

MINUTES  
OF THE  
LAND USE JOINT WORKSHOP NO. 4  
OF THE  
CITY COUNCIL AND PLANNING COMMISSION

November 29, 2005

1. CALL TO ORDER

The joint workshop was called to order by Mayor Jennifer Hosterman at 6:38 p.m.

Those in attendance were as follows: City Councilmembers Steve Brozosky, Cindy McGovern, Matt Sullivan, Jerry Thorne, and Mayor Jennifer Hosterman; Planning Commissioners Brian Arkin, Anne Fox, Trish Maas, Jennifer Pearce, and Mary Roberts. Staff members present were: Nelson Fialho, City Manager; Michael Roush, City Attorney; Jerry Iserson, Director of Planning and Community Services; Janice Stern, Principal Planner; and Sally Maxwell, Associate Planner.

Planning Commissioner Phil Blank was absent.

2. Land Use Workshop No. 4: City-wide Land Use Issues

Consideration of several city-wide land use issues related to: (1) assisted-living units under the residential cap; (2) definition of gross developable acres for Planned Unit Developments; (3) Growth Management goals and policies; (4) jobs/housing balance; and (5) other issues raised at Town Hall meetings on the General Plan. (SR 05:335)

Jerry Iserson presented the opening remarks.

Janice Stern presented staff report.

Mary Roberts indicated she had property that abuts one of the areas under discussion and recused herself.

Trish Maas indicated she had property within 500 feet of property on Foothill Road and also recused herself.

Cindy McGovern indicated she owned property 490 feet from other property under discussion and recused herself.

3. MEETING OPEN TO THE PUBLIC

Mayor Hosterman invited people to address these issues.

Brad Durga, Greenbriar Homes, 43160 Osgood Road, Fremont, owners of the Lund Ranch property, supported not changing the definition of gross developable acres. He indicated the Greenbriar Company has been working on its project since 1999 and filed its application in 2002. It is currently in the EIR process and is a funding developer for the North Sycamore Specific Plan. All infrastructures in that plan was sized and designed to accommodate the future development of the Greenbriar site. The company wishes to continue through the process in a fair manner. He noted it is important to maintain the stability of the swale and the necessary reports have been done to evaluate the plan.

Kevin Close, 871 Sycamore Road, expressed concern about the definition for gross density and any modification that would affect existing specific plans in the city in relation to steep slopes, landslides, etc.

Mary Roberts, 1666 Vineyard Avenue, said she was puzzled by the 25% slope because she assumed that was in the 1996 General Plan. She found it in the public health and safety standards. It is also in the Conservation and Open Space Element, page 17 of the existing General Plan. Policy 13, to protect the health and safety of the community by excluding development in hazardous or environmentally sensitive areas. Program 13.1 – land containing no slope of less than 25% should be limited to one single family home per existing lot of record. She did not understand why certain properties are being discussed at all. When the EIRs were done, there were no overriding circumstances to say the properties needed to be developed. She believed the staff recommendation for the wording for excluding the 25% slope for gross developable acres was excellent. Even if a developer had the funds and engineering skills, but there would still be an effect on the trees and environment. She had a question on where any units would be moved. There are 98 units at the midpoint of the General Plan for the Lin property, which is zoned rural residential. She asked how its possible that half of a hundred units equals 98? Also she felt rural density residential zoning should not be within city lines. She believed that equaled one home for every five acres. That would not include infrastructure costs. The only way to develop such an area would be to congregate the buildings so a developer can pay to build infrastructure. She did not think these sites were suitable for rural residential development. She referred to the urban growth line and noted on one side the property was designated public health and safety and on the other side of the line with the same terrain the property is designated rural residential density and development is being discussed. She felt the best thing is to have gross developable acres apply to areas that can actually be developed, even if they were planned unit developments.

Cindy McGovern, 9206 Longview Drive, referred to the map provided to the public and asked if that covered all properties that would be affected by a change in the definition of gross developable acres within Pleasanton's sphere of influence and the current General Plan?

Mr. Iserson said it covered selected properties that represented the majority of sites. There may be other properties.

Ms. McGovern said she would like to know the exact number of reduced units if all properties in the city were considered under the new definition of gross developable acres. She then referred to transferring densities and said she wanted to know all the properties in Pleasanton that could be affected so she would know the number of units that would have to be transferred to another site. She asked if the definitions provided by staff were taken from the 1986 General Plan or were they changed somewhat?

Mr. Iserson said there were changes from the 1986 plan to the 1996 General Plan. The area of the General Plan in 1986 where the 25% slopes were specifically excluded from developable acreage had to do with the Pleasanton Ridge area only. By the 1996 General Plan, Measure F had been adopted, which redesignated all the area in the Pleasanton Ridge as agriculture or open space. Because of that change to Pleasanton Ridge, the definition was taken out of the 1996 General Plan.

Ms. McGovern asked if it was put in the public health and safety area because of the dangers of building on a potential land slide area?

Mr. Iserson agreed that was a strong consideration. There is no specific, definitive exclusion, but there is an opening that says there could be land or geotechnical reports that would say a certain property was safe.

Ms. McGovern asked if the new proposed definition is somewhat stronger than what is in the current plan?

Mr. Iserson said yes.

Ms. McGovern asked if the definition were changed as proposed by staff, whether that would give the city stronger legal support in the event a developer wanted more units than the city would allow.

Mr. Iserson believed that so long as some development rights were left on a property that is legally sufficient to stand the test of a court challenge.

Michael Roush believed the critical question is whether or not a person had vested development rights. If there are vested development rights, then the ability of the city to alter that becomes problematic. Simply because a property owner has certain density entitlements under a General Plan, would not vest those rights. On the other hand, cities cannot take action that deprives a property owner of all economic use of the property. There is a balancing test in terms of what a city or county can do in terms of a piece of property.

Ms. McGovern noted the various mudslides that happen in California after heavy rain and she supported the staff recommendation.

Vanessa Kawaihau, 871 Sycamore Road, said she appreciated the efforts to preserve the southeast hills. However, she was concerned about how that will impact the Happy Valley community, its rural atmosphere and quality of life. She acknowledged Specific Plan areas are not being looked at during the General Plan process, however two PUD areas on the Spotorno property have a total of 80 homes which were approved in areas with a slope of more than 25% and next to an identified fault line, much like the golf course property. In enacting a more stringent gross developable acreage definition, it will affect those two PUD areas and because of state law, she asked if those 80 homes would be transferred to the flat land automatically, thus ruining her community. She does not deny Spotorno's right to build, but there is an overall responsibility to the overall community. She urged finding a good balance.

Martin Inderbitzen, 7077 Koll Center Parkway, Suite 120, supported the staff recommendation to continue with the PUD process and not suggest alternate language for the General Plan as outlined in the staff report. Before any modification is made, he urged staff to provide an analysis of how the PUD process works successfully. It takes more than the brief discussion in the staff report and the oral debate at this meeting to understand what the ramifications of a change might be. For example, he believed he could identify a number of existing developments that were planned and built that have used a calculation like this and resulted in very nice developments. In terms of public health and safety, he felt the PUD process and CEQA process protects it well. The definition of gross developable acres does not relate to that at all. Several months ago he participated in a process with neighbors and staff to find a development plan that would provide benefit to the property owner on the Oak Grove project and to meet some concerns of adjacent neighbors as well as achieve the City Council's goal of bringing substantial acres of open space into the southeast hills area. He has commenced that process and is optimistic that the process has been cordial and straightforward. A lot has been learned and the process will continue. He felt introducing this kind of policy into that process could be detrimental to the ability to move forward. He asked that Council defer any action until he has exhausted attempts to reach a solution with the neighbors. He supported the staff recommendation.

Mr. Brozosky asked how that would affect the process Mr. Inderbitzen was undertaking?

Mr. Inderbitzen thought it could be taken as a misleading indication of an appropriate density and unbalance the negotiations. Mr. Inderbitzen indicated he has tried to avoid posturing by saying he is entitled to a certain number of units. Discussion has been more focused on how the plan was developed, the issues of importance to both sides, etc. He felt it was premature to introduce another element into the discussions.

Mr. Brozosky felt that Council has latitude in the PUD process to go below or above the midpoint. No matter how it is calculated, Council still has discretion on how many units to approve.

There were no other speakers from the public.

Mayor Hosterman invited questions from the Planning Commissioners and Councilmembers.

Anne Fox said she had looked at General Plans from other California cities and one issue repeated was that as slopes increase past 15%, there are issues with roadway designs and grading. She noted there are various percentages of slope restrictions throughout California and asked how the Pleasanton staff selected 25%?

Mr. Iserson felt the percentage is chosen based on what each community feels is appropriate based on a number of considerations such as slope, safety, visual aesthetics, etc. In the Oakland and Berkeley hills, there is development on land much greater than 25% slope. In other areas, it is much less. Public streets are not allowed to be built in Pleasanton on anything greater than a 15% slope. A building site may be greater than 25%, but there are stringent requirements about the slope of the streets for fire truck access and general safety.

Ms. Fox believed that whenever there is discussion about gross developable acres even on flat land, much of the time there is an overestimation of the number of housing units and when the application comes forward it is less than that. Even on the Bernal property there was discussion of 318 acres available and after reviewing what was really available due to the creek ways, etc. it is significantly less than 318 acres. She asked if the definition and calculation of gross developable area could include language to better estimate on the flat areas what is really developable.

Mr. Iserson said on this General Plan level, the definition is broad. Each site is not specifically reviewed. However when a PUD application comes in, staff requires very specific maps to show what must be subtracted, such as an arroyo, from the developable acreage. Staff moves from general to more refined as it goes through the PUD process. Staff is very aware of the specific acreage of a property from which density can be derived.

Jennifer Pearce asked in light of the 2004 legislation, what is the city's responsibility, if it decides to lower the density, to identify the sites at which the densities will be changed? She has heard concerns from the public about where the density will be located. She wondered how that is addressed in the General Plan process?

Mr. Iserson said staff would keep an accounting of properties that are down zoned through the General Plan process. If those properties are mentioned in the Housing Element as containing a certain number of units and they eventually have fewer units, then staff would have to insure that those units are included elsewhere. There are 1,680 units representing the difference between current General Plan build out and the housing cap that represents land that can be rezoned to accommodate some of those units. Staff will be mindful of that.

Brian Arkin suggested that if some of the hillside development is down zoned and units are reallocated, they could be placed in the transit oriented development at the BART station.

Mr. Iserson said that was an example of what could happen.

Mr. Arkin said the units did not have to be moved within the same area, but could be moved elsewhere in the city with less environmental impact. He hoped Council would support changing the General Plan to redefine what gross developable acres is as shown in the Planning Commission report. He believed the community does not want to see all the hillsides developed. He did not like to see this worked out in the PUD process because he preferred setting community standards in advance, so when an application is submitted that the plan would conform to what the community wants. If there is a change on allowable density on the hillsides, that would allow proposed projects to be more in line with what he believes the community wants and cause less confrontation with the surrounding neighbors. He supported a broad-brush review rather than using specific sites.

Ms. Fox liked the definition of gross developable area, but wanted more language that says gross developable area should not include creek ways, rivers, retaining ponds and rivers below the stable top of bank as determined by the city engineer. Also in addition to public flood control channels, that it include related rights of way and facilities. Instead of focusing on landslides, the definition should be more general and worded as "areas determined to be unbuildable due to geologic instability as determined by the city engineer." In that way, on flat land if there is a sinkhole possibility because of some issue, that would include that. She also wanted areas above the city's applicable maximum water service elevation as determined by the city engineer, and areas where development is precluded by existing easements. There is also discussion of not including schools. In reviewing other General Plans in California, she noted the gross developable area shall not include areas developed or proposed for nonresidential uses and commercial recreational uses including, but not limited to, churches, schools and child care facilities. She was comfortable with having the area not include areas with a slope of 25% or greater and supported the inclusion of more language that was in the 1986 plan.

Ms. Pearce supported the change to the policy. It seems to be a good General Plan policy and if it is accepted then why attack it in every PUD that comes forward. She agreed with Commissioner Arkin that people want less development on the hillside. When PUDs come forward it is nice to see conditions for applicants to conform to rather than attacking them in a piecemeal fashion. She felt if the city had been considering these developments in the 1996 General Plan update, this language would have stayed in and would have been consistent with the 1986 General Plan.

Mayor Hosterman invited Councilmembers to ask questions or comment.

Matt Sullivan felt this issue should be put on hold for now. The city has entered into a process with the developer of the Lin property with a goal of trying to address neighbors' concerns, to meet the needs of the landowner and developer, and to get some permanent open space for the citizens of Pleasanton. That process is going very well and he felt to put any kind of "threat" to the negotiations would undermine that process. Everyone has entered the process in good faith and he felt it was the wrong time to change this definition. He agreed with the comments of the Planning Commissioners that people want less development in the hills. However, he did not want to make any changes until the process on the Lin property is concluded.

Steve Brozosky referred to the Lund Ranch and the fact that infrastructure was built for a certain density. If that density is reduced for the second phase, he asked if there was an obligation to the city or was the infrastructure oversized at the developer's risk?

Mr. Roush believed there is no entitlement based on the fact that the infrastructure was oversized. That was a financial risk on the part of the developer. He did not believe the city is required to keep the density at a certain level. In regard to reimbursement, if the property is developed they would pay the underlying funding developers for its share of that, but that is a risk of the funding developers, not the city.

Mr. Brozosky asked if the city required the over sizing during the first PUD based on the development potential for phase two?

Mr. Roush believed that if there was contemplation that the property was to be developed that the infrastructure be sized accordingly. He did not recall whether it was a requirement, but felt it was possible.

Mr. Brozosky asked staff to check the conditions of the original PUD to verify the requirements for infrastructure. He noted Council has discretion over the number of units in a PUD. It could be calculated on the number of gross acres and approve half the units, or it could be calculated on something minus the 25% slope and allow more units. There might be some points of compromise. He believed this policy reiterates what is already in the General Plan and just adds it to the Land Use Element. It is possible to require all PUDs to present two calculations; one is the gross acreage and the midpoint, the second would be to exclude the 25% slope based on the policy and the number of units allowed by that. The Planning Commission could then make their decisions.

Jerry Thorne felt that even though the issues of the gross developable acres and the south Pleasanton hills are two separate issues in the staff report, they ought to be discussed concurrently. He would not like to usurp the progress being made with discussions with the neighbors on the Lin property. Pleasanton has a long history of that being the best way to resolve issues. Some of the major issues regarding development that have arisen in Pleasanton have been resolved by discussions between developers, landowners and the neighbors and reaching win/win solutions. He

did not want to do anything that would usurp that process and he agreed with Mr. Sullivan to table this decision until the conclusion of those discussions to see the result. He asked if adopting policy X would usurp anything in the discussions between landowners, developers and the neighbors?

Mr. Iserson did not think it would usurp the process. It might upset the balance of negotiations somewhat. People are going into the process in good faith to find what is the best development for that site. If the policy were modified at this point, it might confuse that process and upset the balance that seems to be working so far.

Mr. Thorne did not want to upset the balance and preferred to table this issue.

Mayor Hosterman appreciated the Commissioners taking the stand they did. One of her goals has been less building on the hillsides and smaller homes generally. This project first came up twelve years ago and she and others tried to referend it. Now that it is back, she and Councilmember Sullivan have tried to create a vision to allow the developers and property owner to have discussions with those neighborhoods to determine whether there could be agreement on a unit number that would have the least amount of impact on the neighborhoods and still pencil out for the four developers. In doing that, there is the potential for 2,000 acres of permanent open space for the entire community of Pleasanton to enjoy. It is important to determine how to calculate developable acres, but given the fact that we have entered into this process, the Council set the preservation of the southeast hills in Pleasanton as a priority. That allowed funding for a hired facilitated process. There have been three or four meetings with all parties and she felt there is a potential for a win/win for the community. If the developer can get support from the neighborhood, she felt it was possible to get Council support as well. She agreed that this issue be deferred until another time.

Mr. Brozosky acknowledged the city has always encouraged the neighborhoods to talk to the developers to reach consensus. He did not think that in the priorities discussions that money was set aside for this process. It was to continue a process that the city would normally take in such a situation. He felt the policy on gross developable acres was to set the expectations for the community and the developers as to what the city is looking for in an application. Council can make that decision. It is better to set expectations to be met than to say everything is included knowing it would not be approved. He felt that was setting confrontation up at the beginning of a process. He preferred to have the General Plan set numbers the community can accept.

Mayor Hosterman asked those Commissioners and Councilmember who had recused themselves to rejoin the group. She invited members of the public to speak on the other issues on the agenda.

Dolores Bengtson, 568 Hamilton Way, read a letter written on behalf of Citizens for a Caring Community, a copy of which is on file with the City Clerk's office. Basically she asked the Council to make its decisions based on how Pleasanton can meet its fair share housing obligations for low and very low-income residents within the constraints

of the housing cap. This is particularly important with regard to housing for very low-income residents. Pleasanton is far short of its goal. The city has met its obligation for moderate and low-income housing, but has produced three times the amount of housing for high-end families. She noted there are 850 units of assisted living and skilled nursing units under consideration, and hoped Council would review the workforce required to staff such a facility based on licensing. She felt many employees would be required and many of those are paid minimum wages. They will require very low income housing, unless it is expected they will commute from Tracy or Manteca. Their real need will further exacerbate the unmet need for low-income residents in Pleasanton.

Becky Dennis, 838 Gray Fox Circle, also spoke on behalf of Citizens for a Caring Community. She referred to the assisted living units and urged that Council not count the 65 units of house-like development towards the housing cap. She felt they couldn't be treated as housing because they cannot meet the affordability requirements without challenging the business plan of the operator. It makes more sense from a planning standpoint to reserve development potential that will help the city meet its very low income housing needs.

Kevin Close, 871 Sycamore Road, did not believe affordable units should be counted towards the housing cap because it would affect the city's ability to bring in lower income housing. He asked how the infrastructure capacity for sewer and water was calculated for a development of this size?

Mayor Hosterman said that question has not been answered because the project is only in the discussion phase at this point.

There were no other speakers.

#### 4. NEXT STEPS AND MATTERS INITIATED BY COUNCIL OR COMMISSION

Trish Maas asked how impact fees would be assessed for the Staples Ranch project?

Mr. Iserson said the question of impact fees and infrastructure are addressed in the Stoneridge Drive Specific Plan, which includes a financing component for the property owners in the specific plan area, including Staples Ranch.

Ms. Maas asked if the fees were different if it were a business or commercial project?

Mr. Iserson said assisted living facilities are subject to residential fee structures, but in the case of Staples Ranch there is a special financing program that was devised and will be reexamined and adjusted. In the past, assisted living facilities have been assessed residential fees even though they have not been considered as housing units.

Ms. Maas asked if the units were not counted in the housing cap, where would they be placed in the city?

Mr. Iseron said that area is not zoned for residential development and they are considered part of the 1,680 units between the General Plan build out and the housing cap. If those units are not considered residential units on Staples Ranch, they could go anywhere else, such as Hacienda Business Park near the BART station, or anywhere not currently designated in the existing General Plan.

Mary Roberts believed if density is moving from one part to of the City to another, it is a transfer as far as the Housing Element is concerned. Staples Ranch is currently zoned commercial.

Mr. Iseron said Staples Ranch is not zoned anything at this point because it is outside the city limits. The Specific Plan designates it as commercial.

Ms. Roberts asked if it were possible to transfer density from one part of the city to Staples Ranch and would that count?

Mr. Iseron said if the units were designated as housing units, it would count as transfers from other locations, just as Hacienda.

Ms. Roberts felt there were two issues; are the units counted under the ABAG goals and under the city's housing cap. If the units are not counted under the housing cap then they cannot be transferred from another area.

Mr. Iseron said if you maintain past practice, the units would not be counted against the housing cap, but would still qualify towards the regional housing needs as determined by ABAG, since they meet ABAG's definition. The housing cap issue is totally a local control issue. Pleasanton can determine what qualifies under its housing cap. HCD and ABAG have indicated that assisted living units, which meet the definition of projects in Pleasanton like Staples Ranch can be counted toward the housing needs.

Jennifer Pearce asked in terms of the census definitions, what is the difference between the 65 units and the apartments?

Mr. Iseron said there is not much difference. Because the 65 units come with a bundle of services that the apartment units include, the determination could be made that all the units be considered assisted and not counted toward the housing cap.

Ms. Pearce asked if the apartments had kitchens.

Mr. Iseron said yes and agreed the only difference is really the driveway and the look.

Ms. Pearce asked if staff had found any other places like Staples Ranch where fees had been broken down in terms of looking at affordability?

Mr. Iseron said staff had not found any other place with a similar model. Staff would continue to work with the developer to find a way to isolate the housing cost from the service cost to figure how to make certain units affordable to low income residents.

Mr. Arkin asked if Ridge View Commons was counted against the housing cap?

Mr. Iseron said yes because those units are not traditional assisted living units. They are independent living units. The communal dining is not part of the cost of the living units and is operated by an outside source.

Mr. Arkin felt Ridge View looked like what is proposed for Staples Ranch and should not be counted toward the housing cap.

Ms. Fox agreed with the staff recommendation to include the 65 units in the housing cap. She also supported the rationale for not including the assisted living and skilled nursing facility units. With regard to the other issues of jobs/housing balance and growth management goals, she felt the remaining residential units should be the best fit for the work force. Some of this should occur in the market rather than setting a list of housing types in each development. She felt the economic issues should take precedence with regard to the jobs/housing balance rather than government trying to regulate the process. However, we should keep in mind there is a requirement for affordable units in the city as well as special needs housing. The city should not overly engineer how the remaining units are divided among the needs.

Ms. Maas concurred with Ms. Fox's comments.

Mr. Arkin believed the apartments for Staples should be counted the same way as Ridge View Commons. Regarding growth management, he felt the process needed to be updated. He felt there was very little value in going through that and there was no benefit to the community. Some abbreviated process may make sense or doing it every couple of years. He suggested adding a new category for green built homes to the existing ones for regular and affordable units. Regarding the jobs/housing balance, unless there is insurance that people live and work in the same city, trying to keep track of that does not make much sense to him. He felt what made more sense was to encourage the remaining units be designed to be more balanced in terms of impacts on existing residents, schools, and traffic.

Ms. Hosterman noted the staff report lists other ways of addressing the jobs/housing balance. She asked Mr. Arkin if he supported focusing on those other bullet points. If so, staff could be directed to address other land use and circulation policies to support those concepts.

Mr. Arkin said yes. He wanted to build fewer traditional single-family homes, especially in the hills. He did not want homes built in environmentally sensitive areas, but in areas with the least impact to existing residents, such as the type of development for transit oriented areas. He believed many people wanted the housing cap reduced. He wanted more discussion by Council about reducing the housing cap and bringing it back to the voters for approval. He felt the reason people wanted this is because of traffic.

Mary Roberts agreed with most of what Mr. Arkin and Ms. Fox said. She believed the proposed assisted living facility on Staples is different than what has happened in Pleasanton before. She wished to find a nexus for how to count the units. She felt it was clear 65 units could be counted, but she was not willing to go as far as Mr. Arkin. She was intrigued by the suggestion of Ms. McGovern that some units be reserved under the housing cap for the next General Plan. She did not think people understood enough about where the community was headed in the next ten years to tie up all remaining units. She felt something great may come up, such as a green development, and there ought to be 300-500 units set aside for some unforeseen plan. She did not agree with the concept of a jobs/housing balance. She remembered when the Hacienda Business Park was being planned and the statements that Pleasanton was the perfect place for it because it had a well-educated population that was underemployed. Things changed. She believed that people did not want to be required to live in the same city where they worked. She referred to the idea of reducing fees for smaller units, but she felt if the transportation fee were reduced for a 1,200 sq. ft. house, the residents will use the streets as much as anyone else. She said there was a need to find more ways to encourage smaller houses and felt that is something the Planning Commission can do case by case.

Jennifer Pearce did not think a jobs/housing balance could be legislated, but it could be encouraged. It would be an ideal community where the majority of the residents lived and worked in the city. She felt anything to improve bike trails; use of public transportation, and mixed-use facilities such as the Hacienda project is worth reviewing. When people live and work in the city they spend their commuting time investing in the community. With regard to the housing on Staples Ranch, she was loath to call anything housing that can't be deemed affordable in one-way or another. She was encouraged by the fact that staff is talking to the developer to figure out a way to make part of these units affordable.

Jerry Thorne referred to the Staples Ranch project and felt that the existence of a kitchen or a driveway should not determine whether or not something should be counted under the housing cap. He felt the key is that this is a congregate facility where meals are served and it has very little impact on infrastructure, traffic or schools. Personally, he did not think any of the units should be counted. If Council felt the 65 units should be counted, he would go along with them, but personally he did not want to count anything else. As far as the growth management goals, policies and programs, he supported the staff recommendations and agreed that Program 14.4 should be replaced with a directive to staff to include a reduction in the frequency of reports and

the number of times for review. The ordinance should be reviewed as well. He wanted a certain number of units from the housing cap held in reserve to cover in-fill uses later on. There needs to be some flexibility for things that may come up in the future. Regarding the jobs/housing balance, he felt everyone understood that given the housing cap and urban boundary limits that Pleasanton will never be able to achieve an absolute jobs/housing balance. He felt it was a pipe dream. The policies recommended in the staff report are extremely good and should be included in the General Plan update with the understanding that there will be units that will not be able to be affordable because of the location of the development, such as the south Pleasanton hills. Regarding other issues identified in community meetings, he did not agree with reducing the housing cap, but he did agree with holding some in reserve for flexibility in later years. He believed the market should determine housing size and felt the Planning Commission can review applications as they come through the process.

Matt Sullivan referred to the Staples Ranch project and wanted to understand the precedent being set. The staff report referred to the 70-room Eden Villa assisted living facility on Mohr Avenue and the new facility at Junipero and he asked how are those the same or different than what is proposed on Staples as far as services, level of care, etc.? How is Ridge View Commons the same or different?

Janice Stern said many aspects are similar. In the Staples Ranch facility, it serves people from the time when they are independent to the time they need skilled nursing care. The new assisted living facility serves two levels, those needing assistance as well as an Alzheimer unit. Ridge View Commons is for those who are completely independent without any contracted support care services through the housing facility.

Mr. Sullivan referred to the food care provided at Ridge View and asked for clarification of who can participate.

Mr. Fialho explained the kitchen is run by Open Heart Kitchen, which is a non-profit organization providing congregate meals throughout the Valley and Alameda County. The program is run out of the kitchen that is located at Ridge View Commons, but is open and available to anyone over 62 years of age who resides in the Tri-Valley area. The service costs \$3.00 for evening meals offered Monday through Friday.

Mr. Sullivan summarized the Staples project has a range of residents from completely independent, such as those in the 65 units, to the rest of the development, which includes some kind of assisted care. He tried to find an equation of how to count the units.

Ms. Stern said other than the 65 units; there are about 600 apartment units with some subset of that representing more assistance than others.

Mr. Sullivan said that was what he was trying to identify. Is there a way to identify what services are provided to those residents to see if it looks like a pure assisted living facility.

Mr. Fialho commented that there is nothing to compare to locally. He believed the developer was the one to answer the question.

Rick Ashenbrenner, Continuing Life Communities, indicated the main thing that distinguishes this project under the law from the other projects being discussed is that they are subject to the Health and Safety Code, are specifically defined, and all the units are operated under an assisted living license. That means the developer is required to provide various assisted living services. The construction is different and has to meet different occupancy codes, fire codes, and there must be constant monitoring. This is very different from independent living. The people who occupy the units have to qualify healthwise because there is an insurance part of the program. It is different for those in the duets as well because it makes a better project and looks better. Some people prefer to live in the houses rather than apartments. The services provided to the people in the houses are the same as those in the apartments.

Mr. Sullivan asked if there was a typical profile of people who occupy other projects that range from completely independent to requiring skilled nursing.

Mr. Ashenbrenner said the residents are completely independent when they first come into the development. They are completely dependent when they are moved to skilled nursing. His company is required to care for them all the way along, whether they are independent or not. He noted the average age when a person comes into the project is 79 years and the average time of residence is 12-15 years. He said people come to the facility because they have needs for the services, such as food, security, housekeeping, etc. but they want to appear to live independently.

Mr. Sullivan had two questions for this: is it true to the precedent being set and is it true to the intent of the housing cap? He did not feel he had enough information to say one way or the other. He thought the 65 units should count against the cap, but he was not sure about the rest. He wanted a profile of the levels of independence that residents have in these types of units to get some kind of formula to equate to numbers of units. If 50% of the residents are independent, then 50% of the units should be counted. He was not comfortable saying all or nothing. He was still not agreeing to 766 units and wanted further discussion about affordability. He agreed with many comments from the Planning Commission about growth management. When it was first enacted, there was a real need, but now construction is not even meeting the allocation of 350 units a year. He wanted to keep that 350 limit because there may be some project in the future, such as Hacienda, which wanted to build many units quickly. That could impact infrastructure and quality of life. He agreed with the staff recommendation that an annual growth management report is not necessary, but he wanted to keep the 350 goal which can be modified based on what comes forward. He believed the jobs/housing balance was irrelevant because of the housing cap. What was more

meaningful were some policies suggested such as making the remaining residential potential under the cap the best fit for the workforce in terms of location, affordability, and types of units? That addresses the issues of affordability and some of the other sustainable development policies. He also supported the policy to encourage smaller homes. He wanted to explore current options before consideration of reducing the housing cap. There is Staples Ranch, Hacienda, the project in the hills and other variables to be worked on for the community. We need to see if those options work or not. They may not and fewer housing units than the housing cap could be built. He did not want to hamstring any future efforts. He supported reserving some units for the future, but he wanted flexibility in that regard as well.

Steve Brozosky referred to the Staples project and said it is not an assisted living facility, but a continuing care facility. That is why he wants it for this community. A person can start living there independently and stay there as they proceed to needing skilled nursing. He agreed with Mr. Sullivan that a definition needs to be found of how many residents are independent versus assisted and determine the proportion. In the October staff report, there were 690 units apparently for independent living, 76 assisted living and 89 skilled nursing beds. Using those figures, it seems the 690 units should be counted towards the housing cap. Pleasanton doesn't treat apartments different than single-family homes in terms of the housing cap, so he did not think an apartment on Staples should be treated different than a duet. If those units are not counted towards the housing cap, he felt it would be going against the intent of the 1996 vote for the housing cap. The goal is not to see how many houses can be squeezed into the community. The cap was based on midpoint density in the 1996 General Plan. He supported keeping a reserve of 300-500 units for the future. He did not know how affordability could be included in the Staples project because of all the services included and suggested the developers pay in-lieu fees so units could be built in other locations in the city where it makes more sense. If these are counted as housing units, more in-lieu housing fees could be collected and that would be more than if the project were treated as commercial and fees were based on square footage. He would like to see that calculation. Regarding growth management, he felt it was a good thing, but the reports take a lot of staff time and are not worth much now. The reason for growth management was to make certain the infrastructure kept up with demands. That has not occurred yet as evidenced by the traffic problems. Some type of growth management is still necessary to keep that balance. Referring to the jobs/housing balance, he said many people in Pleasanton work out of their homes and that is not counted in the jobs/housing balance. He felt if the number of business licenses were reviewed for those in commercial property versus residential property, the jobs/housing balance would be very different than as appears in the staff calculations. He felt that was better than transit-oriented development. Building a bigger house with office space included is better than having to commute somewhere. He said 70% of Pleasanton residents commute out of the city. He did not think there was a chance to reach a jobs/housing balance, and it should not be pursued. People change jobs more often and many times they stay in the same home. There are two income earners in many families who work in different cities. A jobs/housing balance in a company town in the old days might have worked, but it is not relevant today. He again stated his belief that

a 300-500 reserve of units would be a good thing. It could be based on surrounding infrastructure improvements and development in surrounding communities. He noted Tracy has stopped issuing building permits until the year 2013. He noted in the summary of Planning Commission meetings, the highest priority was to reduce the housing cap. He felt the reserve could address that issue. He noted how many people comment and said many people went to multiple meetings and were therefore counted multiple times. For example, if five people went to five meetings, they were counted as 25 people. He wanted to look at the comments, but did not think the ranking made sense.

Mr. Arkin indicated the meetings were in different neighborhoods and different times of the day. He felt the number of repeaters was very small.

Cindy McGovern had the same idea as Mr. Brozosky about repeat comments. She asked if Castro Valley decided to become a city and had five councilmembers who wanted to set a policy in their General Plan that there would be no building on 25% slopes, how could any councilmember vote on that, because they all would live next to a piece of property affected by the policy?

Mr. Roush recognized how difficult it is for councilmembers to recuse themselves from an issue because they were elected to represent the people and commissioners are appointed to carry out the planning goals of a community. He explained that when there are broad policy issues for discussion by the Council or Commission, that can take place without any recusals; for example, policies for level of service at intersections generally. Where it gets complicated is when there is focus on specifics. When there are specific intersections, pieces of property, or projects for which a persons home is within 500 feet, the city attorney's office has advised recusal because of the conflict of interest rules. It may be possible to show that a particular decision on a particular piece of property would have no financial impact and in that case, that would allow participation.

Ms. McGovern summarized that she believed she could vote on the policy of gross developable acreage because it is a general policy in the General Plan and is not dealing with specifics.

Mr. Roush said there is a general public exception that sometimes applies, but there has to be a large enough number of people of the public for which that exception to apply in order to make it work. In this case, the city attorney's office did not feel it applied here. In the absence of an opinion letter that says that decision would have no impact on your property, staff would have to separate out the General Plan policies or issues that a commissioner or councilmember had a conflict on. Once that had been decided as a total, and then everyone could vote on it as a whole. It may be unwieldy, but that is how the Fair Political Practices Commission regulations provide.

Ms. McGovern wanted a legal review of how to set policies. She did not understand how any Council could have set a level of service D at any intersection, because everyone lives next to some intersection.

Mr. Roush acknowledged that the rules with respect to that have changed over the years and staff is dealing with current regulations. He noted what past rules had been. It is not always easy to give clear answers to these questions because there are a lot of gray areas.

Ms. McGovern thought she would write the Fair Political Practices Commission (FPPC) a letter about this. She wanted to be able to set policy for this community.

Mr. Roush said a number of small cities have this same kind of problem. A number of city attorneys have asked the FPPC for a rule change to address these kinds of issues with respect to small cities.

Ms. McGovern then referred to the assisted living units and the housing cap. She asked herself why she would want to count the units on Staples as residential units. Some people come to the facility because they no longer want to live in and maintain a big house and yard. If one wants to reduce the number of houses on the hillside, this seems like a good place to transfer density to because it has the least impact on traffic, schools and other infrastructure. It also fills the needs for senior housing for existing Pleasanton residents who do not qualify for affordable housing. It allows people to stay in the community with their friends. She felt it was a positive idea to count the residential units towards the housing cap (not the 89 assisted and 76 skilled nursing units). She felt it allows building closer to the housing cap while still reducing impacts on the infrastructure. She agreed with the idea of reserving units for a later time for many reasons. She said the number one concern of people is the reduction of quality of life in Pleasanton. If some units are held back pending review of the infrastructure, economic vitality, schools, etc. then it would be possible to see how many more units would fit in without harming the quality of life. One could determine if there was a need for an additional type of housing to meet a quality of life issue. She wanted to make certain the infrastructure keeps up with the housing and jobs. She did not want to rush to build out and felt a review of growth management should be done to allow slower growth rather than faster. She did not think the jobs/housing balance could ever be achieved. Commercial/retail/office development should not be reduced because it is vital to the economic stability of the community. She believed future housing developments should include some condition to provide priority to those who live or work in Pleasanton and felt that could improve the jobs/housing balance. She commented that the land and number of units in a development dictate the size of homes. However, she felt Council can encourage affordable units by design to provide housing for young families. Pleasanton is weak in that regard. She referred to increasing the density in the downtown area so more units can be built and did not think that had been addressed. In her two years on Council she has heard many different kinds of affordability, such as second units, affordable by design, workforce housing, etc. None of them seem to count toward the ABAG goals.

Ms. Stern said what counts towards the regional housing needs are the affordability categories provided by the state. Moderate-income rental units can be provided by the market without subsidization. Low and very low-income units would have to have subsidies.

Ms. McGovern asked if the low-income housing must be subsidized, where does the city get the money for it?

Ms. Stern said some funds come from the low-income housing fees.

Ms. McGovern asked if those funds are used for silent second mortgages to help families get into homes, does that count as affordable housing?

Ms. Stern said it did if it makes housing affordable for the families.

Ms. McGovern asked if there were ways for the community to meet affordable housing goals without building new units?

Ms. Stern said there were ways to make new units affordable.

Ms. McGovern said her point was when talking about land use that we stop thinking only about building affordable units, but rather to look at other ways of addressing affordability like the silent second loans. We should ask how many of those we could provide a year to help people get into our community.

Mayor Hosterman asked if she was asking for an opportunity or way to add to those affordable housing numbers without actually building additional affordable housing?

Ms. McGovern said that was correct. She wanted to use the current housing units better by helping people to get into them by using the low-income fees to subsidize. That money would be returnable to the city for reuse for other people.

Mayor Hosterman felt that the Staples Ranch project was a new community for those who are aging in the community. It is a wonderful opportunity for the city. The numbers are interesting because in trying to compare them to other assisted living projects in Pleasanton, it is clear this is a really different project. It is a commercial venture and she was not sure it was appropriate to count beds towards the housing cap. She felt it made sense to add convalescent beds towards meeting the regional housing needs. The theory is if you take an individual who was living in a home in the community and that person graduates to a convalescent hospital situation, then that home is open for another individual to occupy. The Staples project is a different situation. The funding is different and the licensing structure is different. Based on the lifetime continuing care facility, it is a different commercial project. She could see the argument that if there are 65 individual units that act and look like housing units, then

she could count those units for the housing cap. Beyond that, she believed this was strictly a commercial development and should not be treated any differently than similar facilities. Regarding growth management, she agreed with the staff recommendation and felt that it was outdated and needs to be revisited. She felt the same as everyone else about the jobs/housing balance that it was unattainable and the city should stop chasing that pipedream. She felt it was more important to bring affordability to housing in Pleasanton and to new people who will be moving to the city. She did not want to legislate but rather to encourage sound environmental policies to get people living and working in the community. Traffic is the biggest hot topic in Pleasanton. The best way to get people off the freeway system is to provide an opportunity to live and work in the same community. She really liked the idea of reserving a certain number of units for the future. We have no idea what the community will be like in fifty or a hundred years. Regarding housing size, she felt the Planning Commissioners do a lot to encourage affordable by design and transit-oriented development.

She summarized that there seems to be a consensus to defer discussion of the definition of gross developable acreage at this time. She believed that would be voted on at a special meeting along with the decision on how to count the assisted living units. She believed there was consensus to approve the staff recommendations regarding growth management.

Mr. Sullivan said that was correct so long as the 350-unit cap per year is maintained until a decision is made on something else.

Mr. Fialho suggested further discussion be done in the Council meeting format.

Mr. Arkin indicated Council couldn't rely on the Planning Commission alone to deal with house size. Council needs to make a policy in the General Plan that gives the Commission the leverage and ability to reduce the size of homes.

## 5. ADJOURNMENT

There being no further discussion, the joint workshop was adjourned at 9:20 p.m.

Respectfully submitted,

Dawn G. Abrahamson  
City Clerk