meeting it was reported that the complaints were unrelated to alcohol sales since no alcohol had been sold at this location at the time of the complaints. The Planning Commission nonetheless imposed several new conditions to mitigate noise and incursion of patrons of the business into the adjacent neighborhood. From 2004 to present, Staff has not received any complaints regarding the sale of alcohol at this location, demonstrating that the gas station market is a compatible use in the area and that it is operating consistently with the applicable land use regulations.

Chevron Stations Inc has requested the expansion of alcoholic beverages offered to include distilled spirits and ready-to-serve beverages, subject to operational parameters that limit the hours of liquor and ready-to-drink beverage sales, storage and display of product, signage and other restrictions. If the proposed operational procedures are followed, Staff does not anticipate the expanded offerings would cause significant adverse impacts.

To ensure the gas station market would continue to be operated in a professional manner, included is a standard condition of approval that would require the CUP be brought back to the Planning Commission for review should future issues arise in terms of noise, traffic, or parking that results in impacts to surrounding uses. Should this occur, the City would have the ability to mitigate, or revoke the CUP, if necessary. Therefore, from a land use perspective, the Planning Commission finds the proposed expansion to be acceptable at this location, as conditioned.

B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public

health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

As conditioned, the Planning Commission finds the existing gas station market has been a good and responsive neighbor. If the facility continues to operate as it currently is, it will continue to be a good neighbor and a compatible use. The selling of distilled spirits and ready-to-serve beverages would not subject surrounding uses to heavy truck traffic, hazardous odors, high noise levels, or other objectionable influences. If the recommended conditions of approval are followed, the Planning Commission finds the proposed expansion would not be detrimental to the adjacent/nearby uses. All streets around the subject site are designed per City standards to provide safe ingress and egress into and out of the site. In addition, there is adequate parking available to meet the project's demand. Conditions have also been included that would require the applicant to mitigate any future nuisances as a result of the proposed use.

C. That the proposed conditional use will comply with each of the applicable provisions of the zoning ordinance.

The site's zoning conditionally permits the sale of beer and wine from a convenience store operated with a service station. Granting a CUP modification for the sale of distilled spirits would be consistent with the City's ability to regulate zoning as listed in Chapter 18.124 of the Municipal Code. In addition, the Planning Commission finds that, as conditioned, the proposed use will comply with all provisions and requirements of the City's zoning ordinance and the approved PUD for the Bernal Properties.

Section 2: The Planning Commission hereby approves Case P24-0127, a Conditional Use Permit approval allowing the sale of beer, wine, and distilled spirits at 1875 Valley Avenue, subject to the Conditions of Approval shown in Attachment 1, attached hereto and made part of this case by reference.

Section 3: This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Pleasanton at a regular meeting held on April 24, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ATTEST:

Ellen Clark
Secretary, Planning Commission

Matt Gaidos
Chair

APPROVED AS TO FORM:

Julie Harryman
Assistant City Attorney

**ATTACHMENT 1
DRAFT CONDITIONS OF APPROVAL**

**P24-0127
1875 Valley Avenue
April 24, 2024**

The applicant is hereby notified, as part of this approval, that (s)he is required to satisfy and maintain compliance with the conditions of approval below. Where approval by the Director of Community Development, Planning Division, Director of Engineering/City Engineer, City Attorney, Chief Building and Safety Official, Fire Department or other City staff is required, review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations, and accepted practices related to the approval. In addition to complying with the conditions below, the applicant is required to comply with all applicable federal, state, and local laws that pertain to this project whether or not specifically noted herein.

This approval is granted for Conditional Use Permit approval to allow for the sale of beer, wine, and distilled spirits for offsite consumption located on Assessor Parcel No. 947-8-19 at 1875 Valley Avenue. Development shall be substantially as shown on the project materials listed below:

- a. Project plans, Exhibit B, prepared by Steve Rawlings for Chevron Stations Inc, dated "Received" on March 25, 2024, and kept on file in the Planning Division of the Community Development Department.
- b. Statement of Operations, prepared by Steve Rawlings, dated "Received" on April 1, 2024, and kept on file in the Planning Division of the Community Development.

The project materials listed above are collectively the "Approved Plans."

THIS APPROVAL IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **APPROVAL AND REVISIONS:** The proposed use shall be in substantial conformance with the "Approved Plans," except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Director of Community Development if found to be in substantial conformance with the approved exhibits.
2. **LIABILITY AND INDEMNIFICATION:** To the extent permitted by law, the project applicant shall hold harmless, defend (with counsel acceptable to the City), and indemnify the City, its City Council, its officers, commissions, employee and agents from and against any claim, action, or proceeding brought by a third party against the indemnified parties and/or the applicant to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including without limitation, reimbursing the City its attorneys' fees and costs

incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

PLANNING DIVISION – 925-931-5600

Conditional Use Permits

3. ORIGINAL APPROVAL: All Conditions of Approval listed in Planning Commission Resolution No. 02-100 shall remain in full force and effect except as modified below: **(Project specific condition)**
 - a. Beer, wine, and ready to serve beverages cannot be displayed within five feet of the cash register or front door unless it is being stored in a permanently located cooler;
 - b. All distilled spirits, not including ready to serve beverages, will be displayed behind the cashier;
 - c. No alcohol will be sold between the hours of 12:00 a.m. and 6:00 a.m.;
 - d. Alcohol may not be displayed from an open ice-tub;
 - e. The applicants shall maintain a clear line-of-sight from the cash registers to the shelves storing the beer, wine, and ready to serve beverages;
 - f. Policy signs will be posted on premises: “No Open Containers”, “No Consumption of Alcoholic Beverage on the Premises”, and “No Loitering”;
 - g. No exterior advertising or window signs will advertise alcohol products;
 - h. No fortified wines or malt liquor will be sold;
 - i. Cooler doors containing alcohol will be locked from 12:00 a.m. to 6:00 a.m. nightly;
 - j. All persons that appear younger than 30 years old must provide ID in order to purchase alcohol; and
 - k. ID must be scanned through the point of sale system to validate age. No alcohol will be sold if customer is a minor.
4. MODIFICATIONS: If additional hours of alcohol sales and/or any other significant changes beyond what is stated in the “Approved Plans” are desired, City review and approval is required prior to making said changes/modifications. The applicant shall submit any proposed changes/modifications in writing. The Director of Community Development may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
5. CONDITIONAL USE PERMIT REVIEW: If the operation of this use results in conflicts pertaining to parking, noise, traffic/circulation, or other factors, at the discretion of the Director of Community Development, this conditional use permit may be submitted to the Planning Commission for their subsequent review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.

6. SIGNAGE: This approval does not include approval of any signage for the gas station market. If signs are desired, the applicant shall submit a sign proposal to the Planning Division for review and approval prior to sign installation.
7. EXTERIOR CHANGES: Changes to the exterior of the building shall not be made without prior approval from the Planning Division.
8. RELOCATION: If the applicant wishes to relocate the use to a new address or tenant suite, the applicant shall secure a new conditional use permit prior to occupying the new building or tenant space.

RECEIVED

4/1/2024

P24-0127

CITY OF PLEASANTON
PLANNING DIVISION

EXHIBIT B

EXHIBIT B

**Chevron Extra Mile Store
1875 Valley Avenue
Pleasanton, CA**

**Statement of Operations
4.1.24**

Request: Permit to allow the sale of beer, wine, and distilled spirits for off-site consumption (ABC Type 21 License) at an existing Chevron Extra Mile store that currently sells beer and wine.

Overall Store Size: Approximately 2,799 sq ft

Hours of Operation: 24 hours daily, alcohol sales from 6 am – 12 am

Key Security Measures:

- Policy signs will be posted on premises: “No Open Containers”, “No Consumption of Alcoholic Beverage on the Premises” and “No Loitering”.
- No exterior advertising or window signs will advertise alcohol products.
- No alcoholic beverage advertisement located on the motor fuel island.
- 4 coolers are used for beer/ready to serve alcohol display and are visible to cashier.
- Bottles of distilled spirits are displayed behind the cashier.
- No fortified wines or malt liquor will be sold.
- Chevron currently operates a surveillance camera system.
- Surveillance videos are stored for at least 30 days and be made available to law enforcement upon request.
- Cooler doors containing beer will be locked from 12 am to 6 am daily.
- All persons that appear younger than 30 years old must provide ID to purchase alcohol.
- Point of sale system requires cashier to scan the ID to validate age. No alcohol will be sold if customer is a minor.

Employee Training:

- Employees are required to complete the corporate training program and pass the course test.
- Employees engaged in the sale of alcohol will complete the LEAD training class that is approved by ABC.
- LEAD Training includes looking for signs of intoxication, proper identification checking, procedures for dealing with various situations as well as general behavior observance training.

More information regarding security and training is attached.

About Chevron Extra Mile

Chevron USA operates over 300 Extra Mile Stores in CA and approximately 213 sell alcohol (185 – Type 20 Licenses/28 – Type 21 License). Chevron is one of the largest corporations in the world.

Security and Training Procedures

Chevron - Extra Mile Stores

Summary:

Chevron Stations Inc. (CSI) maintains an extremely robust security and crime prevention posture. Numerous security protocols and policies were developed through the partnership with Chevron Global Security to incorporate best practices, and a fit for purpose plan to be integrated into each corporate owned store. CSI's highest priority is to provide a safe and secure environment for its employees and customers.

Security and Safety by Design:

The Extra Mile site provides a design that lends itself features that incorporate Crime Prevention Through Environmental Design (CPTED).

Our site will maintain operations 24 hours a day; therefore, adequate lighting is necessary for the safe operation during times of darkness. This site is equipped with the necessary lighting, inside and out, and provides a safe environment for our customers, employees, and discourages loitering.

Outside lighting is the responsibility of Chevron management. All lighting concerns, such as inadequate lighting or burned-out lights, will be addressed promptly by contacting our maintenance provider.

The convenience store is designed with full height glass windows to provide clear and unobstructed views from inside and out. All signage affixed to the windows will not obstruct these views.

Trash and Graffiti Removal

Any and all trash accumulating on the property and landscape areas will be removed promptly. Graffiti will be removed from any wall, fence, building, structure, window, equipment, or other location within 48 hours.

Loitering & Panhandling:

Loitering and panhandling will not be tolerated and Chevron will maintain a zero-tolerance policy. Loitering signs will be posted in conspicuous places containing wording (Spanish and English) that aligns with state and local law (work with MBPD to obtain proper language). All loitering and panhandling issues will be dealt with in a swift and consistent manner by notifying local police.

No consumption or open alcoholic beverages will be permitted on the premises. Signs specifically prohibiting this activity will also be placed in conspicuous places in both Spanish and English.

Chevron employees are trained and directed to immediately deal with individuals attempting to or consuming alcohol on store property. If safe to do so, employees will instruct the person(s) to cease and desist consuming the alcoholic beverage and ask the person to leave the premises. If the employee deems it unsafe to approach the subject(s), law enforcement will be promptly called to assist.

Security Equipment and Crime Deterrent:

This station is currently equipped with multiple interior and exterior color cameras with a 24-hour operational CCTV DVR system. The system is capable of archiving a minimum of 30 days+ of stored video coverage (industry standard). The station cameras are strategically positioned to capture activity at the critical areas of

the store, including the alcohol coolers. CCTV maintenance issues are handled with high priority and rectified in an expeditious fashion.

Robbery and crime deterrence is a meticulous process where each new hire is provided specific crime deterrence training and also receives an annual refresher. A daily checklist (Steps to Sundown) is provided to employees as a tool to guide them in crime deterrence as they prepare for the night shifts.

Any coolers containing alcoholic beverages will automatically lock at 12 am and unlock at 6 am daily.

ABC Compliance Training:

Chevron employees are provided rigorous training in alcohol beverage sale rules, laws, and regulations. Chevron employees adhere to the stringent guidelines associated with the control and sale of alcoholic beverages.

All new hires and existing employees are required to attend New Employee Orientation/Annual Recertification. This includes Station Managers, Assistant Station Managers and Customer Service Representative (Cashier). This is our policy at Chevron Stations Inc. On the second day of the New Employee Orientation/Annual Recertification the employees are trained on Age Restricted Products. They are trained on the following:

- What's the legal age for purchasing alcohol/tobacco products Lotto and Lottery?
- What are the fines and penalties?
- List acceptable forms of ID that CSI accepts as valid
- Locate and review the ID Checking Guide
- What to look for on an ID and how to spot an alternated ID?
- How to verify the customer's age by properly entering their birthday in EPOS?
- What are the legal sale hours of alcohol? 6:00 A M to 2:00 A M
- CSI employees will ID all persons who appear under the age when they attempt to purchase age restricted products
- What to do if the customer's ID is expired?
- What types of payment we accept for purchasing Lotto/Lottery?
- How to handle a beer run?
- What to do if customer appears intoxicated?
- What to do if customer attempt or consume alcohol on the property?

If an employee fails to attend annual recertification, the employee will be removed from the schedule. The employee will not be scheduled to work until he or she complete the training.

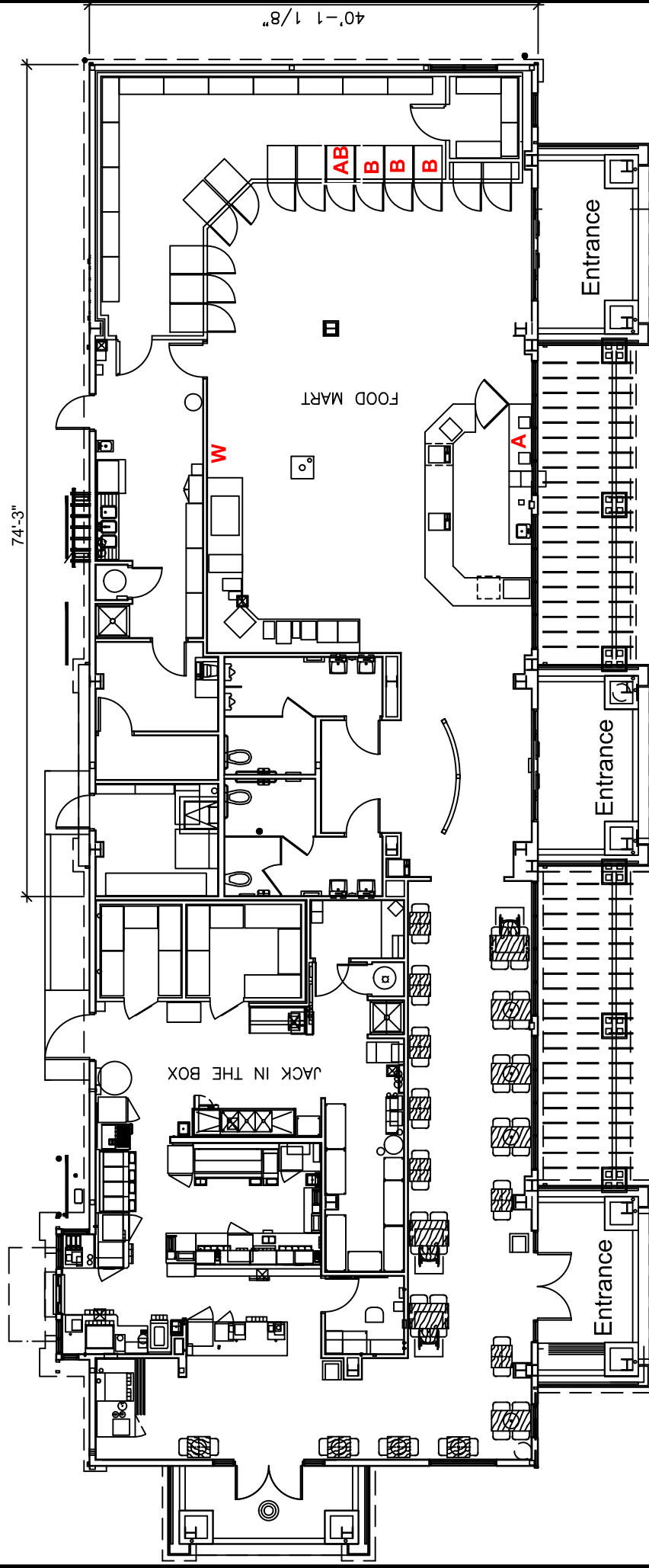
Upon completion: Manager: Review ABC-299 Clerk's Affidavit and Sign; employee must complete part 2 and manager must sign part 3.

It is very important that Chevron Company Operated Store employees comply with all laws prohibiting the sale of alcohol and tobacco products to underage customers. The failure to comply with such laws could constitute grounds for termination.

Chevron has retained Maritz to perform alcohol/tobacco compliance checks at Chevron's Company Operated Stations to enhance Chevron's compliance with laws prohibiting age sensitive product sales to minors. Maritz does compliance checks quarterly for both alcohol and tobacco and do the checks without notice. Checks occur any time during the day or night.

Swift consequences are given to any employee including the station manager who fails a compliance check. In reference to Law Enforcement Mystery Shop: Failed Shop 1: Any employee (inclusive of management) who

fails a law enforcement mystery shop (aka “sting”) will generally be **terminated upon notification** by the law enforcement agency of the failed shop, regardless of previous violation history.



Proposed Use:

Finding of public convenience or necessity and permit to sell beer, wine, and distilled spirits for off-site consumption (ABC Type 21 License) at an existing Chevron Extra Mile that currently sells beer and wine. Bottles of distilled spirits displayed behind cash cashier.

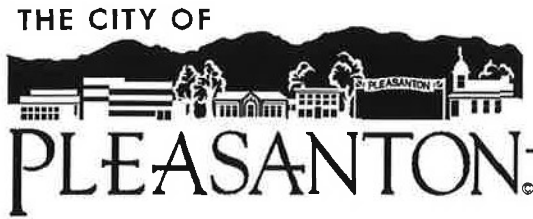
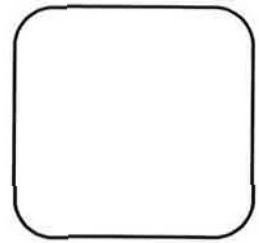
B = BEER DISPLAY
W = WINE DISPLAY
A = DISTILLED SPIRIT BOTTLES
AB = PREMIXED DRINKS

Store Size: 2,799 SF
Alcohol Display Area: 34 SF
% of Store: 1.2%

FLOOR PLAN
Chevron Station # 358727
1875 Valley Ave.
Pleasanton, CA

3

EXHIBIT C



**City Council
Staff Report**

September 3, 2002
Department of Planning and
Community Development

SUBJECT: PUD-02-4M and PCUP-61

Applicant/
Owner:

Bernal Partners, L.L.C.

Purpose:

PUD development plan and conditional use permit approval of a self-service gasoline station on an approximately 1.3-acre site consisting of six fuel pumps, a 2,500 square foot convenience market, a 2,500 square foot quick-service restaurant with drive-through lane, and a modification to the Bernal Properties PUD development plan to allow a 1,300 square foot drive-through carwash and alcoholic beverage sales from the convenience market.

General
Plan:

Bernal Property Specific Plan (Commercial/Office)

Zoning:

PUD (Planned Unit Development) – C-O (Commercial and Office).

Location:

1875 Valley Avenue (southeast corner of Bernal Avenue and the Valley Avenue extension)

STAFF RECOMMENDATION:

Approve Case PUD-02-4M and Case PCUP-61 by taking the following actions:

1. Make the PUD development plan, development plan modification, and conditional use permit findings as stated in the attached Planning Commission staff report;

2. Introduce the draft ordinance approving Case PUD-02-4M subject to Exhibit B, Draft Conditions of Approval; and,
3. Adopt the resolution approving Case PCUP-61 subject to Exhibit C, Draft Conditions of Approval.

PLANNING COMMISSION RECOMMENDATION:

Approval

SUMMARY:

The proposed project would allow the development of this portion of the Bernal Properties development with a self-serve gasoline station, convenience market, drive-through restaurant or similar tenant, and a drive-through carwash. The convenience market would include beer and wine sales. The proposed building design and operations have been extensively refined since its first submittal to the Planning Commission. Overall, this is an attractive development for this gateway location into the City, which would provide needed services for this area of the community.

Honorable Mayor and Members of the City Council:

BACKGROUND

The subject property is a 1.39-acre, square-shaped parcel located on the southeast corner of Bernal Avenue and the Valley Avenue extension into the Bernal Property. Surrounding land uses are described in the follow table:

Direction	Land Use
North (across Bernal Avenue)	Parking area for the Alameda County Fair Grounds
East	Planned fire station site, public street, and small-lot single-family homes by KB Homes
South	City-owned land – uses to be determined
West (across Valley Avenue)	Parking areas for the approved office buildings by South Bay Construction

PROJECT DESCRIPTION

As previously stated, the proposed project would include PUD development plan, PUD development plan modification, and conditional use permit approvals for a self-service gasoline station, convenience market, quick-service restaurant with drive-through lane, and a drive-through carwash. The proposal includes three building elements:

SR:02:215

Page 2 of 25

1. Six pump islands providing unleaded gasoline and diesel fuel. Fuel would be offered for sale 24-hours per day.

At the public hearing, the applicants presented a revised drawing of the service station canopy showing its height lowered from 25' 6" to 24' 6" in response to the Commission's concerns. Exhibit D, Canopy Side Alternate Elevation (Valley Avenue), shows the revised design for the canopy, which, as conditioned, would supersede the elevation shown on Page 7 of Exhibit A.

2. A drive-through, self-serve car wash, 1,300 square feet in area, oriented in an east to west direction on the site with the exit and dryer facing Valley Avenue. Facing the car wash building would be dedicated parking spaces for the air, water, and vacuum stations. The car wash structure would be 21' 6" in height and is proposed to be operated from 6:00 a.m. to 9:00 p.m.
3. A 5,000 square foot main building, with space for a convenience market, a quick-service restaurant or similar use, public restroom facilities, and facilities in the building's lobby for bank ATM machines. The convenience market would operate 24-hours per day. As proposed, the service station operator would offer beer and wine for sale in the convenience market. The restaurant space would be served by a drive-through lane and separate "pay" and "pick-up" windows located on the building's east side. Hours of operation for the restaurant is undetermined; however, the applicants anticipate that it would be operated from 6:00 a.m. to 10:00 p.m.

The proposed building design is modeled after the designs of the nearby single-family homes. Proposed colors would include light yellow and gray building walls, white trim, and silver gray standing seam metal roofs, and dark gray composition shingles. Material and color samples would be provided to the City Council at the public hearing.

The following City actions are required for approval of the proposal:

1. First, review and approval of PUD-02-4M, the PUD development plan for site, building, and landscape designs, and modification of PUD-02, the Bernal Properties PUD development plan.

The proposed modification would modify the list of permitted and conditionally permitted uses for this site to allow the sale of beer and wine from a convenience market operated with a service station as a conditional use, and would increase the maximum allowed building floor area for this site from 5,000 square feet to 6,300 square feet for the proposed carwash structure.

2. Second, review and approval of PCUP-61, the conditional use permit for the actual operation of the proposed self-service gasoline station, convenience market, quick-service restaurant with drive-through lane, and drive-through carwash.

As conditioned, limited changes to building designs including materials, detailing, etc., would be reviewed as a design review application. Changes to the operations of the uses including hours of operation would be reviewed as a modification of the conditional use permit approval. Changes to the building colors would be reviewed by the Planning Commission.

PLANNING COMMISSION PUBLIC HEARING

Planning Commission Work Session

On March 27, 2002, the Planning Commission reviewed the applicants' first design proposal for this site, which incorporated design elements modeled after the design of the South Bay office complex located on the opposite side of Valley Avenue. Minutes of this meeting are provided in the City Council's packet. The Planning Commission directed the applicants to redesign the buildings utilizing elements of the nearby homes. (The Planning Commission's directions pertaining to building design, site design, uses, tenants, etc., made at the work session are discussed in the detail in the attached Planning Commission staff report.)

Planning Commission Public Hearing

The Planning Commission heard the revised project at its August 14, 2002 public hearing. The Planning Commission staff report and minutes of the meeting are provided in the City Council's packet. Messrs. Weldon Theobald, Frank Brandes, Mark Hirsh, and representatives of the Dahlin Architectural Group and the RHL Engineering Group were present to answer questions and to speak in favor of the proposal. The applicants presented an animation of the proposed project at the public meeting, which will also be presented to the City Council. There were numerous members of the public at large who stood in support of the proposed project but did not testify. A petition signed by members of the community at large was circulated to the Planning Commission. Mr. Craig Moore, a Pleasanton resident living at 1693 Eastgate Way, spoke in opposition, citing his concerns pertaining to the noise impacts from the carwash. There was no further discussion.

The Planning Commission voted 4-0-1 (Commissioner Matt Sullivan absent) to forward the proposal to the City Council with a recommendation of approval. With its recommendation, the Commission added conditions pertaining to building colors, temporary window signs, noise mitigation measures for the carwash, adding gable roof elements to the Valley Avenue side of the roof of the canopy structure, screening the vent pipes from the underground fuel storage tanks, and raising the height of the screen wall between the drive-through lanes and the east property line to screen headlights. Staff and the applicants concur with these conditions, which are incorporated in Exhibits B and C.

DISCUSSION

The proposed development of this site raised issues pertaining to the project site's gateway location on Bernal Avenue and Valley Avenue, the proposed building designs and signage, tenants that would provide goods and services oriented towards the nearby neighborhoods, the sale of beer and wine from the convenience market, the noise impacts from the proposed carwash, and green building measures. The Planning Commission universally agreed that the applicants' proposal fulfilled their expectations for the development of this site.

The Planning Commission staff report includes a complete discussion of the proposed project and its design and use issues, including comments made by the Planning Commission pertaining to:

1. the Bernal Properties Specific Plan and PUD Development Plan, including development standards, proposed uses including restaurant tenants, convenience market, the PUD modification for the drive-through carwash, and the PUD modification for beer/wine sales from the convenience market;
2. the proposed building design, including comments from the City's architectural peer review consultant;
3. green building measures, including photovoltaic panels;
4. building and site signage;
5. site design, circulation, and parking, including pedestrian connections to the nearby residential neighborhoods;
6. grading and urban stormwater runoff; and,
7. landscaping.

The new conditions recommended by the Planning Commission are incorporated in the draft ordinance and resolution.

Public Comment

Written comments including signed petitions presented to the Planning Commission are provided in the City Council's packet. Notices of the City Council's public hearing on this item were sent to property owners, business tenants, and any existing and future homeowners of the nearby Bernal Properties residential developments located within 1,000-feet of the subject property. Staff has not received any additional verbal or written comments pertaining to the proposed project as of the time the staff report was written.

PUD DEVELOPMENT PLAN FINDINGS

Please refer to the attached Planning commission staff report for the PUD development plan findings and modification findings for PUD-02-4M.

CONDITIONAL USE PERMIT FINDINGS

Please refer to the attached Planning commission staff report for the conditional use permit findings for PCUP-61.

FISCAL IMPACT

The project developer would be required to pay the fees specified by the Bernal Properties Specific Plan and PUD development plan. The property owner and business operators covered by this application would pay property taxes and business license taxes that would go to offset their impact to City services including police, fire, support staff, etc.

CITY COUNCIL OPTIONS

The City Council has the following options pertaining to this application:

1. Approve the proposed project:

With this option the Council can approve the project as proposed or with any modifications to design, conditions of approval, etc., that the City Council deems to be appropriate.

2. Deny the proposed project:

Denying the proposed project would require the developer to begin anew with new development plan and conditional use permit applications incorporating whichever direction the City Council deems appropriate.

ENVIRONMENTAL DETERMINATION

The proposed project is located on land that is part of the Bernal Properties Specific Plan, PUD development plan, and final environmental impact report. The development on this site including uses, traffic mitigations, etc., were evaluated in the environmental impact report. Since the environmental context of the subject property and its surroundings has not changed since the City Council's approval of the environmental impact report and there is no new information, the proposed project would be covered by the previously approved final environmental impact report. Therefore, no separate environmental document accompanies the proposed project.

CONCLUSION

Staff believes that the proposed project is in keeping with the themes, policies, and requirements of the Bernal Properties Specific Plan and PUD development plan. The proposed project has been extensively revised since its original submittal to the City and, following the directions

provided by the Planning Commission at its previous meeting regarding issues pertaining to site design, building design, and visual impacts/mitigations, has been significantly refined. Staff believes that the proposed project is designed in a manner that is compatible with and sensitive to the restrictions posed by the site and by surrounding properties. The proposal meets the letter and/or the spirit of the applicable requirements of the Bernal Specific Plan; it would implement Green Building Measures; it would construct the buildings in a manner that would accommodate alternative energy sources. The Planning Commission concurred with the staff recommendation and voted unanimously to forward the proposal to the City Council with a recommendation of approval.

RECOMMENDATION

Staff recommends the City Council approve Case PUD-02-4M and Case PCUP-61 by taking the following actions:

1. Make the PUD development plan, development plan modification, and conditional use permit findings as stated in the attached Planning Commission staff report;
2. Introduce the draft ordinance approving Case PUD-02-4M subject to Exhibit B, Draft Conditions of Approval; and,
3. Adopt the resolution approving Case PCUP-61 subject to Exhibit C, Draft Conditions of Approval.

Respectfully Submitted,

Brian W. Swift
Director of Planning and
Community Development

Deborah Acosta McKeehan
City Manager

Attachments:

1. Location map and focused location map
2. Draft Ordinance with Exhibit B, Conditions of Approval, dated September 3, 2002, for PUD-02-4M
3. Draft Resolution with Exhibit C, Conditions of Approval, dated September 3, 2002, for PCUP-61
4. Exhibit A, PUD Development Plan dated "Received August 26, 2002
5. Exhibit D, Alternate canopy side elevation
6. Proposed green building measures
7. List of goods and sundries to be offered for sale from the convenience market

8. Noise levels for the carwash dryer with optional noise reduction package
9. Manufacturers detail sheet for the parking lot light standards
10. Planning Commission staff report dated August 14, 2002
11. Minutes of the August 14, 2002 Planning Commission public hearing on PUD-02-4M and PCUP-61
12. Minutes of the March 27, 2002 Planning Commission work session
13. Signed petitions from various members of the public at large
14. Letter from Greenbriar Homes Communities to the Planning Commission dated August 13, 2002
15. Letters or e-mails from Brian Barry, David and Sue Flashberger, Don McGlinchy, Donna Edwards, Frank and Amy Piala, Janet Cristiano, Mr. and Mrs. Joe Landers, Karen Solopow, Laurie and Ric Nepil, Mario Martinez, Richard Cosca, and Richard and Linda Fitzmaurice.



CITY COUNCIL OF THE CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 02-100

**RESOLUTION APPROVING THE APPLICATION OF
BERNAL PARTNERS, LLC FOR A CONDITIONAL USE
PERMIT, AS FILED UNDER CASE PCUP-61**

WHEREAS, Bernal Partners, LLC has applied for conditional use permit approval for a self-service gasoline station on an approximately 1.3-acre site located at 1875 Valley Avenue (southeast corner of Bernal Avenue and the Valley Avenue extension); and

WHEREAS, zoning for the property is PUD (Planned Unit Development) C-O (Commercial and Office) District; and

WHEREAS, a duly noticed public hearing was held before the City Council on September 3, 2002; and

WHEREAS, the City Council determined that the conditional use is appropriate for the site.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON RESOLVES AS FOLLOWS:

Section 1: Approves Case PCUP-61, the application of Bernal Partners, LLC for conditional use permit approval for a self-service gasoline station on an approximately 1.3-acre site located at 1875 Valley Avenue (southeast corner of Bernal Avenue and the Valley Avenue extension), subject to the conditions shown in Exhibit "B", attached hereto and incorporated herein by this reference.

Section 2: This resolution shall become effective immediately upon its passage and adoption.

I HEREBY CERTIFY THAT THE FOREGOING WAS DULY AND REGULARLY ADOPTED BY THE CITY COUNCIL OF THE CITY OF PLEASANTON, AT A MEETING HELD ON SEPTEMBER 3, 2002 BY THE FOLLOWING VOTE:

Resolution No. 02-100

Page Two

AYES: Councilmembers - Ayala, Campbell, Dennis, Michelotti, and Mayor Pico

NOES: None

ABSENT: None

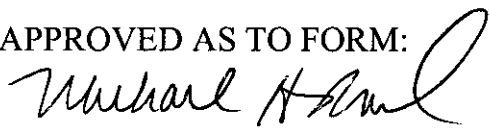
ABSTAIN: None

ATTEST:



Peggy L. Ezidro, City Clerk

APPROVED AS TO FORM:



Michael H. Roush, City Attorney

Exhibit C
PCUP-61, Final Conditions of Approval
Bernal Retail Complex/Service Station, 1875 Valley Avenue

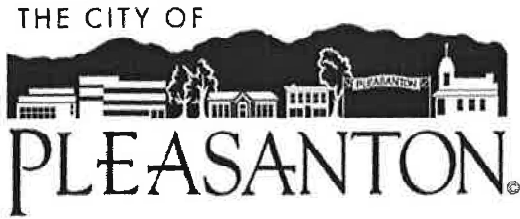
per City Council
September 3, 2002

1. Approval of this conditional use permit shall be contingent upon approval of the PUD development plan and development plan modification, Case PUD-02-4M.
2. The project developer shall continue to work with staff to reduce the carwash dryer noise levels to lowest extent feasible and shall submit a detailed analysis of the carwash dryer noise to the Planning Director for review prior to issuance of a building permit. The scope of the report shall conform to the noise report requirements of the Pleasanton General Plan and shall assess the noise impacts from the carwash dryer and from the drive-through order speakers to the south and east side properties of the service station. Based on the results of the noise analysis, the Planning Director may require noise mitigation measures including the limited installation of soundwalls along portions of the south and east property lines of the project site.
3. The car wash shall be designed and constructed with the noise reduction package referenced in the letter from Bernal Partners, L.L.C., to Marion Pavan, dated August 7, 2002. This detail shall be shown on the building permit plan set to the satisfaction of the Planning Director before issuance of a building permit. The noise reduction package shall be maintained throughout the life of the carwash.
4. The service station operator shall provide to staff annually an analysis of the carwash noise levels demonstrating compliance with the City's noise ordinance (maximum 60 dBA) at the eastern property line of the project site.
5. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.060K of the Zoning Ordinance for grand openings or by Section 18.116.040 of the Zoning Ordinance if approved by temporary conditional use permit as part of a decorating plan in conjunction with shopping center promotional events. At no time shall spot lighting be used after 10:00 p.m. in conjunction with such grand openings and/or promotional events.
6. If operation of this use, including the drive-through lanes and the sale of alcohol from the convenience market results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Planning Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Planning Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.

7. Any future restaurant user that locates within the complex shall be required to keep the rear doors closed at all times. All restaurant facilities shall be equipped at all times with filtering devices to minimize odors and fumes.
8. There shall be no truck deliveries, parking lot sweeping, or garbage pick-up between the hours of 10:00 p.m. and 6:00 a.m.
9. The following requirements shall apply to the sale of beer and wine from the convenience market covered by this conditional use permit:
 - a. Liquor sales are limited to beer and wine only;
 - b. No more than 5% of the total shelf area including refrigerated shelf area within the convenience market may be used to display beer and wine;
 - c. Beer and wine cannot be displayed within five feet of the cash register or front door unless it is being stored in a permanently located cooler;
 - d. No advertisements of alcoholic beverages may be displayed at the fuel islands;
 - e. Beer and wine may not be displayed from an open ice-tub;
 - f. No self-illuminating advertising of beer and wine is allowed on windows or doors at any time; and,
 - g. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. selling beer and wine must be at least 21 years old.
 - h. The applicants shall maintain a clear line-of-sight from the cash registers to the shelves storing the beer and wine product.
 - i. The applicants shall provide on-going training programs to the convenience market operators on identifying and then dealing with inebriated drivers wanting to purchase beer and wine from the convenience market.
10. The service station operator shall maintain the service station/convenience market/car wash in a clean and orderly manner at all times.
11. The carwash shall not be operated between the hours of 9:00 p.m. to 6:00 a.m. If the operation of the carwash results in continued complaints pertaining to noise, the Planning Director shall require mitigation measures including, but not limited to, reduced hours-of-operation, construction of noise attenuation measures including a sound wall at the east property line, etc. If necessary, the Planning Director may refer this issue to the Planning Commission for review at a public hearing. The Planning Commission may modify or

add conditions of approval to mitigate the impact, or may revoke the operation of the car-wash.

< End >



Planning Commission Staff Report

July 28, 2003
Item 6.a.

SUBJECT: PCUP-61, Modification

APPLICANT: City of Pleasanton

**PROPERTY
OWNER:** Bernal Partners, L.L.C.

PURPOSE: Review and consideration of possible modification to an approved conditional use permit for a self-service gasoline station with a convenience market, quick-service restaurant, and carwash to consider hours of operation, operation of the drive-through carwash, noise, perimeter fencing, and other issues.

**GENERAL
PLAN:** Bernal Property Specific Plan (Commercial/Office)

ZONING: PUD - C-O (Planned Unit Development - Commercial-Office) District.

LOCATION: 1875 Valley Avenue (southeast corner of Bernal Avenue and Valley Avenue).

ATTACHMENTS:

1. Location Map
2. Exhibit "B", Draft Conditions of Approval, dated July 28, 2004.
3. Planning Commission and City Council staff reports for PUD-02-4M and PCUP-61.
4. Final City Council conditions of approval for PUD-02-4M and PCUP-61.
5. "Noise Assessment Report" prepared by Illingworth and Rodkin, Inc., for Weldon Theobald dated July 21, 2004.
6. Site plan showing the location of the sound attenuation fence as recommended by Illingworth and Rodkin.
7. Site plan showing the location of the sound attenuation fence as recommended by staff.
8. Memorandum from Maggie Wong to Chief Neal with service calls and crime cases for the service station and residential neighborhood dated June 18, 2004.

9. Letters from Craig and Theresa Moore to the Planning Commission and City Council dated may 25, 2004 and July 19, 2004 with petition signed by 17 residents of the Walnut Hills development
 10. Map showing the locations of these individuals.
 11. Previous e-mails from Alex Wong, Don Lee, Ki-Ho Balk, Liz Fichtner, Harinder Grewal, Theresa Moore, and Zhu Feng to Marion Pavan and from Harinder Grewal to the Planning Commission.
 12. Map showing the locations of these individuals.
-

BACKGROUND

Background

On September 3, 2002, the City Council approved PUD-02-4M and PCUP-61, the PUD development plan and conditional use permit for the Bernal Corners service station located on the southeast corner of Bernal Avenue and Valley Avenue. Copies of the Planning Commission and City Council staff reports and final City Council conditions of approval covering these applications are attached. The service station is part of the Bernal Property Specific Plan, PUD development plan, Final Environmental Impact Report, and Development Agreement. Surrounding land uses are described in the follow table:

Direction	Land Use
North (across Bernal Avenue)	Parking area for the Alameda County Fair Grounds
East	Approved site for the open space portion of Fire Station No. 4, Rose Cliff Place, and the Walnut Hills development (small-lot single-family homes) by Kaufman and Broad
South	City-owned land – uses to be determined
West (across Valley Avenue)	Parking areas for the approved office buildings by South Bay Construction

The service station was issued an occupancy permit and began operating during the last week of February 2004. The carwash began operation in late March 2004.

Concerns and Issues

After construction was completed and operations began, staff received concerns from neighbors pertaining to the overly bright canopy, building, and drive-through lights, operations of the drive-through lane and the carwash, the 24-hour operation of the overall service station, etc., and received concerns from the Planning Commission regarding lighting and signage. As conditioned by its conditional use permit and PUD development plan, if the design and/or operations of the service station becomes a problem, the City can review again the use permit operations and development plan approvals and require the appropriate mitigation measures.

The Planning Commission heard the design aspects of the service station at its public hearing held on March 24, 2004. Since that meeting the following changes were made to the project by the City and by the applicant:

1. Lighting:

The applicant replaced the clear-glass bulbs in these lamps with frosted bulbs and inserted a metal diffusing screen inside the glass cover of each gooseneck lamp on the buildings and canopy, which reduced the glare from these lamps. A timer was added to control the gooseneck lamps located on the east side of the convenience market building; the lights are now off from 12:00 midnight to 6:00 a.m.

2. Building and Project Signs:

At its public hearing, the Planning Commission directed staff to complete its processing of a PUD modification requiring that all project signs be reviewed by the Planning Commission. The change is in progress.

Replying to the Planning Commission's and neighbor concerns of the lighted "Car Wash" signs on the east and west ends of the car wash building, the applicant suggested that these lights and signs could be removed and replaced by one "Car Wash" sign located on this building's north side. The applicant requests the Planning Commission confirm its acceptance of this change.

To soften the appearance of the three monument signs including the Jack-In-The-Box signs facing Bernal Avenue and Valley Avenue, the applicant installed new planting consisting of ornamental shrubs, perennials, and trees along side and in front of all the monument signs.

3. Vehicle Headlights:

Staff had observed the operation of the drive-through lane at night while standing on Rose Cliff Place and noted that the vehicles' headlights shined through the openings between the fence panels and the posts. The applicant welded steel plates on the service station's side of the screen fence to block these openings.

At the public hearing, the Planning Commission directed staff to bring the use permit back to the Planning Commission for review.

PROJECT DESCRIPTION

As previously stated, the purpose here is to review and consider possible modifications to PCUP-61, the approved conditional use permit for the Bernal Corners service station, convenience market, quick-service restaurant, and carwash to consider hours of operation, operation of

the drive-through carwash, noise, perimeter fencing, and neighborhood issues. As previously stated and conditioned by PCUP-61, if the operation of the carwash becomes a problem, the City can require mitigation measures including, but not limited to, reduced hours-of-operation, construction of noise attenuation measures, etc.

ANALYSIS

Neighborhood Issues

Letter and Chronology

Attached is a letter and chronology of the issues prepared by Craig and Theresa Moore pertaining to the service station's operations on the Walnut Hills neighborhood dated May 25, 2004. An updated letter from the Moores, dated July 19, 2004, is attached. A summary of the issues identified in the letters follows; the issues are addressed in the Discussion section of this staff report:

1. The noise level testing that was previously conducted by staff of the carwash operations may not be accurate, and they feel that actual CNEL (Community Noise Equivalent Level) which weights nighttime noise levels should be used. The neighbors are wondering why the noise measurements were down for only one weekday and why no measurements were done during the weekend when most of the neighbors' issues occurs. Ambient noise levels, e.g., from I-680 and Bernal Avenue should not even be used as a form to drown out the intrusive noises that the service station complex can generate.
2. The 24-hour operation of the service station complex was not disclosed until the City Council staff report dated September 3, 2003. The 24-hour operation allows for intrusive noises and nuisances at the very most sensitive times of the nighttime and on numerous occasions has awakened the neighbors. The only remedy would be to reduce the service station's hours of operation. (Staff notes that the 24-hour operation of the service station and the convenience market was stated in the **Project Description** section of the Planning Commission staff report for PUD-02-4M and PCUP-061. Copies of that staff were made available to the public before the public hearings.
3. The car wash operation in its entirety is obnoxious and dangerous. As seen from the attached chronology, it is considered to be the most intrusive noise violator within the service station complex – dryer noise, water spray, water valves operating, idling cars, blasting stereos, shining headlamps, parents yelling at their children, etc. – generating noise which can be heard in their homes and backyard. Children and teenagers have been witnessed running through and playing in the carwash. The only remedy would be to reduce the operating hours of the service station to 6:00 a.m. to 10:00 p.m. and construct an eight-foot tall sound-attenuating wall located at the southeast corner of the complex.

4. The Jack-In-The-Box speaker can be heard at all hours of operation and is more sensitive in the late evening and early morning hours. The remedy would be to reduce the operating hours of the service station to 6:00 a.m. to 10:00 p.m. and to open the drive-through lane no later than 8:00 a.m. on weekdays and 9:00 a.m. on weekends. Additionally, the sound wall would also lessen the speaker, car idling, patron yelling, and other noise associated with the operation of the Jack-In-The-Box drive-through.
5. A very disturbing nuisance and intrusive sound is the Jack-In-The-Box oil-recovery pump truck that removes the used frying oil between 5:00 a.m. and 6:00 a.m. and uses the drive-through aisle to reach the hook-up location by the pick-up window. (According to the Moores, Jack-In-The-Box has rescheduled the pump truck to the afternoon hours, so this issue should be resolved.)
6. The pedestrian walkway has become a pass-through for the service station complex's "expanded parking lot", which is the Walnut Hills neighborhood. The neighbors believe that it is utilized more by people who are not associated with their neighborhood and the nearby apartments. Removing the pedestrian pass-through would curtail these unsafe practices – referencing an incident with a motorcyclist using the pedestrian pass-through – and would not transform the Walnut Hills neighborhood into an extended neighborhood for the service station complex.
7. The late evening crowd and customer noises that are occurring on Friday and Saturday nights could also be reduced. In the Moores' opinion, because this establishment sells alcohol, it should fall under Section 9.04.35 B of the Pleasanton Municipal Code as a bar serving alcohol. The only difference between the service station and a bar is that the bar serves the alcohol indoors and the service station complex sells the alcohol to be consumed elsewhere. According to the attached letter, the unfortunate situation is that sometimes it is consumed in the extended parking lot which is their neighborhood. The remedy is reducing operating hours which would also curtail the teens from gathering at the service station complex. An eight-foot tall sound-attenuating wall located at the southeast corner of the complex would help to reduce the transmission of intrusive noises, and removing the pedestrian pass-through will prevent the utilization of the Walnut Hills neighborhood as an extended parking lot.
8. Another intrusive issue is the late evening emptying of garbage cans from within the Jack-In-The-Box. The remedy would be to reduce the operating hours of the service station from 6:00 a.m. to 10:00 p.m. and to construct the sound-attenuating wall. (According to the Moores, it has stopped for the time being.)
9. The neighbors have the same future concerns regarding the early-morning garbage pick-up by Pleasanton Garbage Service. The neighbors are requesting assurances that the restrictions set in place will be adhered to in the future. (According to the Moores, the garbage dumpsters are now being emptied at a more reasonable time.)

10. The Car Wash sign located at the east side of the car wash building is a very bright and visually disturbing object to view from home. Staff notes that, as previously stated, the applicant requests the Planning Commission confirm its acceptance of his proposal to replace the lighted "Car Wash" signs on the east and west ends of the car wash building with one "Car Wash" sign located on this building's north side facing the service station parking area.
11. There is also a problem with the service station employees going behind the walls of the trash enclosure located at the southeast corner of the complex and smoking cigarettes. Cigarette smoke can be detected in the homes' back yards. (According to the Moores, this has improved.)
12. There is a concern with the amount of traffic on Valley Avenue and the dangerous situation created by the first traffic-calming circle (round about) located in Valley Avenue by the apartment driveway entrance. Near collisions have been witnessed on numerous occasions at the round about due to excessive speed and traffic volumes. The most severe violators do not even go around the round about but, instead, make a "U"-turn before the roundabout.

Based upon the above-described issues, staff believes that the consensus of the Walnut Hills neighborhood favors the following measures that would mitigate the nuisances created by the operation of the service station:

1. Reduce the operating hours of the service station from 6:00 a.m. to 10:00 p.m.
2. Provide an eight-foot tall sound-attenuating wall located at the southeast corner of the complex and along the entire easterly and southerly property lines adjoining the Livermore-Pleasanton Fire Station and City-owned properties, respectively.
3. Open the Jack-In-The-Box drive-through lane no earlier than 8:00 a.m. on weekdays and 9:00 a.m. on weekends.
4. Remove the lighted "Car Wash" sign that is now located on the east side of the car wash building.
5. Remove the pedestrian pass-through from the service station to the Walnut Hills neighborhood.

Neighborhood Petition

The attached petition is signed by 17 residents of the Walnut Hills development requesting that the City require the installation of a "solid eight-foot tall sound attenuation fence" separating the service station from the Walnut Hills development. The homeowners' concerns include:

1. the safety of an open car wash located within close proximity to a family neighborhood with children,
2. the lighting from the operation of the car wash,
3. the vehicular lights shining into the windows of homes and down streets as the patrons enter the car wash lane,
4. the lighting and views of the drive-through menu board,
5. the operating noise of the drive-through menu speaker,
6. the operating noise of the car wash,
7. the loss in the value of their homes due to unsafe situations, and
8. undesirable views created by the lack of separation between the homes and the service situation.

The consensus of the petitioners is that the sound attenuation fence would eliminate these issues.

Noise Analysis

Operation of the Carwash

Attached is the noise analysis conducted by the firm of Illingworth and Rodkin, Inc. for the operations of the drive-through lane and the carwash. (A representative of Illingworth and Rodkin will be present at the public hearing.) Measurements were taken over a 24-hour period of the carwash and drive-through. The first measurement – Table 1: Initial Carwash Noise Measurement Results – showed that the car wash operating from 62 dBA to 68 dBA at the service station's easterly property line, exceeding the 60 dBA standard required by the City Council for its operation. The applicant then modified the carwash equipment to reduce its noise. The results of the second carwash noise measurements – Table 2: Second Carwash Noise Measurement Results – indicate that even with the modifications in place, the operation of the carwash still exceeds the 60 dBA standard at the service station's property line. Based upon the second series of measurements, the applicant shut down the operations of the carwash.

Operation of the Drive-Through Lane

The noise produced by the drive-through lane is composed of the Jack-In-The-Box speaker, the voices of the patrons ordering food, the sound of vehicles idling, and then the sound of vehicles moving from the ordering station through the drive-through lane to the pick-up window. Idling vehicles were found to produce sound levels from 58 to 62 dBA at the property line, vehicles moving through the drive-through lane were found to produced average sound levels from 62 to 64 dBA at the property line with an occasional vehicle producing levels from 65 to 68 dBA. The noise report concluded that although the sound levels produced by the speaker/patrons are audible and potentially intrusive in nature, they are less than 60 dBA. However, the noise produced by idling and moving vehicles using the drive-through does exceed the 60 dBA standard at the development's property line.

24-Hour Operation of the Service Station

While the measured Ldn at the residential sites of 64 dBA Ldn exceeds the City's General Plan noise level of 60 dBA Ldn, the noise analysis states that this average noise level would be exceeded at the residential sites with/without the operation of the service station due to the existing ambient noise, e.g., Bernal Avenue and I-680 traffic. As previously stated, the Walnut Hills neighbors believe that staff should not factor ambient noise into its evaluation of the service station's noise impacts, even though ambient noise is a significant factor here, and that CNEL (Community Noise Equivalent Level) noise standards should be used.

The adopted noise methodology of the Pleasanton General Plan is Ldn. The difference between CNEL and Ldn is in the treatment of nighttime noise levels. CNEL applies a 5dB penalty to noise levels between 7:00 p.m. and 10:00 p.m. and a 10 dB penalty to noise levels between 10:00 p.m. to 6:00 a.m. Ldn applies a 10 dB penalty only to noise levels from 10:00 p.m. to 6:00 a.m. According to noise experts, the actual difference between Ldn and CNEL is very small, so staff feels that the conclusions of the noise study would be basically the same using either Ldn or CNEL. Furthermore, assessing noise impacts against ambient noise levels is a standard part of the noise assessment methodology as ambient noise does affect how noise is perceived. For commercial/residential interfaces, the Pleasanton Municipal Code standard is 60 dBA at the residential property line, which would be the east side of Rose Cliff Place. However, as required by the City Council, a more stringent standard was applied to this center because of its close proximity to the residential properties of the Walnut Hills development.

Noise measurements were made over a single, 24-hour time-period. The Walnut Hills neighbors believe that a seven-day analysis should have been conducted in order to evaluate weekends. According to representatives of Illingworth and Rodkin, this one-day measurement would provide an accurate description of the noise impacts from the center throughout the week. The Illingworth and Rodkin representative will be present at the public hearing to speak on this issue.

Mitigation

As conditioned by PCUP-61, if the Planning Commission determines that the operation of the carwash is a public welfare and safety issue, based upon the continued complaints pertaining to its noise, the Planning Commission can reduce its hours-of-operation – currently from 6:00 a.m. to 9:00 p.m. – and/or require the construction of noise attenuation measures.

Based upon the attached noise analysis, the evidence is that the operations of the carwash exceed City standards and that it would be appropriate for the Planning Commission to require mitigation measures. As recommended in the in the noise analysis, in order to comply with the maximum noise level limit of 60 dBA per the City's noise ordinance, one of the following measures should be implemented at the Bernal Corners site:

1. Property Line Fence

To attenuate noise levels produced by the operation of the carwash and vehicles using the restaurant drive-through lane, an eight-foot tall solid wood fence should be built on the eastern property line from the southern property line to a point ending concurrent with the north building façade of the convenience market building. To be effective as a noise barrier the fence should be built without cracks or gaps in the face or base, have a minimum surface weight of 3.0 lbs. per square foot, and be capable of reducing noise traveling directly through it by a minimum of 10 dBA. A wood fence built with a double layer of one-inch nominal thickness fence boards, with the second layer of boards installed to cover the joints of the first layer, will meet these surface weight and noise reduction requirements. Other wall types that will provide the needed level of noise reduction include masonry block, and concrete panel walls. Staff, however, prefers wood.

2. Mass Loaded Vinyl Barrier at Carwash

A mass loaded vinyl curtain should be hung off of the existing carwash entrance trellis/cover through which the car would pass before entering the wash for the wall adjacent to the car wash. To be effective in properly reducing noise from the car wash to the property line the mass loaded vinyl should have a minimum weight of 1.0 lb. per square foot and be capable of providing a minimum STC rating of 25.

Staff believes that a property line acoustical fence should be required. This would mitigate the noise impacts and address other neighborhood concerns of safety and security. This measure is reflected in the draft conditions of approval. As discussed further, the installation of the sound fence would affect the pedestrian pass through from the service station to the Walnut Hills neighborhood.

New Property Line Fencing

The property line between the service station and the fire station property is open, providing a direct view of the Jack-In-The-Box drive-through lane to the Walnut Hills neighborhood. It is considered to be objectionable by the neighborhood. Thus, the installation of the eight-foot tall sound attenuation fence along the entire easterly property line would screen the drive-through lane from view and would secure the drive-through lane from pedestrian access.

When the development plan was originally reviewed, staff had directed the applicant to maintain an open property line along the east and south sides of the service station, in order to maintain an open character between the individual developments of the Bernal Property and to have the landscaping of these developments flow together as a seamless whole. The Planning Commission and City Council concurred with staff. Following this concept, the landscaping for the portion of the service station property adjoining the Fire Station No. 4 is designed and coordinated to work together visually and functionally. For example, the fire station site is graded to receive and treat the stormwater runoff from the service station's drive-through lane in its own vegeta-

tive filter swales. Because of the open property lines, special design detailing including trellises was added to the east and south walls of the convenience market and carwash buildings, respectively, to soften their appearance.

Although the attached noise analysis did not recommend the installation of the sound attenuation along the entire easterly property line adjoining the City-owned property, the Walnut Hills neighbors believe that there should be a fence on this property line also to secure the property. Staff concurs with extending the sound fence along the entire easterly property line and has added a condition of approval to construct the eight foot tall fence along the entire easterly property line, ending at a point concurrent with the west building façade of the carwash.

Pedestrian Connection to the Walnut Hills Neighborhood

The open, gateless pedestrian connection from the service station to the Walnut Hills neighborhood was stipulated by the Planning Commission in its review of this project. It implements Guidelines 3.1 and 3.3, Comprehensive Land Use Policy 3: Neo-Traditional Planning Principles, of the Bernal Specific Plan for this development:

- “Further the linkage between adjoining land uses by creating pedestrian linkages through plazas, view corridors, and safe access ways.”
- “Develop a circulation pattern and street design which accommodates pedestrians and provides for non-vehicular travel.”

The service station owner stated to staff that he has observed some of the Walnut Hills' residents using this connection to walk from their homes to the convenience market to purchase small items such as milk, soda, diapers, detergent, etc. This pedestrian opening saves considerable distance for the Walnut Hills residents to travel to this center, pursuant to the above Specific Plan principles. Additionally, when the fire station project was approved, the Walnut Hills neighbors requested that there be no pedestrian connections from the north side of Whispering Oaks Way to the open space area of the fire station. Installing a continuous sound attenuation fence in this area of the project to deal with the carwash noise and other concerns may eliminate the pedestrian opening. (Sound attenuation fences must be continuous and opaque with no openings.)

The options available to the Planning Commission regarding this opening include the following:

1. As previously stated, require the installation of a continuous sound attenuation fence as recommended in the noise report.
2. Provide a self-closing gate in the sound attenuation fence designed, constructed, and maintained to provide pedestrian access and to achieve noise attenuation when closed.

3. Explore other designs that could accommodate a pedestrian opening in conjunction with the sound attenuation fence. However, staff notes that the present design of the pedestrian opening was based on the input provided by representatives of the Pleasanton police Department for pedestrian safety and security.

While staff believes that some type of an opening should remain to maintain the currently used pedestrian access between the center and the Walnut Hills neighborhood, thereby minimizing vehicular trips between the neighborhood and the convenience market, the Walnut Hills neighbors want the opening eliminated. The Planning Commission would be able to require its closure if it determines the opening is a public welfare and safety issue based on the provisions of the service station's conditional use permit approval. Staff understands the neighbors' concerns, but acknowledges that public streets and walkways to and through residential neighborhoods in mixed-use developments will occasionally lead to their use by non-residents.

Hours of Operation

The Planning Commission would be able to modify the hours of operation for the entire service station or for a portion of the service station, e.g., the Jack-In-The-Box drive-through lane and/or the drive-through carwash, once it determines, based upon the facts in evidence, that the hours of operation pose a public welfare and safety issue according to the provisions of the project's conditional use permit approval.

Alcohol Sales

With its review of PUD-02-4M and PCUP-061, the Planning Commission and City Council, considering input from the City's Police Department, approved the sale of beer and wine only from the convenience market. The City's Police Department continues to support the sale of beer and wine in containers from the convenience market. A representative of the Pleasanton Police Department will be present at the public hearing to speak on this issue.

Section 9.04.35 B of the Pleasanton Municipal Code deals with establishments that serve alcohol for consumption on premise, e.g., a bar or a restaurant serving alcohol with food after 10:00 p.m. The sale of beer and wine in containers from this convenience market is not a bar and would be no different than the sale of beer and wine from food stores and convenience markets, e.g., Albertson's, Safeway, 7-11, etc.

The California Department of Alcoholic Beverage Control (ABC) has not yet issued a permit to the service station owner/operator for the sale of beer and wine from the convenience market. According to ABC representatives, the request for beer and wine sales has been appealed by neighbors to a public hearing. Staff has periodically visited the convenience market and has visually verified that the ABC rules are being followed. Staff's verification has in turn been verified by ABC staff who have inspected the property on four separate occasions responding to neighborhood complaints and found the operation of the convenience market to be in conformance with ABC rules.

Police Department

Service Calls and Crime Statistics

Attached are the service calls and crime statistics for the center since it opened and for the Walnut Hills neighborhood before and after the service station opened. The Walnut Hills neighbors have stated to staff that the presence of the service station has caused an increase in crime statistics for the neighborhood. Representatives of the Pleasanton Police Department consider the presence and operation of the service station to not be a factor in service calls to the Walnut Hills neighborhood. A representative of the Pleasanton Police Department will be present at the public hearing to speak on these issues.

Teen Activity

Concerns have been identified regarding teen activity at the service station at night. The City has a 10:00 p.m. curfew for minors to control loitering unless they are engaged in a specific activity. Staff spoke to the Police Department representatives on this issue. Teens have congregated at the service station after games at Foothill and Amador High Schools without incident. The Police Department's liaison to teenagers has visited the service station after the games to speak with the teens regarding the surrounding residential properties and their behavior.

Valley Avenue Traffic Roundabout

Operation of the roundabout is an enforcement issue of the Pleasanton Police Department. Staff reviewed a plan for a left-turn pocket from southbound Valley Avenue to the service station and found that it would conflict with the double-left-turn lane from northbound Valley Avenue to westbound Bernal Avenue. The length and configuration of the northbound to westbound left-turn lane was determined by the future traffic levels on this section of Valley Avenue including the approved office development by the South Bay Company. Therefore, although such an opening would provide more direct access to the center, it would interfere with the design of the intersection, would create traffic safety issues, and would significantly reduce the area of the landscaped median island in this section of Valley Avenue.

Other Issues

As previously stated, Mr. Don Lee and Ms. Theresa Moore queried staff regarding measures that could be installed on the service station that would screen their second-floor bedroom windows from vehicle headlights using the drive-through lane and entering the service station from Valley Avenue. Soquel redwood trees and flowering pear trees were planted on the project side of the metal fence between Mr. Lee's home and the approach to the drive-through lanes that would screen the service station from view. At the present time, however, there is no practical means available to shield the second-story windows of the homes facing Rose Cliff Place from vehicle headlights.

Ms. Theresa Moore stated that the Jack-In-The-Box order boards are visible to pedestrians and motorists on Rose Cliff Place. Soquel redwood trees and flowering pear trees, dwarf escallonia shrubs, and a variety of other shrub species were planted the east and south property lines that, when mature, would buffer the views of the service station including the order boards from Rose Cliff Place. Staff notes that the installation of a sound attenuation fence would screen the order boards from view.

Public Notice

Notices of the Planning Commission's public hearing on this item were sent to all of the Walnut Hills homeowners as well as to the property owners and business tenants located within 1,000-feet of the service station property. As previously stated, written and/or verbal concerns were received from Alex Wong (1690 Whispering Oaks Way), Don Lee (1698 Whispering Oaks Way), John Rocha (1408 Oak Vista Way), Harinder Grewal (1666 Whispering Oaks Way), Ki-Ho Balk (1533 Whispering Oaks Way), Liz Fichtner (1685 East Gate Way), Theresa Moore (1693 East Gate Way), and Zhu Feng (1406 Whispering Oaks Way). A map is attached showing the locations of these properties and the service station site.

CONDITIONAL USE PERMIT FINDINGS

The Planning Commission needs to make use permit findings prior to approving a modification of the conditional use permit. These findings must relate to the specific modifications being made, and since the Planning Commission may decide to adopt a variety of modifications in response to the list of issues submitted by the neighbors, staff has not prepared the findings. The Planning Commission should, therefore, make the following findings based on the modifications that it approves:

1. As modified, the location of the proposed conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The attached noise analysis shows that certain aspects of the operation of this use exceeds the 60 dBA, property-line noise standard required for this facility. Therefore, to mitigate the noise, an eight-foot tall sound attenuation fence has been required. With the installation of the fence, this finding can be made.

2. As modified, the proposed location of the conditional use and the conditions under which the conditional uses would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The attached noise analysis shows that certain aspects of the operation of this use exceeds the 60 dBA, property-line noise standard required for this facility. Therefore, to mitigate the noise, an eight-foot tall sound attenuation fence has been required. With the installation of the fence, this finding can be made.

3. As modified, the proposed conditional use will comply with each of the applicable provisions of this chapter.

The attached noise analysis shows that certain aspects of the operation of this use exceeds the 60 dBA, property-line noise standard required for this facility. Therefore, to mitigate the noise, an eight-foot tall sound attenuation fence has been required. With the installation of the fence, this finding can be made.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as a modification to an existing use permit. Environmental review for the proposed project was undertaken as part of the Final Environmental Impact Report approved by the City Council for the Bernal Properties Specific Plan. Modifying the existing conditional use permit in response to the neighborhood concerns would be within the context of the Final Environmental Impact Report and would mitigate identified impacts. Therefore, no new environmental document accompanies this staff report.

CONCLUSION

Staff believes that the Bernal Corners project is attractive, well designed, and beneficial to the area by providing fuel, food, and convenience market items to nearby residents. Danville Petroleum, the service station's owner/operator, has worked with staff diligently to resolve the issues raised by the Planning Commission and by the neighbors regarding signage, lighting, and safety.

Staff recognizes that the adjacent neighbors have a number of serious concerns with the operation of the service station, car wash, and drive-through at this center. As a result, staff required the operator to produce a noise analysis, which identifies that certain activities result in excessive noise; as a result, the noise analysis identifies noise mitigations. Staff believes that installing a sound attenuation fence along the entire easterly property line is the appropriate method of mitigating noise and notes that it would also address other neighborhood safety and security concerns. Regarding other changes to the use permit, such as hours of operation and treatment of the pedestrian connection, staff has not made a recommendation and suggests that the Planning Commission consider these issues at the public hearing and add whatever additional conditions it deems necessary after making the required findings for these modifications.

STAFF RECOMMENDATION

Staff recommends the Planning Commission:

1. Discuss the issues raised in this staff report, hear all public testimony, and make its determination pertaining to the operating hours of the service station, the drive-through lane, the car wash hours, the installation of a sound attenuation fence, and other issues raised at the public hearing;

2. Make the required use permit findings pertaining to specific modifications to the use permit; and,
3. Adopt a resolution modifying the conditional use permit PCUP-61, subject to the Exhibit "B", Draft Conditions of Approval, and adding any specific conditions of approval to Exhibit "B".

Staff Planner: Marion Pavan, (925) 931-5610, mpavan@ci.pleasanton.ca.us

PCUP-61, Bernal Partners, LLC/City of Pleasanton

Review and consideration of possible modification to an approved conditional use permit for a self-service gasoline station with a convenience market, quick-service restaurant, and carwash to consider hours of operation, operation of the drive-through carwash, noise, perimeter fencing, and other issues. The subject property is located at 1875 Valley Avenue (southeast corner of Bernal Avenue and Valley Avenue) and is zoned PUD – C-O (Planned Unit Development – Commercial-Office) District.

Mr. Iserson presented the staff report and gave a brief summary of the background and the concerns and issues raised by the neighbors concerning the operation of the facility, including: (1) noise during sensitive hours resulting from the 24-hour operation of the service station and convenience store, the carwash operation, and the Jack-in-the-Box drive-through speaker – noise at night, the oil recovery truck and garbage collection; (2) safety of the children in the area in relation to the operation of the carwash and drive-through; (3) the use of the pedestrian walkway between the center and the neighborhood by patrons parking along the neighborhood streets; (4) the approval of the convenience store sales of beer and alcohol which may cause customers to open the containers and drink in the neighborhood; (5) the hours of operation which result in people hanging out and loitering at the center; (6) car wash signs and lights which are visible from the second floor of the neighboring homes; (7) the employee use of the trash enclosure area as a smoking area; and (8) traffic on Valley Avenue resulting from the inappropriate use of the traffic-calming roundabout.

Mr. Iserson indicated that the business owners have addressed some of the issues such as prohibiting the removal of trash after dark; proposing the removal of the car wash signs from the east and west side of the building and installing one sign on the north elevation; and moving the smoking area from the trash enclosure area to the side of the convenience store.

Mr. Iserson then discussed potential mitigation measures which the Commission may wish to consider in addressing the neighborhood issues, such as limiting the hours of operation of the service station from 6:00 a.m. to 10:00 p.m.; providing an eight-foot tall sound attenuating wall along a portion of the south and east property lines, thereby creating a more secure site in the neighborhood and preventing children from running through the drive-through and carwash areas; changing the location of the car wash signs; and removing the pedestrian access-way between the neighborhood and the center. With respect to alcohol sales, Mr. Iserson stated that the center has not yet received its alcohol sales permit from Alcohol Beverage Control (ABC) and, therefore, no alcohol in containers is being sold at this time. He added that the turn-around Valley Avenue is necessary and creating an opening across the median would interfere with traffic circulation at that intersection.

Mr. Iserson next described the noise analysis done by Illingworth & Rodkin and stated that the two measurements taken indicated that the noise resulting from vehicles in the drive-through lane and the 24-hour operation of the service station and convenience store was in excess of 60 dBA level at the center's property line.

Mr. Iserson noted that the applicant has worked in good faith to minimize these issues; at the same time, however, the neighbors had serious concerns, some of which were confirmed by the results of the noise studies.

In response to Commissioner Fox' inquiry regarding the effect of ambient noise, Mr. Iserson stated that this was felt most during the night when ambient noise is still loud while on-site noise produced by the operation is diminished. He indicated, however, that the noise still needed to be mitigated because it exceeded 60 dBA.

Mr. Iserson recommended that the Commission consider the potential mitigation measures, make the findings for any modifications it wishes to make to the use permit, and adopt a resolution for the use permit modification, subject to the conditions of approval of the staff report, including the extension of the wall along the south property line, plus other conditions the Commission wants to add.

In response to Commissioner Sullivan's inquiry regarding the ability to modify the hours of operation or any combination of uses, or to revoke the use permit for any combination of the uses, Mr. Iserson replied that the Commission can make any modifications it wishes or revoke the use permit so long as it can make the findings for such modifications or revocation. He strongly suggested, however, that inasmuch as the applicant had made a substantial investment in the construction of center and in reliance in good faith upon the City's approval of the use permit and PUD development plan, the Commission first deal with modifications to the use permit in terms of the installation of the wall, the hours of operations, and other mitigations before considering revoking the use permit.

Commissioner Sullivan commented that each time the Commission considers a conditional use permit application in a controversial project where there is a lot of neighborhood opposition, a condition is included indicating that the operation can be modified should problems arise; however, when such a situation arises, the Commission is not prepared to do that.

Commissioner Fox presented two articles to the Commission regarding similar issues in Fremont and Santa Monica in which the installation of a 14-foot tall acoustical soundwall mitigated noise issues. She expressed concern that an eight-foot tall wall would not mitigate the noise and light issues for the two-story houses adjacent to the center.

Ms. Nerland advised that when documents are submitted to Planning Commission, copies should be made available to the applicant, the property owner, and members of public who may want to see them.

Mr. Iserson stated that the noise report concluded that an eight-foot tall wall would be sufficient to meet the required 60 dBA level at the property line and 45 dBA level in the interior of the house. He added that any fence taller than eight feet would be overwhelming and would create objectionable aesthetic and visual impacts.

THE PUBLIC HEARING WAS OPENED.

Weldon Theobald, applicant, 931 Hartz Way, Dublin, introduced his three partners in the Bernal Corners operation: Jack Edwards, Jerry Anderson, and Steve Watty; Counsel, Mark Hirsch; Fred Svinth, noise consultant with Illingworth and Rodkin; and Joe LoBianco, construction manager for Jack-in-the-Box.

Mr. Theobald stated from the outset of the project 29 months ago, he and his partners have tried to do what was right and took no shortcuts to build a site that would be functional, economically sound, and pleasing to the community; a site that they could take pride in and would be part of a neighborhood with whom they wanted to have a long and good relationship. He stated that at the planning stage, he had discussions with staff and the Planning Commission regarding closing off the property but that he was informed that a fence would prevent a free flow of neighbors and would not be compatible with the overall guidelines of the Bernal Property project to create a walkable community. He added that he was now ready to build a double-sided redwood fence as this was the right thing to do for the neighborhood. He noted that the carwash was necessary for the financial viability of the project.

Mr. Theobald then presented the mitigations that have been done to address several neighborhood issues: the modification of the gooseneck lighting fixtures with shields and frosted bulbs and the installation of a timer to turn them off at midnight; the addition of 130 plantings to enhance the site and address the monument area; the modification of the grease truck pick-up hours from 4:30 a.m. to early afternoon; the transfer of the employee smoking area from behind the trash dump to the side of the carwash building; the policy of no trash dumping after dark and the modified trash pick-up hours by Pleasanton Garbage Service; the modification of the steel fencing on the east side of the property to prevent the penetration of light from the drive-through lane; and the grading of City property on the south side to alleviate any standing water.

Mr. Theobald then discussed the noise issue stemming from the carwash and the Jack-in-the-Box speaker. He stated that they were assured before they purchased the carwash system that 60 dBA would not be a problem and that they had done noise readings at that time with results lower than the acceptable 60 dBA. He pointed out that they had installed mufflers in the carwash but that it has not been in operation for the past week at the request of City staff. He added that he was working with Jack-in-the-Box regarding the drive-through speaker. He indicated that the noise issue could be corrected with changes and improvements to the equipment and that the construction of the fence would minimize future impacts.

Finally, Mr. Theobald noted that other issues brought up were not related to the business, such as general problems with traffic in area; circulation and parking; and the lack of disclosure by KB Homes. He emphasized that contrary to claims, no alcohol was sold in the premises and that they were responsible individuals who would not jeopardize the operation, their families, and themselves by selling alcohol without a permit. He concluded that they had collected signatures from approximately 400 Pleasanton customers showing appreciation for the existence of the service station in the area.

Mr. Theobald then reiterated that the carwash is an economic necessity and requested that it be allowed to operate on a limited basis, from 9:00 a.m. to 8:00 p.m., until such time as the fence is put up.

Discussion ensued regarding whether disclosures were made in connection with the drive-through and the carwash when the KB Homes were sold. Mr. Theobald read the disclosure statement provided by KB Homes to its buyers. Commissioner Sullivan commented that he recalled the houses were built before the service station was approved; the Commission then asked staff about the timeline involving both projects.

Ms. Nerland stated that while she was not present when the KB Homes project was done, she pointed out that for the Greenbriar Homes project on west side of the property, the Specific Plan indicated that the conditions of approval required extensive disclosure statements and recorded documents such that not only initial buyers but all future buyers as well would be aware of all uses the City was contemplating for the entire Bernal Property.

In response to Commissioner Fox's inquiry regarding the acoustical qualities of a wood fence as opposed to one made of solid material, Mr. Iserson replied that a totally sealed wood fence of a certain thickness and with no gaps would have the same acoustical properties as a masonry wall.

Commissioner Fox then inquired if there were any other drive-through fastfood restaurants in the City located adjacent to a residential neighborhood and open until midnight, and who set the midnight closing hour for the Jack-in-the-Box drive-through. Mr. Iserson replied that he did not have the information at hand and that the Planning Commission had approved the midnight closure for the Jack-in-the-Box drive-through.

Mark Hirsch, 40931 Fremont Boulevard, Fremont, stated that he went to KB Homes at the time the first homes were being sold and before Danville Petroleum bought the property in 2001, and he was told that there would be a gas station on the site; he did not receive any written disclosures. He reiterated that the fence, as proposed, would help alleviate the noise issue and that they would do everything possible to be good neighbors.

Fred Svinth, Illingworth & Rodkin consultant, offered to answer any questions regarding the noise study.

Commissioner Arkin inquired if the active noise cancellation technology can be applied to the noise situation. Mr. Svinth replied that the technology needs a controlled space and, therefore, cannot be applied in an open environment. He added that the canceling signal cannot be applied inside the carwash as it would not be able to control the sound movement, thereby amplifying other sounds and causing an even louder noise.

Commissioner Fox inquired if the carwash could be reversed locating it closer to Valley Avenue or Bernal Avenue with the exits on the other side. Mr. Svinth replied that the exits are now located away from the houses and that the noise would be significantly worse if the location were reversed.

In response to Commissioner Arkin's question whether the location of the noise measurements were at the property line of the residences, Mr. Svinth replied that two separate surveys were done at the property lines of two different properties – 1700 Whispering Oaks Way and 1693 East Gate Way – with results ranging from 63 dBA to 66 dBA. Commissioner Arkin further inquired if the reading would drop if a fence were built; Mr. Svinth replies that the reading would drop one dBA per foot of wall height.

Commissioner Fox inquired if curving the top of the fence would help to reduce sound. Mr. Svinth replied that the curved top would act like an increase in the height of wall without physically adding to it.

Randy Curtola, 6981 Corte Mercado, stated that the service station is very convenient and that more activities in the area would emerge as the Bernal Property gets built out.

Craig and Theresa Moore, 1693 East Gate Way, stated that when they bought their house in October 2001, they were told that there would be a service station and carwash on site but were not given any written disclosures or details regarding the hours or operation or the drive-through.

Mr. Moore then presented the issue of the loud noise caused by the rollers of the trash containers from Jack-in-the-Box at night as well as the early trash pick-up by the City. He added that there was no ambient noise to drown the intrusive noise during the sensitive late night hours or very early morning. With respect to the wood fence, he stated that wood expands and contracts with weather conditions and that gaps would eventually be created and allow noise to penetrate. He indicated that he would prefer a continuous masonry soundwall.

Ms. Moore stated that they were not opposed to the service station when they purchased their house; however, she expressed concern about the lack of a barrier or separation between the center and the residential neighborhood; the carwash and drive-through hours of operation; the carwash signs and lights on the building; the intrusive noise and headlights coming from the drive-through; the safety of children riding their bikes through the carwash; and the pedestrians who walk through their neighborhood to the store when they miss the turn and park their cars in the neighborhood.

In response to Commissioner Fox's question regarding the ideal hours of operation they would prefer, Mr. Moore replied that he would like the drive-through to cease operating by 9:00 p.m., with only walk-in access through the side of the building.

In response to Commissioner Sullivan's inquiry if they would still want a wall, possibly a wrought iron fence, if there were no drive-through and carwash, Mr. Moore said that the wall is necessary for safety reasons and to prevent pedestrians from walking through their neighborhood to get to the store.

Ms. Nerland clarified that the garbage is not picked up by the City but by Pleasanton Garbage Service. She added that the Garbage Service has certain hours to pick up garbage from commercial and industrial areas and certain hours to pick up from residential neighborhood; in effect, requesting a later pick-up in one residential area would result in an earlier pick-up in another residential neighborhood.

Commissioner Sullivan inquired if the Commission has the ability to condition the project so that garbage can be picked up only at certain hours. Mr. Iserson replied that the City's noise ordinance indicates that commercial garbage pickup cannot be regulated by any specific hours. He explained that while Pleasanton Garbage Service cannot be conditioned to observe certain pick-up hours, the applicants can be conditioned to use their best efforts to talk to the Garbage Service regarding these hours and Jack-in-the-Box to not roll out the garbage containers after a certain hour.

Raymond Frost, 5686 Selena Court, filled out a speaker card but had left the meeting at this point.

Joe LoBianco, Jack-in-the-Box construction manager, 15999 Thornbury Way, Grass Valley, stated that he has had a lot of experience with soundwalls in various Jack-in-the-Box locations and that the proposed solid wall would alleviate the concerns that have been brought up. He noted that most Jack-in-the-Box restaurants are open 24 hours a day, seven days a week; thus, the operating hours of 6:00 a.m. to midnight is restrictive on sales and any further restriction would present difficulties, especially since current sales are already 15 percent less than projected. With respect to patrons trying to place orders in the drive-through after it has been closed, Mr. LoBianco indicated that removable bollards can be set up to block the entrance to the drive-through lane once it is closed.

Donald Lee, 1698 Whispering Oak Way, stated that he does not open his windows because of the intrusive noise caused by the drive-through. He noted that the Jack-in-the-Box in Fremont built a solid wall around the commercial area and that he would like to see a solid sound wall here, as well. He added that the pedestrian connection should be closed and suggested signs asking patrons of the drive-through to turn down their radios.

Anne Childs, 1392 Oak Vista Way, stated that while she is not directly affected by the service station and the carwash, she supports the neighbors because these are affecting their quality of life. She added that it would be better for the neighborhood to be segregated from the commercial center because the two areas are incompatible.

Kevin Rash, 2622 Willowren Way, indicated that he works at Bernal Corners and that he has received numerous compliments from customers, including the California Highway Patrol and nurses, regarding the cleanliness of the place and the convenience it provides for essentials such as bread and eggs. He stated that it would be a negative to limit the hours of operation of the service station and the convenience store.

Wendy Lee, 1536 Oak Vista Way, noted that she appreciated the service station and was not directly affected by it as she does not live in the immediate neighborhood. She stated, however, that the neighbors have a good point and that commercial and residential should not be mixed. She added that she has seen the designs for the Bernal Property Design Competition and expressed concern that sports fields and parking areas were located right next to her neighborhood.

Mr. Theobald stated that since the location of the service station makes it necessary to have personnel on-site 24 hours, it would serve the purpose of having the service station and convenience store open for 24 hours, as well. He reiterated his request to operate the carwash on a limited basis until the fence is installed.

THE PUBLIC HEARING WAS CLOSED.

The Planning Commission recessed for a break at 9:00 p.m.

Commissioner Arkin reconvened the meeting at 9:05 p.m.

Commissioner Sullivan presented his recollection of the development and approval process of the Bernal Property, emphasizing his original opposition to the establishment of the commercial center. He stated that the site was a freeway-oriented rather than neighborhood-oriented

development and that the carwash, the drive-through, and the 24-hour service station and convenience store were not compatible with the neighborhood. He indicated that he was in favor of reducing the hours of operation, curtailing or eliminating the carwash and drive-through, and removing the walkway to the center. He noted that an eight-foot tall fence would solve the noise issue and expressed concern regarding its aesthetics and visibility at the gateway to the community.

Commissioner Fox stated that she was in favor of reduced hours of operation and the installation of a landscaped masonry wall rather than a wood fence. She expressed concern regarding safety issues of the carwash and improving the quality of life for the neighbors. She added that while she was not particularly in favor of the drive-through and carwash, she did not want to revoke the use permit without first trying other things.

Commissioner Arkin indicated that he could support the reduction of the hours of operation but not the elimination of some of the uses. He was in favor of installing an eight-foot tall fence and suggested that the design be similar to the masonry wall along the eastern end of Stoneridge Drive. He expressed concern about safety issues in the carwash and suggested that a motion sensor be installed such that any unauthorized use of the carwash such as children entering the area would set off an alarm. He proposed that the parking restrictions be enforced along the residential streets to prevent trucks and buses from parking there.

After discussing the various measures proposed by staff to mitigate the neighborhood issues caused by the operation of the service station, the Commissioners took a straw vote and agreed on the following:

- Self-service gasoline station and convenience market to remain open 24 hours.
- An eight-foot tall masonry wall with landscaping matching the design of the wall along the eastern end of Stoneridge Drive at Newton Drive, to be constructed on the east and south sides of the site, generally from the entrance to the carwash to the exit of the Jack-in-the-Box drive-through.
- Jack-in-the-Box drive-through hours to be limited to 7:00 a.m. to 10:00 p.m. on weekdays and 9:00 a.m. to 10:00 p.m. on weekends; removable bollards to be placed at the drive-through entry at close of drive-through service; employee on duty to keep signed daily log of times when bollards are set up.
- Car wash hours to be limited to 7:00 a.m. to 9:00 p.m. on weekdays and 9:00 a.m. to 9:00 p.m. on weekends.
- "Car Wash" signs and lights at the east and west ends of the building to be removed and one sign installed in the middle of the north elevation.
- Car wash not to re-open until operator meets City noise standards of 60 dBA at the property line when demonstrated to staff.
- Applicant to look into the installation of sensors or alarm system inside the carwash for safety reasons so any unauthorized entry into the carwash area shall alert the employee on duty.
- Applicant to install a courtesy sign at the entrance to the drive-through requesting patrons to turn down their radios.
- Trash containers not to be rolled out of the restaurant to the outdoor garbage bin after 10:00 p.m.; employee on duty to keep daily log of times garbage is taken out.

- Applicant to be responsible for employees on duty to keep daily log of Pleasanton Garbage Service (PGS) trash pick-up times; applicant to work with PGS concerning pick-up times.
- The pedestrian pass-through is to be eliminated.

Discussion ensued regarding the installation of no parking signs along the neighborhood streets. Lt. Eric Finn, Pleasanton Police Department, indicated that there were "No Parking" signs along the street adjacent to the site of the carwash but none on the residential side. Commissioner Arkin indicated that if trucks and buses continue to park along the residential streets even after the fence is installed, the Commission could look at restricting parking for vehicles exceeding a certain length. Mr. Iserson stated that issue could be referred to the Traffic Committee at that time.

Commissioner Fox moved to make the required use permit findings pertaining to specific modifications to the use permit as spelled out in the earlier discussion and to adopt a resolution modifying PCUP-61, subject to the conditions of approval of the staff report as modified by the above straw-vote.

Commissioner Arkin seconded the motion.

ROLL CALL VOTE

AYES: Commissioners Arkin, Fox, and Sullivan.
 NOES: None.
 ABSTAIN: None.
 ABSENT: Commissioners Kameny, Maas, and Roberts.

Resolution No. PC-2004-46 was entered and adopted as motioned.

From: [RajaKumar Martha](#)
To: [Sachiko Riddle](#)
Subject: Regards to PCUP-61 amendment feedback
Date: Sunday, April 14, 2024 7:02:03 PM

*** [EXTERNAL] This message comes from an external organization. Exercise caution when opening attachments or clicking links, especially from unknown senders. ***

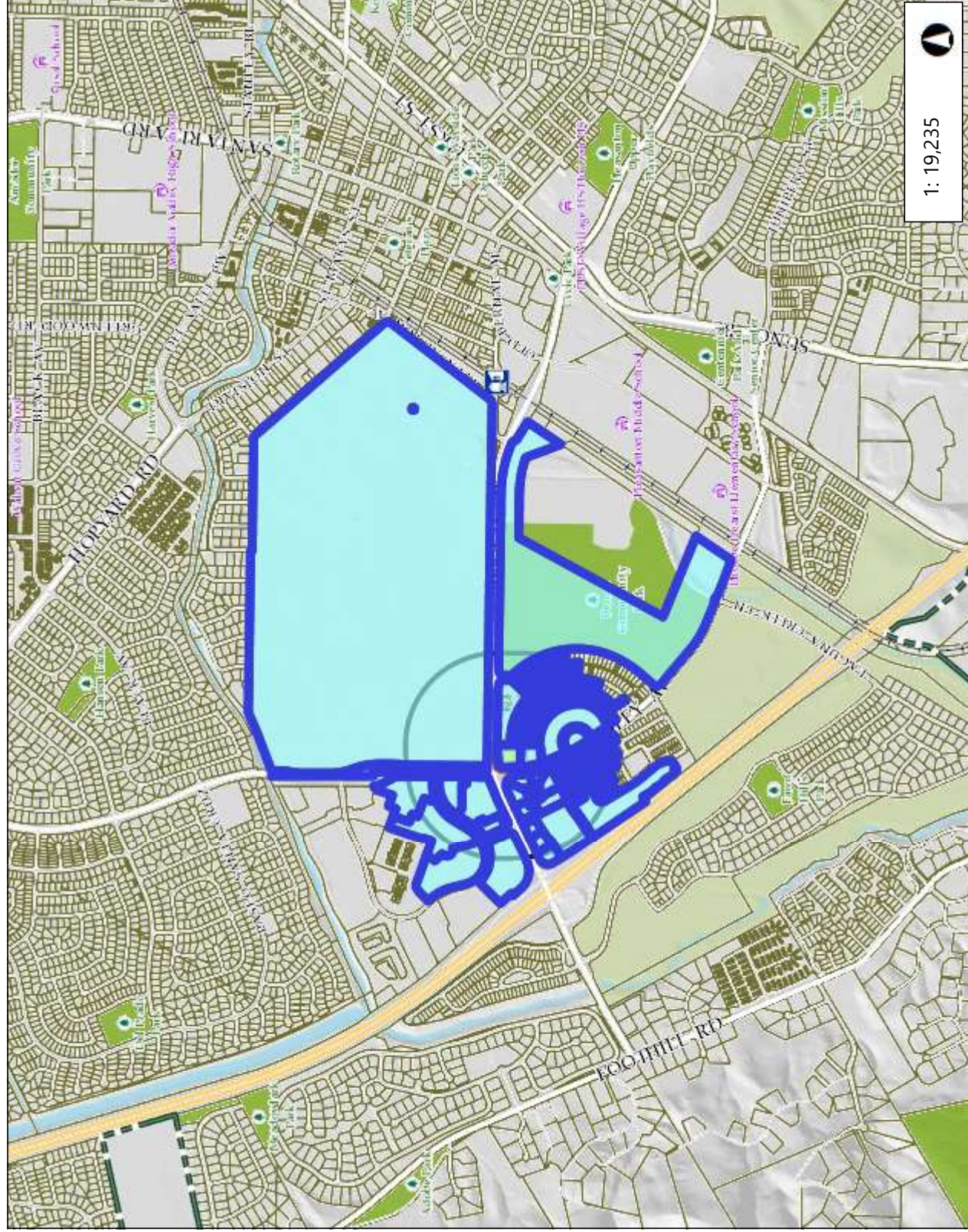
Regards to P24-0127, chevron stations inc, 1875 valley ave

I oppose new proposal. Infact they dont need to sell the beers in first place.
We have multiple residential areas near by. Its lot of inconvenience to have spirti shops near
by



P24-0127 - 1875 VALLEY AVENUE

EXHIBIT G



Legend

- Fire Station
- School
- Park
- Parcels

Notes
Notes

1: 19,235

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

3,205.9 0 1,602.94 3,205.9 Feet

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Wednesday, April 10, 2024

CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

Chair Gaidos called the regular meeting of the Planning Commission to order at 7:02 p.m. from the City Council Chambers located at 200 Old Bernal Avenue and via teleconference at 3529 Knollwood Drive, Carlsbad, CA 92010.

Commissioner Jain led the Pledge of Allegiance.

Commissioners Present: Commissioners Anurag Jain, Vivek Mohan, Ken Morgan, Brandon Pace via teleconference, Stephanie Wedge, and Chair Matt Gaidos

Commissioners Absent: None

AGENDA AMENDMENTS

None.

CONSENT CALENDAR

1. Actions of the Zoning Administrator

Recommendation: Receive report.

2. P24-0110, Nora Collins, 5675 Owens Drive (parent address 4452 Rosewood Drive) – Application for a Conditional Use Permit to operate a childcare facility for a maximum of 110 children and 18 staff members at the facility at one time in an approved yet constructed building to be located at the northeast corner of Rosewood and Owens Drives

Recommendation: Adopt Resolution No. PC-2024-06 approving the application.

3. Approve the meeting minutes of March 27, 2024

Recommendation: Approve the meeting minutes.

MOTION: It was m/s by Pace/Jain to approve the Consent Calendar, as recommended. Motion passed by the following roll call vote:

Ayes:	Commissioners Jain, Mohan, Morgan, Pace, and Chair Gaidos
Noes:	None
Absent:	None

MEETING OPEN TO THE PUBLIC

4. Public comment regarding items not listed on the agenda.

Chair Gaidos opened the public comment. There being no speakers, Chair Gaidos closed the public comment.

PUBLIC HEARING AND OTHER MATTERS

5. P23-0599, Kelley Rutchena, 5976 & 5994 West Las Positas Boulevard – Application for Design Review and a Vesting Tentative Map for a housing development that includes the demolition of two existing commercial buildings and construction of 146 multi-family residential units with 38 accessory dwelling units with associated site improvements located at 5976 & 5994 West Las Positas Boulevard

Recommendation: Adopt Resolution No. PC-2024-07 denying the applications for Design Review and Vesting Tentative Tract Map, filed as P23-0599.

Associate Planner Diego Mora presented the item.

Chair Gaidos opened the public comment. Public comments were received from Aidan Barry and Bryan Wenter on behalf of the applicant.

Chair Gaidos closed the public comment.

MOTION: It was m/s by Mohan/Jain to adopt Resolution No. PC-2024-07, as recommended. Motion passed by the following roll call vote:

Ayes:	Commissioners Jain, Mohan, Morgan, Pace, and Chair Gaidos
Noes:	None
Absent:	None

MATTERS FOR COMMISSION'S REVIEW/ACTION/INFORMATION

6. Reports from Meetings Attended (e.g., Committee, Task Force, etc.)

None.

7. Actions of the City Council

None.

8. Future Planning Calendar

Planning Manager Melinda Denis provided a brief overview of the items listed in the report.

MATTERS INITIATED BY COMMISSION MEMBERS

None.

ADJOURNMENT

Chair Gaidos adjourned the meeting at 8:21 p.m.

DRAFT

SUBJECT: Committee, Commission, and Task Force List

Bicycle, Pedestrian, and Trails Committee

Advise the Parks and Recreation Commission and the City's Traffic Engineering Division on bicycle, pedestrian and trail related items. The committee reviews and prioritizes potential projects and provides input on policies related to bikeways and trails.

Meeting Time: Fourth Monday of each month at 6:45 p.m.
Meeting Location: Pleasanton Senior Center, 5353 Sunol Blvd., Pleasanton
Representative: Commissioner Jain
Alternate: Chair Pace
Staff Contacts: Matt Nelson, Traffic Engineer, 931-5671; Matt Gruber, Landscape Architect, 931-5672

Civic Arts Commission

Promote the acquisition, construction and installment of works of public art in Pleasanton. Make recommendations to the City Council regarding the City Civic Arts Program.

Meeting Time: First Monday of each month at 7 p.m.
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Staff Contact: Lia Bushong, Asst. Director, Library and Recreation, 931-3412

Committee on Energy and the Environment

Works closely with City staff to prepare an Energy and Environmental Priorities Plan focusing on energy and environmental issues and strategies reflecting community opportunities, needs and interests.

Meeting Time: Fourth Wednesday of every other month at 5:00 p.m.
Meeting Location: Operations Service Center, 3333 Busch Rd., Pleasanton
Staff Contact: Becky Hopkins, Assistant to the City Manager, 931-5009

Economic Vitality Committee

Assess the current and ongoing business climate in the City of Pleasanton and offer suggestions and recommendations to the City Council intended to maintain a strong economic development base in the City.

Meeting Time: Third Thursday of each month at 7:30 a.m.
Meeting Location: Remillard Conference Room, 3333 Busch Rd., Pleasanton
Staff Contact: Lisa Adamos, Economic Development Manager, 931-5039

Heritage Tree Board of Appeals

Make findings of fact upholding, reversing or modifying the director's decision with regard to heritage tree removal permits.

Meeting Time: As needed
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Representatives: Commissioners Morgan and Wedge
Alternate: Commissioner Mohan

Housing Commission

In cooperation with the community and the development and construction industry, the commission is responsible for initiating and pursuing opportunities for developing, promoting and retaining affordable housing within the community and the region. Recommend policies related to affordable housing. Provide oversight of City affordable housing developments.

Meeting Time: Third Thursday of each month at 7 p.m.
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Staff Contact: Steve Hernandez, Housing Manager, 931-5007

Human Services Commission

Advise the City Council on the human service needs of the community and methods of fulfilling these needs. Particular emphasis is given by the commission to the human service needs of the socially and economically disadvantaged, the elderly and the youth of the community.

Meeting Time: First Wednesday of each month at 7 p.m.
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Staff Contact: Jay Ingram, Community Services Manager, 931-5346

Library Commission

Advise the City Council on matters related to the Pleasanton Library and library services in general. Promote the use of library services to the community.

Meeting Time: First Thursday of each month at 7 p.m.
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Staff Contact: Heidi Murphy, Director of Library and Recreation, 931-3400

Parks and Recreation Commission

Advise the City Council, City Manager, and Parks and Community Services Department on matters related to the development and provision of services pertaining to parks and recreation facilities, programs and services.

Meeting Time: Second Thursday of each month at 7 p.m.
Meeting Location: City Council Chamber, 200 Old Bernal Ave., Pleasanton
Staff Contact: Heidi Murphy, Director of Library and Recreation, 931-3400

Youth Commission

Act as the liaison between Pleasanton's youth community and the City Council; advise the Council on youth-related issues; promote an understanding and appreciation of community affairs among the youth of Pleasanton.

Meeting Time: Second Wednesday of each month at 7 p.m., September-May
Meeting Location: Remillard Conference Room, 3333 Busch Rd., Pleasanton
Staff Contact: Nicole Thomas, Recreation Supervisor, 931-3432

SUBJECT: Actions of the City Council

April 16, 2024

Consent Calendar:

Actions of the Zoning Administrator and Planning Commission

Approve plans and specifications and award construction contract to Columbia Electric, Inc. in the amount of \$1,155,127 for the Valley Avenue at Northway Road Intersection Improvements Project (Bi-Annual Traffic Signal Installation, CIP No. 23532) with an approximately 13 percent contingency of \$147,394, for a total cost of \$1,302,521, and budget amendments in the Gas Tax and Traffic Impact Fee Funds

Council approved the consent calendar, as recommended

Consent Calendar:

Public Hearing - City Council review of Planning Commission approval of a proposed project at 3200 Hopyard Road for Design Review (P23-0177) and Vesting Tentative Tract Map 8672 for either: (Option 1) 57 attached condominium units in nine, three-story buildings (48 townhome-style units and nine apartment units); or (Option 2) 55 attached condominium units in eight, three-story buildings and two, two-story duet buildings (47 townhome-style units and eight apartment units); and City Council approval of an Affordable Housing Agreement for either Option 1 or Option 2

Council took the following actions:

1) Approve an affordable housing agreement for the 55-unit project, including terms to restrict 8 units to 100% AMI and a minimum sale price of \$375,000, with the City to allocate up to \$250,000 in Lower-Income Housing Funds to be made available, if needed, to retain the units at the minimum sale price, for those funds to be available for five years from building permit issuance, and any unspent funds will return to the lower income housing fund. (Council voted 4-1, Testa voted no)

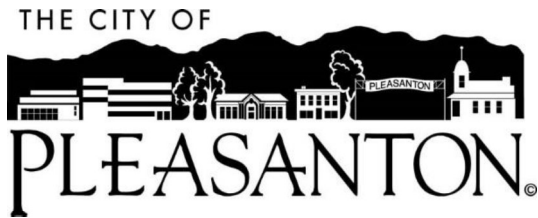
2) Approve the Design Review (DR) application, filed as P23-0177, as modified in Option 2 (55-unit project), based on the required findings, and subject to the draft conditions of approval with an additional requirement for garages to remain available for parking. (Approved 4-1, Testa voted no)

And, in a separate motion for the following items 3) and 4):

3) Find the CEQA Guidelines Section 15183 Consistency Checklist for the project is adequate to serve as the environmental documentation for the project and satisfies all the requirements of CEQA, and

4) Approve the Vesting Tentative Tract Map (VTM) 8672, as modified in Option 2 (55- unit project) based on the required findings, and subject to the draft conditions of approval.

(Approved 5-0)



Planning Commission Agenda Report

April 24, 2024
Item 7

SUBJECT: Future Planning Calendar

Stoneridge Mall DA Extension - Application to amend and extend the Stoneridge Shopping Center Development Agreement (DA), governing a previously approved approximately 362,790-square-foot shopping center expansion, for one year, with a City Manager option to extend the DA for one additional year subject to the completion of performance standards set forth in this sixth amendment.

